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

☐ **Interim** ☒ **Final**

Date of Interim Audit Report: 08/27/2021 ☐ **N/A**
If no Interim Audit Report, select N/A
Date of Final Audit Report: 01/09/2022

Auditor Information

Name: Beth L. Schubach	**Email:** blschubach1@doc1.wa.gov
Company Name: Washington Department of Corrections	
Mailing Address: PO Box 41131	**City, State, Zip:** Olympia WA 98504-1131
Telephone: 360-890-0344	**Date of Facility Visit:** 07/26 through 27/2021

Agency Information

Name of Agency: New Mexico Corrections Department			
Governing Authority or Parent Agency *(If Applicable)*: State of New Mexico, office of the Governor			
Physical Address: 4337 NM 13		**City, State, Zip:** Santa Fe, NM 87508	
Mailing Address: PO Box 277116		**City, State, Zip:** Santa Fe, NM 87502-0116	
The Agency Is:	☐ Military	☐ Private for Profit	☐ Private not for Profit
☐ Municipal	☐ County	☒ State	☐ Federal
Agency Website with PREA Information: https:cd.nm.gov/office-of-the-secertary/office-of-inspector-general/prison-rape-elimination-act/			

Agency Chief Executive Officer

Name: Alisha Tafoya Lucero	
Email: Alisha.tafoyalucero@state.nm.us	**Telephone:** 575-827-8844

Agency-Wide PREA Coordinator

Name: Jerry Smith	
Email: Jerry.Smith@state.nm.us	**Telephone:** 505-287-9618
PREA Coordinator Reports to: Former Inspector General (waiting for position to be filled)	**Number of Compliance Managers who report to the PREA Coordinator:** 7

Facility Information

Name of Facility: Roswell Correctional Center			
Physical Address: 578 W. Chickasaw Road		**City, State, Zip:** Hagerman, NM 88232	
Mailing Address (if different from above): same		**City, State, Zip:** same	
The Facility Is:	☐ Military	☐ Private for Profit	☐ Private not for Profit
☐ Municipal	☐ County	☒ State	☐ Federal
Facility Type:	☒ Prison	☐ Jail	

Facility Website with PREA Information: **https:cd.nm.gov/office-of-the-secertary/office-of-inspector-general/prison-rape-elimination-act/**

Has the facility been accredited within the past 3 years? ☒ Yes ☐ No

If the facility has been accredited within the past 3 years, select the accrediting organization(s) – select all that apply (N/A if the facility has not been accredited within the past 3 years):

☒ ACA

☐ NCCHC

☐ CALEA

☐ Other (please name or describe: Click or tap here to enter text.

☐ N/A

If the facility has completed any internal or external audits other than those that resulted in accreditation, please describe:
Not applicable

Warden/Jail Administrator/Sheriff/Director

Name:	Ruben Benavidez		
Email:	Ruben.Benavidez@state.nm.us	**Telephone:**	575-625-3113

Facility PREA Compliance Manager

Name:	Randy Dorman		
Email:	Randy.Dorman@state.nm.us	**Telephone:**	575-625-3128

Facility Health Service Administrator ☐ N/A

Name:	Nellie Marie Beck		
Email:	nellie.beck@wexfordhealth.com	**Telephone:**	575-625-3184

Facility Characteristics

Designated Facility Capacity:	340
Current Population of Facility:	302

Average daily population for the past 12 months:	218
Has the facility been over capacity at any point in the past 12 months?	☐ Yes ☒ No
Which population(s) does the facility hold?	☐ Females ☒ Males ☐ Both Females and Males
Age range of population:	19 – 63 per PAQ
Average length of stay or time under supervision:	1.69 years per PAQ
Facility security levels/inmate custody levels:	Level II
Number of inmates admitted to facility during the past 12 months:	375 per PAQ
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for *72 hours or more*:	358 per PAQ
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for *30 days or more:*	332 per PAQ
Does the facility hold youthful inmates?	☐ Yes ☒ No
Number of youthful inmates held in the facility during the past 12 months: (N/A if the facility never holds youthful inmates)	Click or tap here to enter text. ☒ N/A
Does the audited facility hold inmates for one or more other agencies (e.g. a State correctional agency, U.S. Marshals Service, Bureau of Prisons, U.S. Immigration and Customs Enforcement)?	☐ Yes ☒ No
Select all other agencies for which the audited facility holds inmates: Select all that apply (N/A if the audited facility does not hold inmates for any other agency or agencies):	☐ Federal Bureau of Prisons ☐ U.S. Marshals Service ☐ U.S. Immigration and Customs Enforcement ☐ Bureau of Indian Affairs ☐ U.S. Military branch ☐ State or Territorial correctional agency ☐ County correctional or detention agency ☐ Judicial district correctional or detention facility ☐ City or municipal correctional or detention facility (e.g. police lockup or city jail) ☐ Private corrections or detention provider ☐ Other - please name or describe: Click or tap here to enter text. ☒ N/A
Number of staff currently employed by the facility who may have contact with inmates:	78 per PAQ
Number of staff hired by the facility during the past 12 months who may have contact with inmates:	19 per PAQ
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:	11 per PAQ
Number of individual contractors who have contact with inmates, currently authorized to enter the facility:	0 per PAQ; 11 per lists provided
Number of volunteers who have contact with inmates, currently authorized to enter the facility:	66 per PAQ

Physical Plant	
Number of buildings: **Auditors should count all buildings that are part of the facility, whether inmates are formally allowed to enter them or not. In situations where temporary structures have been erected (e.g., tents) the auditor should use their discretion to determine whether to include the structure in the overall count of buildings. As a general rule, if a temporary structure is regularly or routinely used to hold or house inmates, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.**	42 per PAQ and PCM
Number of inmate housing units: **Enter 0 if the facility does not have discrete housing units. DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house inmates of differing security levels, or who are grouped by some other operational or service scheme. Generally, the control room is enclosed by security glass, and in some cases, this allows inmates to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.**	9 per PAQ
Number of single cell housing units:	0 per PAQ
Number of multiple occupancy cell housing units:	0 per PAQ
Number of open bay/dorm housing units:	9 per PAQ
Number of segregation cells (for example, administrative, disciplinary, protective custody, etc.):	0 per PAQ
In housing units, does the facility maintain sight and sound separation between youthful inmates and adult inmates? (N/A if the facility never holds youthful inmates)	☐ Yes ☐ No ☒ N/A
Does the facility have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?	☒ Yes ☐ No
Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months?	☒ Yes ☐ No

Medical and Mental Health Services and Forensic Medical Exams	
Are medical services provided on-site?	☒ Yes ☐ No
Are mental health services provided on-site?	☒ Yes ☐ No

Where are sexual assault forensic medical exams provided? Select all that apply.	☐ On-site ☒ Local hospital/clinic ☐ Rape Crisis Center ☐ Other (please name or describe: Click or tap here to enter text.)

Investigations

Criminal Investigations

Number of investigators employed by the agency and/or facility who are responsible for conducting CRIMINAL investigations into allegations of sexual abuse or sexual harassment:	0 per PAQ
When the facility received allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), CRIMINAL INVESTIGATIONS are conducted by: Select all that apply.	☐ Facility investigators ☐ Agency investigators ☒ An external investigative entity
Select all external entities responsible for CRIMINAL INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for criminal investigations)	☐ Local police department ☐ Local sheriff's department ☒ State police ☐ A U.S. Department of Justice component ☐ Other (please name or describe: Click or tap here to enter text.) ☐ N/A

Administrative Investigations

Number of investigators employed by the agency and/or facility who are responsible for conducting ADMINISTRATIVE investigations into allegations of sexual abuse or sexual harassment?	53 per PAQ, 5 per information provided during document review
When the facility receives allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply	☒ Facility investigators ☒ Agency investigators ☐ An external investigative entity
Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)	☐ Local police department ☐ Local sheriff's department ☐ State police ☐ A U.S. Department of Justice component ☐ Other (please name or describe: Click or tap here to enter text.) ☒ N/A

Audit Findings

Audit Narrative (including Audit Methodology)

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

Beth Schubach, a U.S. Department of Justice (USDOJ) Certified PREA Auditor for adult and juvenile facilities conducted the Prison Rape Elimination Act (PREA) audit of the Roswell Correctional Center (RCC), with the on-site review conducted July 26 through 27, 2021. RCC is operated by the New Mexico Corrections Department (NMCD). The audit was conducted with the assistance of support staff Melissa Andrewjeski and Barbara Kopecky. During the course of the audit, Beth Schubach conducted the documentation review, informal interviews with random staff and inmates, formal interviews with random and specialized staff and random and specialized inmates and authored this report. Support Team members conducted informal interviews with staff and formal and informal interviews with random and specialized inmates. The Audit Team conducted the site review together.

The notice of audit posted at RCC stated:

During the following period, this facility will be undergoing an audit for compliance with the U.S. Department of Justice's National PREA Standards to Prevent, Detect and Respond to Prison Rape under the Prison Rape Elimination Act (PREA) Standards for Prisons and Jails:
July 26 - 27, 2021
Any persons to include staff, inmates, contractors/volunteers or visitors with information relevant to this compliance audit may confidentially correspond with the auditor by writing to:*
Beth Schubach, WADOC PREA Coordinator
PO Box 41131
Olympia WA 98504-1131

**CONFIDENTIALITY: All written and verbal correspondence and disclosures provided to the auditor are confidential and will not be disclosed unless required by law. There are exceptions when confidentially must legally be breached. Exceptions include, but are not limited to:*

1) *If a person is in immediate danger to her/himself or others (e.g., suicide, homicide)*
2) *Allegations of suspected child abuse, neglect or mistreatment*
3) *In legal proceedings where information has been subpoenaed by a court in the proper jurisdiction.*

Correspondence shall be clearly identified as "Confidential" and shall not be opened prior by staff.

The Auditor received email confirmation dated 06/08/2021 that the notice was posted throughout the facility in areas accessible by staff and inmates, to include all housing units, programming areas, the dining hall, and work areas. The notice was posted in both English and Spanish. The Auditor did not receive any letters between the posting of the notification and the authoring of this report. It is noted that when the audit was posted due to COVID-related restrictions, new notices were posted, informing inmates of the delay, but also notifying inmates that they were able to continue to write to the Auditor with concerns until the on-site portion of the audit is completed.

The Auditor received proof documents via access to the Online Audit System (OAS) on August 31, 2020. The information uploaded contained relevant documentation pertaining to the PREA standards and the audit. This included, but was not limited to, responses to pre-audit questionnaire (PAQ) questions; agency policies; facility procedures; memorandums of understanding and contracts; inmate posters, brochures and handbooks; compliance memorandums for each standard from the agency PREA Coordinator; and training documentation. Prior to the on-site review, the Auditor reviewed all submitted documentation. In addition, prior to and immediately following the onsite review, the auditor exchanged numerous emails with the PREA Compliance Managers (PCM) and the agency PREA Coordinators as they related to follow up questions and concerns regarding the received documentation. The Auditor also reviewed the RCC PREA Audit report from the previous PREA audit, the NMCD public website and related PREA information, the NMCD annual PREA reports and the Annual Assessments and Surveys of Sexual Victimization. The Auditor also conducted a web search for information regarding NMCD, locating informational publications and information regarding 2019 litigation regarding strip searches. An introductory telephone conference to discuss processes and logistics was held on 08/05/2020, with the facility Warden and PCM and the agency PREA Coordinator. The Auditor also provided the PCM and PREA Coordinator with an introductory email regarding processes and initial documents requests.

The initial on-site review was scheduled for the week of August 31, 2020. Due to COVID19 restrictions, this on-site review was rescheduled for the week of 01/25/2021, then 04/05/2021 and then delayed again until July 26 – 27, 2021. Due to these delays, an interim process was developed that involved the conduct of all staff, contractor, and volunteer interviews via telephone. Additionally, a system of monthly documentation submission was implemented to allow the Auditor to assess / confirm continued compliance between the initial documentation period (08/2019 through 08/2020) and the eventual on-site review. Monthly documentation submissions included the following:

- 115.13 - Documentation of deviations from the staff plan
- 115.13 - Logs documenting unannounced rounds
- 115.15 - Documentation of cross gender strip searches
- 115.16 / 115.33 - Documentation of specialized orientation provided / accommodations to ensure participation in reporting / investigations
- 115.17 - Listing of all new hires and promotions from which the Auditor selected documents for review
- 115.17 - Listing of all new contractors from which the Auditor selected documents for review
- 115.18 - Documentation regarding major physical plant modification and/or additions / modifications to camera systems
- 115.21 - Documentation relative to any forensic medical examinations conducted
- 115.21 - Any revisions to agreements with victim advocacy organizations
- 115.22, 115.71, 115.73, 115.76, 115.77, 115.78, 115.83, 115.86 - Copies of investigations completed, including notifications provided, any disciplinary actions taken, any follow up mental health evaluations, and incident reviews (as applicable)
- 115.31, 115.32 – Confirmation of training completion
- 115.33, 115.41, 115.81 - Listing of all inmates received at the facility during the month from which the Auditor selected documentation for review
- 115.34 - Notification of any newly trained investigators with documentation of training completion
- 115.35 - Listing of all new health services staff and documentation of training completion from which the Auditor selected documents for review
- 115.42 - Documentation of initial and 6-month reviews for transgender and intersex offenders
- 115.43, 115.68 - Documentation of the placement of any vulnerable inmate or alleged victim in segregated housing
- 115.52 - Documentation of any allegations reported via the grievance system
- 115.61, 115.62, 115.64, 115.81, 115.82, 115.83 - Documentation of allegations received and actions taken (e.g., response, crisis and follow up medical care, investigation initiated, added to existing investigation, determined not to be PREA)
- 115.63 - Documentation of allegations received regarding another facility and notification provided

- 115.67 - Documentation of responses to allegations of retaliation and formal retaliation monitoring as associated with investigations
- 115.81 - Documentation of informed consent regarding release of information associated with prior victimization that did not occur in an institutional setting

The Auditor, PREA Coordinators, and PCM's remained in continuous communication throughout the period of delay.

Prior to arrival, the Auditor completed all staff, contractor, and volunteer interviews. The Auditor also confirmed prior to the on-site review that staff assigned to specialized roles had not changed, with the exception of intake staff, thereby not indicating the need for additional interviews except for the new intake staff member. In November 2020, the PREA Resource Center issued instruction regarding COVID-postponed site reviews, allowing for the conduct of telephonic interviews only with supervisory and administrative staff. However, an exception was requested and granted based on the compliance assessment process implemented and the requirement to re-interview noted individuals was waived.

At approximately 0800 hours on July 26, 2021, the Team arrived at the facility and were met by the Warden and Interim PCM. Team members were given a rapid COVID test to ensure they were cleared to enter the facility. At 0900 hours, a short in-brief was held with members of the facility administrative team. Team members were then provided with supporting documents for the on-site review, to include a site review schedule, a facility schematic, identification of all facility department heads, the 2021 staffing plan review, lists of all specialty inmates (blind, deaf, hard of hearing, LEP, transgender, gay /bisexual, reported abuse, or disclosed abuse during a risk assessment) and a roster of all inmates at the facility on the first day of the on-site review, divided by housing unit and organized by bed number. Team members were also informed that at the time of the on-site review, the facility did not house any physically disabled inmates, any cognitively disabled inmates, or any inmates in segregation for risk of victimization. Team members selected inmates for specialty and random inmate interviews. The facility count on the first day of the on-site review was 302 inmates with zero (0) out to court or hospital.

At approximately 1000 hours, the tour of the facility was initiated, attended by the Warden, interim PCM, newly appointed PCM, Captain (Chief of Security), Unit Manager, and Physical Plant Manager. Additional members were added based on their area of responsibility as the Team moved through the facility. The tour continued until approximately 1200 hours, when Team members began formal inmate interviews. The Team departed the facility at approximately 1730 hours, returning at approximately 0900 hours 07/27/2021 to complete the tour, complete formal interviews, and do follow up informal discussion with identified staff. The Team was informed that the ability to leave a message on the agency reporting line was currently not operational due to a technical issue that telephone companies were attempting to resolve. As a result, no tests of the reporting hotline were conducted while the Team was on site. The Auditor was provided with documentation of notification provided to all facility inmates regarding the inoperability of the agency reporting hotline. The Auditor requested that all inmates be reinformed when the system was again operational.

Physical Plant Tour

The tour started in the administration building, which houses the offices of the warden, roster, human resources, business services, and PCM / ACA coordinator. An inmate comes into the area to clean but is always supervised by staff from the area. Also in the area were a janitor closet, supply room, and staff restrooms, which are always locked. Adjacent to the administration building is the armory and Security Threat Intelligence Unit (STIU) offices. No inmates are ever allowed access to these areas. A wall separates the main facility from residences for select staff, to include the Warden and Captain. Inmates do yard work for these houses under the supervision of security staff. The perimeter patrol also does rounds to include these houses.

On the outside of the facility perimeter are also a search building, where any inmate allowed outside the fence for work crews are strip searched before being allowed back into the facility proper. The process implemented is that the inmate is brought into the building through one door on the "dirty" side, strip searched under the supervision of a male staff member, while a second male staff member remains outside the building supervising waiting inmates and positioned to allow a direct view of the staff supervising the search. Once the inmate is searched, he exits the area through a second door on the "clean" side of the building. A log is maintained of all strip searches conducted. The Team recommended adding the name of the observer to the log rather than just documenting the name of the staff member who conducted the search.

On the road to the maintenance area are also a security archives building where no inmates are ever allowed access, a building housing the well for the facility and another housing the well control room, where inmates are allowed access only under direct supervision for needed maintenance. It is noted that areas of restricted access are clearly marked. A staff training center and tactical room for the Corrections Emergency Response Team (CERT) are also in the area and are restricted from any inmate access. Any needed signage was added while the Team was on site, and the Auditor was provided with photographic documentation. Any cleaning duties are performed by staff and maintenance is completed by physical plant staff without inmate work crews.

Physical Plant

This area consists of a tool room where staff in a locked area check out tools to inmates only permitted in the front area outside the tool control area. The actual tool room is made of expanded metal walls, allowing good visibility. A roof is being added to an open walled area to allow for storage out of the elements, but retaining stalls open on each end. Inmates are not permitted in the maintenance office unless confidential disciplinary / termination discussions are being held, which are observable through the windows maintained in the area. A welding shop and classroom area is also maintained in the area with upper storage accessed by a catwalk. A storage bay in the area has a roll up door and windows to the outside in the man-door in the back of the area. A second storage bay is used for warehouse storage with inmate access only under staff escort, with the rule of three (one staff with at least two inmates or two staff with one inmate) a requirement for access. The Auditor requested that a mirror be added to one of the corners and large items rearranged to eliminate blind spots. Photographic documentation of completion was provided before the Team completed the on-site review. The office of the Welder is in the area, padlocked when not in use and with a window to the outside, allowed clear visibility. A large bay maintains welding stations which are curtained off with opaque materials that allow visibility of movement in the booth and feet of the individuals using the booth. On the far end is a welders' classroom that also serves as an inmate locker room, with windows to the outside for visibility. No inmate restroom is maintained in the area and inmates are required to use a portable toilet outside the shop. Conex boxes are maintained outside in the area that provide storage for the warehouse.

The warehouse maintains an office and chemical storage, where the rule of three is always in place. In the back is an officer uniform storage area where no inmate is ever allowed access. In the inmate clothing area, inmates may carry boxes in and out, only under direct staff escort. The Auditor requested that a mirror be added in the main warehouse area and in the inmate clothing area to address blind spots. The Auditor also requested that shelving in various areas be rearranged to eliminate voids in which an individual could hide. Photographic documentation of completion of both requests was provided before the Team completed the on-site review.

Building 2 maintains the offices of the Unit Managers, Classification Supervisor, and Case Workers along with a break room, staff bathroom, and inmate records area. The same porter assigned to clean the administrative building is also responsible for supervised cleaning duties in this area. The Auditor requested that a mirror be added to the office of the Classification Supervisor to address a blind spot. Photographic documentation of mirror installation was provided before the Team completed the on-site review.

The Team then was escorted through the Master Control Center, where identification in the form of a driver's license was required for clearance. Staff were also logged in and out of the area. The Master Control Room has a large video screen for viewing of camera feed, which can be transferred to a smaller computer screen whenever an inmate is in the building for cleaning or in one of the holding cells. Cameras also feed to the office of the Warden, Unit Managers, Captain, and PCM. One of the Team members reviewed camera monitors, confirming that there are no views into bathrooms and that officers moving about in housing units are visible. Inmates are not permitted to clean in the actual Master Control Room. In the area are two (2) small holding cell areas, one with two (2) cells generally used for inmates who are waiting for a urinalysis test or for transport out of the facility. An inmate would typically be held in the area for no more than four (4) hours. A second separate holding cell is used for inmates experiencing mental health issues or when a situation occurs at night and the facility has to wait until the morning for transport. An inmate could be held in this area for a maximum of twenty-four (24) hours. Neither of the holding areas have toilets and inmates needing to use the bathroom are escorted to the inmate restroom in the area. If the inmate has been disruptive or presenting a security risk, the inmate is escorted by two (2) staff, one of who remains in the hallway to observe the second staff member who permits inmate access to the bathroom and retains visual observation of the inmate using the bathroom due to the exigency of the situation. If the inmate is not an immediate security risk, he is permitted unsupervised access to the bathroom with an escorting staff member standing immediately outside the closed door.

In the same building is a room for the body scanner, which is limited to trained staff and maintenance as needed for the equipment. All inmates are processed through the scanner as part of intake when they arrive at the facility. No female staff is every permitted to scan male inmates. This was confirmed in a 06/01/2021 memo from the Captain to all facility staff outlining scanner procedures. The building also maintains the office of the Captain, which also has an area for restricted record storage and communications equipment. Only the key rings assigned to the Captain, Warden, and the applicable emergency key ring maintain keys for the office. The exterior office door and interior storage closet are posted regarding restricted (no inmate) access. The Team was then escorted to the secured portion of the facility through a sally port controlled by the Correctional Officer in the Master Control Room.

Housing Units:

A (Alpha) Unit houses a maximum of forty-eight (48) inmates in an open dormitory setting with bunk beds and windows to the outside providing visibility into the area. The arrangement of the bunks in all housing units coupled with the prohibition of tenting bunks with clothing and/or bedding allows clear sight lines within each unit. A Unit connects to E Unit with a common area and shared restroom. E (Echo) Unit houses a maximum of 44 inmates and connects with B (Bravo) Unit, which houses a maximum of 56 inmates. In all housing units, PREA information is painted on walls in large letters that are easily viewed by inmates in the areas. Off B Unit is a barber shop with an expanded metal door, which provides good visibility. The inmate restrooms in these areas are all laid out in the same manner, with urinals around the entry corner for privacy. Toilets are stalled. A gang / group shower is in the back of the restroom around a corner, with ten (10) shower heads in a common area. A main shower curtain can be drawn across the entry to the showers, with visibility of only heads and feet of occupants. The shower location around a corner is of some concern to staff, however, there is no method to add mirrors or camera that would not interfere with privacy of the users of the area. Additionally, the facility has never experienced a PREA or violence-related incident in the area. Any transgender inmate housed at the facility can request private / separate shower times from the Captain, who will make arrangements for the inmate to use the shower alone during count times. This was confirmed in interviews with transgender inmates during the site review. The Team did not observe the audit notice posted in any of these housing units, but as the Auditor has earlier been provided with photographs of posting in these areas, the Team believed that notices had been removed at some point by inmates in the area. The interim PCM quickly replaced the notices and provided the Auditor with photographic documentation. Notices will remain posted for a minimum of two (2) weeks. F Unit houses a maximum of 44 inmates who work on outside

crews or the kitchen. The unit is made up of small rooms with multiple bunks. The unit maintains an officer's station and a handicap bathroom with a shower that is not currently in use due to the requirement to not house any inmate in the facility with medical needs beyond the facility's capacity. The handicap area could be used by an inmate developing issues / experiencing injuries until the inmate could be transported to a more appropriate facility. The inmate bathroom has sinks and stalled toilets. There is a mirror in the restroom, but the team confirmed that while the mirror addressed a blind spot, it only permitted a view of the heads and/or feet of inmates using toilet facilities. A separate gang / group shower is also maintained on the unit. The audit notice was posted in this unit.

Housing Units C (Charlie) and D (Delta) are trailers maintained in a separate fenced area and house a maximum of 14 inmates each. Inmates entering the facility are first housed in Unit D for quarantine for approximately 72 hours before being moved to Unit C for approximately ten (10) days before the inmate is moved to the main compound. This provides staff the opportunity to process the inmate through the entire intake process and learn more about the inmate, to then assign him to the most appropriate housing unit. Units are made up of large cubicles with four (4) beds per cubicle. Unit D can also be used for inmates needing transfer out of the facility due to developing separation issues until an appropriate facility placement can be determined.

G-1 and G-2 units house a maximum of 50 inmates each in a residential substance abuse treatment setting. These units have a separate yard that is under view of multiple cameras covering all areas of the yard. Each unit is a dormitory setting with bunk beds and clear visibility into a center common area. Off the common area are walled, open ended areas, one with stalled urinals, one with stalled toilets, and two with gang / group showers with a main shower curtain that is opaque in the middle and clear on the top and bottom. The offices of Behavioral Health Services (BHS) [mental health] staff are maintained in this unit. Inmates from other units on the compound are permitted access to the common area of the building only to meet with BHS staff. The Auditor requested that mirrors be installed in the conference room to address blind spots. Photographic documentation of installation was provided before the Team completed the on-site review.

K dorm previously held a maximum of 20 inmates with four (4) inmates to each cubicle. The unit is currently not in use due to needed upgrades and remodeling. Inmates participating in the facility's dog program had been housed in the unit, but this program has been temporarily suspended due to COVID-related restriction of community volunteers supporting the program. The facility is currently working on plans for the remodel of the space, with no final decisions being made at this point. However, facility administrators are reviewing lines of sight, camera location, and unit operations to ensure whatever the unit is later used for, sexual safety of occupants is taken into account.

All inmates are required to be dressed in a minimum of boxer shorts in bunk areas of all housing units. Inmates are required to change clothes in the bathroom / shower areas. This information was located in the inmate handbook that states, "Inmates are not to be nude in any area outside of the shower and will be required to wear an article of clothing over their boxers." Although many of the dorms are older, they are all clean and orderly. Inmates expressed pride in the cleaning they do within their units.

The TC Trailer is an open area with two (2) desks on opposite sides of the room for classification staff to meet confidentially with inmates inside the secure perimeter. A minimum of two staff are required to be present whenever an inmate is allowed into the area. Multi-disciplinary team meetings with inmates are also held in this area.

During informal interviews while touring, inmates reported appreciating the freedom they are experiencing in the minimum-custody facility and not wanting to lose placement by disruptive or inappropriate behavior, which would result in quick transfer to another facility.

Off the housing units is a gymnasium with two (2) doors to the outside recreation yard with a baseball diamond and handball courts. All recreation areas are open with good visibility. A recreation office is also maintained in the area, with an expanded metal door allowing visibility.

Food Services:
The main inmate dining hall is open, allowing good visibility across the entire area. The food preparation area is also very open, allowing visibility across all work areas. The Team noted that members had never toured a food preparation area with better visibility. A door off the work area leads to a small storage area with no visibility from the works area, a staff restroom, and a staff office that has large windows out to work areas. Team members were informed that an inmate would only be allowed access to the area to obtain small items needed for food preparation. Following discussion with Food Services staff and the Captain, the Auditor recommended that the area be posted as no inmate access permitted. Photographic documentation of signage was provided before the Team completed the on-site review. The spice room and dry storage / can room have good visibility and are locked unless a staff member is directly supervising inmates pulling inventory needed. In the back of the area is a room with boot cubbies and a mop sink, with an inmate restroom attached. The Auditor requested that a notice is posted reminding users of the procedure that only one inmate is allowed access at any time. Requested signage was added and photographic documentation provided to the Auditor.

Library / Education:
The area is made up of two (2) classrooms, one of which was a computer lab, a main library section, staff office with windows to the main room, staff bathroom, and janitor closet. There is no inmate restroom and any inmates needing to use the facilities were required to return to their housing units. The area had good camera coverage in all public areas and the audit notice was clearly posted. The Auditor requested the installation of a mirror in a corner of the library area to address a blind spot. Photographic documentation of installation was provided before the Team completed the on-site review. Access to the computer closet is via an expanded metal door with any access restricted to authorized maintenance personnel. The adjacent Fire and Safety office is currently vacant and the facility is developing plans to expand the education facilities into the area. Plans currently include the removal of most interior walls and the installation of a large pass through to current classrooms. The Warden, Unit Manager, Captain, and interim PCM clearly articulated review of camera locations, lines of site, and overall safety in the development of remodel plans. While the Team was on-site, the Captain removed the key to the area from all rings with the exception of the Plant Manager and the applicable emergency key ring to eliminate all unauthorized access to the area.

Chapel:
Outside the chapel building is the sweat lodge and other associated outdoor religious areas. The interior of the building includes the Chaplain's office, inmate bathroom, religious library, main chapel, and band equipment room. Good lines of sight were observed along with multiple camera installations. There are also multiple windows to the outside and to an interior hallway. Inmates are provided access to the band equipment room by staff only to check out cables needed for events or to access cleaning supplies also stored in the area, which is then relocked. The Auditor requested the installation of a mirror in the library to address an identified blind spot. Photographic documentation of installation was provided before the issuing of the interim report

Medical:
Any inmate accessing the medical services area beyond the front waiting room is escorted by staff. All inmates transferring into the facility are brought through an access gate to the medical building where they are then processed through intake. No staff member is ever permitted to be one-on-one with an inmate and an inmate must sign a consent form prior to treatment. The dental clinic operates one (1) day per week and an inmate is always seen by the dentist and dental assistant together. If one of these individuals calls in sick or is otherwise not available, the clinic is cancelled for the day. Even after hours, if a medical staff member is called in to respond to an inmate's emergent medical needs, the staff member

would be escorted by a security staff member when the inmate was present. Procedures have been established to ensure privacy as needed during any medical examination while maintaining the safety and security of both the staff member and the inmate. The area is made up of an administrative office, staff bathroom, dental area, nurses' station, two exam rooms, a lab, a pharmacy, and an inmate waiting room. No inmate access is ever permitted in the lab, pharmacy, or nurses' station. The Auditor requested that signage regarding restricted access to the area be relocated from the wall to the actual door to provide clarity. Photographic documentation of sign relocation was provided before the Team completed the on-site review. Overall, visibility is very good while providing any needed privacy for medical examinations. The Auditor requested the addition of a mirror in the dental clinic to address a blind spot and the partial frosting of the window in the door into one of the exam rooms to provided privacy while still maintaining security. Photographic documentation of the mirror installation was provided before the Team completed the on-site review and the frosting prior to the issuing of the interim report.

Visiting Room:
The facility has recently reestablished visiting only via non-contact rooms in which two inmates are able to visit with family and friends at a time. The facility built two non-contact visiting booths, installing a mirror in each to ensure good visibility. It was noted that only one of these booths is currently in use. The area also maintains a visitors' bathroom and inmate bathroom that is only used to conduct strip searches following regular visiting. Video visits are currently being facilitated in response to COVID-related restrictions.

Laundry:
The area is made up of a large room for washers, a large room for dryers, and an inmate bathroom. Only one inmate is permitted to work in the area at any given time. Inmates assigned to laundry duties from each unit grouping are escorted to the fenced off area and provided access to the laundry. Once laundry is completed, the inmate exits the building, waiting outside for escorting staff to search the building (with the inmate remaining outside) and escort the inmate back to his housing unit, then escorting the next inmate assigned to laundry duty to the building, when the procedure is repeated. Laundry is done for the compound in this manner six (6) days per week. Washers and dryers are located to provide clear lines of sight and windows to the outside are located in the room with dryers. The Auditor requested that a mirror be installed in the corner of the room with the washers to address a blind spot. Photographic documentation of installation was provided before the Team completed the on-site review.

Property:
The area is located in a small building outside the fence surrounding housing units, but still within the facility's main perimeter. Access is controlled by the staff member assigned to the Master Control room. The staff assigned to the warehouse also operates this area with the assistance of two (2) inmate workers. If one of these workers is not available on any given day, the staff member pulls another inmate worker from the warehouse to ensure the rule of three is always complied with. Inmate workers pull what is needed for arriving inmates, making up bags that are then taken to intake to be distributed to these inmates. Items needed as replacements for current inmates are also pulled, bagged and delivered to the gate. Down a hallway are rooms for incoming inmate packages, bin storage, and storage for inmate boots. No inmates are permitted access to these areas. The Auditor requested signage posted to the wall or painted on the floor, demarking where inmates are not permitted access. Photographic documentation of demarcation painted on the floor was provided before the issuing of the interim report.

Items addressed in close out meeting with the Deputy Director, Warden, Unit Manager, Captain, interim PCM, and newly appointed PCM:

- The facility was very clean and orderly. Staff were productively engaged with each other and with facility inmates.
- While on tour, inmates were very familiar with administrative staff and engaged in continuous conversation with them. The Warden, Unit Manager and Captain were very familiar with inmates, knew their names and concerns, and provided continuous support and engagement. Inmates in

the facility appear comfortable talking and interacting with staff, particularly identifying the Captain as someone they have confidence in. The Warden, Unit Manager and Captain also appeared to know the names of each staff member encountered and freely engaged in mutual informal conversation.

- Several inmates reported trusting staff but expressed concerns with retaliation or repercussions from other inmates if they were seen engaging with staff about issues or concerns, particularly about PREA. One inmate indicated that the facility is in a very small town with staff knowing each other very well and therefore breaching confidentiality in conversations with each other. However, these inmates also indicated that PREA-related behavior was very unlikely to occur in this facility as inmates did not want to lose the freedom and proximity to release they have. As a result, the Team did not get the impression that there were unreported allegations and inmates were dealing with culture issues, primarily from other inmates.
- A significant number of inmates interviewed indicated they had not been asked risk assessment questions either for the initial (72-hour) or follow up (30-day) assessments. Following probing questions by the interviewer, many reported that they were called in by a staff member and asked to sign a paper, spending only a few minutes with the staff member. Several inmates indicated that the staff member told them they had seen in a previous assessment that the inmate had been a previous victim of abuse and were then asked to sign a document indicating whether the wanted a follow up assessment with a mental health provider. Some reported only being asked if anything had changed, but were still not specifically asked assessment questions.
- A significant number of inmates reported receiving brochures and/or handbooks on arrival, but not receiving any form of formal orientation as required in agency policy. Many indicated they did not read the materials provided on intake.
- A majority of inmates interviewed indicated they did not understanding the ability to report to the Colorado Department of Corrections, acting as the agency's external report entity. Several indicated they knew there was an address they could write to in the information painted on walls, but this address was to the agency PREA Coordinator. When asked about an address to write out of state, a majority of inmates indicated they did not know of any such ability.
- A majority of inmates reported a lack of understanding of available victim advocacy support services. When asked specifically about the *9999 number posted, a majority of inmates indicated this was a reporting line and did not understand that it provided access to a community-based victim advocate. Additionally, most inmates interviewed did not understand the type of support and confidentiality associated with this organization. Prior to the issuing of the interim report, the Auditor received photographic documentation of postings painted on walls to better distinguish between access to the agency hotline and to the victim advocate line.
- The facility immediately began brainstorming ideas to bring more PREA-related information to inmates, particularly in the areas of reports to Colorado and victim advocacy. This included the relaunching of an inmate-initiated newsletter that was authored by inmates overseen by staff, addition of posters and announcements, administrative staff meetings with inmates throughout the facility, and the incorporation of PREA information sharing in venues such as Pod Walkers (inmates specially trained in Christian counseling who provide mentoring for other inmates) and other peer education venues.
- The Team learned from LEP and disabled inmates that specialized materials (e.g., Spanish translations, large print materials, etc.) had not been provided.
- Painted PREA information was maintained primarily in housing units. The Team reviewed with the touring team, making recommendations for minor revisions to clarify the reporting line and the victim advocacy line. The Team also recommended the addition of information in other areas of the facility (e.g., recreation, food services, work and program areas, etc.) that were different in style and content to highlight and clarify services.
- Multiple inmates expressed concerns with the ability to report allegations privately. They indicated they had to request grievance and kite / inmate report forms and then drop them in a box in food services where they could be viewed by staff and other inmates. They also indicated that the

phone location inhibited private conversations and expressed concerns with the ability to inform families of issues as these calls are monitored and all mail is read. The Team recommended that the facility consider adding more grievance and kite drop boxes where inmates felt more comfortable depositing communications.

- One of the Team members reported that the language line in place was the easiest she had ever used, and the interpreter was very helpful.
- The Team was impressed with the corrections to blind spots that were made immediately. The Plant Manager accompanied the group on the tour and had staff adding mirrors and signage immediately. The Auditor was provided with photographic documentation of corrections made at the end of both day one and day two. It is noted that all requests were completed, and photographic documentation provided to the Auditor either while on site or prior to the issuing of the interim report.
- The Team was impressed with the openness of all staff to discussion and suggestions offered during the on-site review. Administration immediately began discussions, seeking input from staff stakeholders at all levels. The camaraderie and open communication between staff at the facility was exemplary and all staff interacted with during the course of the on-site review expressed a true concern for the wellbeing of inmates whose care is in the charge of these individuals.

It is noted that from the receipt of initial documentation in 2020 through the issuing of the interim audit report, the Auditor worked with three (3) PREA Coordinators and three (3) PREA Compliance Manager. To differentiate information received from these individuals, they are designated in this report as follows:

- PREA Coordinator:
  - Initial documentation receipt through 03/01/2021 – former PREA Coordinator
  - 03/24/2021 through 05/03/2021 – interim PREA Coordinator
  - 06/14/2021 to date – current PREA Coordinator
- PREA Compliance Manager:
  - Initial documentation receipt through 03/2021 – former PCM
  - 03/17/2021 through 06/26/2021 – interim PCM
  - 06/26/2021 to date – current PCM

It is noted that no additional changes in identified specialty roles changed between the telephone interviews conducted and the on-site review, with the exception of the PREA Coordinator and PCM, who were both interviewed during the on-site review process.

Interviews conducted – Roswell Correctional Center

Staff Category	Number of interviews conducted	
	Primary Role	Secondary Role
Random staff	17	0
Specialized staff	44	28
Selected interviewees based on a listing of all facility staff to ensure representation from a broad spectrum of operational divisions. Additionally, custody staff were identified by selecting the first, fifth, and tenth of the 10 officers assigned to 0600 – 1800 hour shift (to ensure female officers are included), the fifth and tenth of the 11 officers assigned to the 1800 – 0600 shift, and third of the 3 officers assigned to irregular shifts (0800 – 1600 or visitation) due to the officer's interactions with the public through visiting. It is noted that currently no female correctional officers are assigned to the 1800 – 0600 shift. Also selected the third of the 5 sergeants and the 5 lieutenants on the list.		
Total staff interviewed	61	28
Agency head or designee	1	0
Warden / Superintendent	1	0
PREA Compliance Manager	3	0
PREA Coordinator	3	0
Contract administrator	3	0
Conducted interviews with the two (2) of the on-site contract monitors in private facilities as well as the individual from central office identified as overseeing contracts for the agency.		
Intermediate or higher-level supervisor	1	7
Interviewees were selected based on position assigned, ensuing representation from all applicable classifications of staff		
Line staff who supervise youthful offenders – not applicable as the facility does not house youthful offenders.	0	0
Education and program staff who work with youthful offenders – not applicable as the facility does not house youthful offenders.	0	0
Medical staff	2	3
Deleted clerical staff as not a practitioner leaving four possible interviewees; selected every other name on the list plus individuals who were interviewed in a secondary role capacity		
Mental health staff	2	0
Deleted clerical staff as not a practitioner leaving five possible interviewees; selected both therapists as questions did not appear applicable to substance abuse counselors; included first substance abuse counselor in random staff interviews		
Human resources staff	1	1
Interviewed both the HR manager who oversees staff and the Business Manager who oversees contractors.		
SAFE/SANE staff	2	0
Volunteers who have contact with inmates	3	0
A total of 66 individuals were on the list provided; alphabetized and then selected the 20th, 40th, and 60th name on the list; it was determined that one individual selected had been suspended so the next individual on the list was selected for interview.		
Contractors who have contact with inmates	4	1
Randomly selected individual from medical and food services who were not identified as serving in another primary role.		

Staff Category	Number of interviews conducted	
	Primary Role	Secondary Role
Investigative staff	3	2
Selected two of the three facility investigators identified along with the individual out of the HQ Office of Professional Standards who has been trained to completed needed investigations.		
Staff who perform screening for risk of victimization and abusiveness	2	0
Selected first and fourth name on the list of classification staff responsible for risk assessment completion person on the list in random staff interviews		
Staff who supervise inmates in segregated housing	0	0
Not applicable as the facility does not have a segregated / restricted housing unit		
Staff on the incident review team	2	6
Selected individuals to ensure variety of roles within the facility		
Designated staff member charged with retaliation monitoring	1	2
Interviewed central office individual assigned file review responsibility along with facility individuals responsible for meeting with inmates and monitoring staff		
First responders	0	2
Selected first responders associated with abuse investigations available.		
Intake staff	1	2
Selected individual with primary responsibility along with two (2) classification staff who are involved in the intake process.		
Non-medical staff involved in cross-gender strip or visual searches	2	0
Included questions in interviews with selected random female custody staff		
Representative from the community-based victim advocacy organization	1	0
Representative from organization that conducts criminal investigations	1	0
Representative from the Transgender Resource Center of New Mexico who provides support to inmates throughout the agency	1	0
Food services manager	1	0
Inmate disciplinary hearing officer	0	1
Grievance coordinator	0	1
Mailroom supervisor	1	0
Volunteer / contractor coordinator	1	0
Facility staff training coordinator	1	0

Inmate Category	Number of interviews conducted
Random inmates – a total of 13 is required by the handbook	18
Inmates were selected for interview by selecting every 23rd inmate on the rosters divided by unit and organized by bed; no inmate was selected with the method in Unit C, so selected two (2) additional inmates (the 1st and 7th inmate on the roster for Unit C).	
Specialized inmates – a total of 13 is required by the handbook	19
Total inmates interviewed – a total of 26 is required by the handbook	37
Breakdown of specialty inmate interviews conducted – it is noted where there were insufficient inmates were identified for a specific specialized group, additional inmates were interviewed from other specialized categories	
Youthful offenders – handbook requires 3 - not applicable as no youthful offenders were housed at the facility	0
Inmates with a physical disability, blind, deaf, or hard of hearing, or LEP – handbook requires 1	6
At the time of the on-site review, no inmates who were physically disabled were housed at RCC. One inmate was identified as blind/hard of hearing and one as hard of hearing. Both were included in interviews conducted while on-site. Eight (8) inmates were identified as LEP; with every other inmate selected for interview.	
Inmates with a cognitive disability – handbook requires 1	0
No inmates who were classified as cognitively disabled were housed at RCC at the time of the on-site review.	
Inmates who are gay or bisexual – handbook requires 1	2
Two inmates were identified as gay or bisexual at the time of the on-site review; both were included in interviews.	
Transgender or intersex inmates – handbook requires 2	2
Two transgender inmates were housed at RCC at the time of the on-site review	
Inmates in segregated housing for high risk of sexual victimization – handbook requires 1	0
Not applicable as there is no segregated housing maintained at RCC	
Inmates who reported a sexual abuse – handbook requires 3	0
No inmates who had disclosed abuse were housed at RCC at the time of the on-site review.	
Inmates who disclosed victimization during a risk assessment – handbook requires 2	9
Per information included in the risk assessment, thirteen (13) inmates had disclosed prior abuse; selected every other name on the list; however, one was already on another specialty list, so the next inmate on the list was selected for formal interview.	
Inmates who submitted letters to the Auditor	0

Facility Characteristics

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

The Roswell Correctional Center has a rich history, originally operating as a base for the United States Air Force. During World War II, the 509th Bomb Wing was created, the one mission of which was to launch the plane that dropped atomic bombs on Hiroshima. After the war, the base housed 509th Composite Group, which was the first combat wing assigned to the newly formed Strategic Air Command. The based ceased operations in 1967, when the facility shifted operations to serve as a state hospital for developmentally delayed individuals and was renamed Villa Solano. This hospital relocated in the late 1970's and the facility remained vacant until 1978, when it reopened as the Roswell Correctional Center (RCC). Initially, RCC housed 65 inmates, expanding over the years to its current capacity of 340, adding units dedicated to residential substance abuse treatment, the first such units in the state of New Mexico.

RCC is classified as a level 2 facility. Per Agency policy CD-080101, *Custody Level Designations and Facility Security Levels* (08/24/2016), section B.2. (page 1 - 2):

Level II Custody, General Population Assignment:

a. Criminal background and record of institutional behavior indicate that the inmate can function among staff and other inmates in a dormitory setting without presenting a significant risk to the safe, secure and orderly operation of the institution. There must be no history of recent violent incidents or recent escapes. A significant threat does not exist to the safety of staff, other inmates or the community. Inmate may have the ability to work outside the confines of the facility with staff supervision without posing a risk of escape.

The facility is made up of nine (9) housing units along with multiple other multi-purpose buildings.

- A Dorm – maximum capacity of 48 inmates – general population
- B Dorm – maximum capacity of 56 inmates – general population

- C Dorm – maximum capacity of 14 inmates – isolation dorm currently
- D Dorm – maximum capacity of 14 inmates – intake dorm
- E Dorm – maximum capacity of 44 inmates – general population
- F Dorm – maximum capacity of 44 inmates – outside crews and kitchen workers
- G-1 Dorm – maximum capacity of 50 – RDAP
- G-2 Dorm – maximum capacity of 50 inmates – RDAP
- K Dorm – maximum capacity of 20 inmates – dog program and education inmates

All housing units are inside a secure perimeter fence.

The operational capacity of RCC is 340 with an average population of 218 during the audit documentation period. It was noted that this lower population was due in part to the recomissioning of a facility in Clayton, New Mexico once NMCD assumed operations. RC had been the only dedicated Level 2 facility but is now sharing that population with several other facilities. The former PREA Coordinator noted that it is expected that population numbers will rise once agency-wide transitioning operations are complete. The average length of stay at the facility is 1.69 years and the age range of the population is 19 – 63 years of age. The facility houses no youthful inmates.

RCC provides drug and alcohol treatment programs, work programs, skill training, education, health services, work opportunities and religious services. Self-help programs include:

- Crossings (faith-based program)
- First Nations Alliance (Native American organization)
- Gamers (Nintendo game tournaments)
- One Step to Freedom (may be faith-based but uncertain)
- Hope for Tomorrow (inmate education where groups are brought in to teach CPR, first aid, etc.)
- Iron Dogs (physical fitness)
- Project Echo (inmates teach each other about safe practices such as clean needle use, STD's, safe sex practices, etc.)
- Chickasaw Iron (welding)
- Father Figures (parenting)

The facility currently employs 78 staff. Its primary organizational structure consists of a Superintendent, two (2) Unit Managers, and Captain, who serves as the Chief of Security. assistant superintendents (security and general services). Security staff hold the ranks of lieutenant, sergeant, and correctional officer. Line security staff generally work twelve (12) hour shifts, from 0600 – 1800 hours and 1800 – 0600 hours. Additionally, there are a variety of operational support positions throughout the facility's organizational structure. These include, but are not limited to, clerical support, health services, work programs, food services, and religious services. The PREA Compliance Manager (PCM) reports directly to the Warden and splits time between PREA and American Correctional Association (ACA) accreditation.

Summary of Audit Findings

The summary should include the number and list of standards exceeded, number of standards met, and number and list of standards not met.

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

Standards Exceeded

Number of Standards Exceeded: 2

List of Standards Exceeded: Click or tap here to enter text.

- 115.41 Screening for risk of victimization and abusiveness
- 115.51 Inmate reporting

Standards Met

Number of Standards Met: 43

- 115.11 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator
- 115.12 Contracting with other entities for the confinement of inmates
- 115.13 Supervision and monitoring
- 115.14 Youthful inmates
- 115.15 Limits to cross-gender viewing and searches
- 115.16 Inmates with disabilities and inmates who are limited English proficient
- 115.17 Hiring and promotion decisions
- 115.18 Upgrades to facilities and technologies
- 115.21 Evidence protocol and forensic medical examinations
- 115.22 Policies to ensure referrals of allegations for investigations
- 115.31 Employee training
- 115.32 Volunteer and contractor training
- 115.33 Inmate education
- 115.34 Specialized training: Investigations
- 115.35 Specialized training: Medical and mental health care
- 115.42 Use of screening information
- 115.43 Protective custody
- 115.52 Exhaustion of administrative remedies
- 115.53 Inmate access to outside confidential support services
- 115.54 Third-party reporting
- 115.61 Staff and agency reporting duties
- 115.62 Agency protection duties
- 115.63 Reporting to other confinement facilities
- 115.64 Staff first responder duties
- 115.65 Coordinated response
- 115.66 Preservation of ability to protect inmates from contact with abusers
- 115.67 Agency protection against retaliation
- 115.68 Post-allegation protective custody
- 115.71 Criminal and administrative agency investigations
- 115.72 Evidentiary standard for administrative investigations
- 115.73 Reporting to inmates
- 115.76 Disciplinary sanctions for staff
- 115.77 Corrective action for contractors and volunteers
- 115.78 Disciplinary sanctions for inmates
- 115.81 Medical and mental health screenings; history of sexual abuse

- 115.82 Access to emergency medical and mental health services
- 115.83 Ongoing medical and mental health care for sexual abuse victims and abusers
- 115.86 Sexual abuse incident reviews
- 115.87 Data collection
- 115.88 Data review for corrective action
- 115.89 Data storage, publication and destruction
- 115.401 Frequency and scope of audits
- 115.403 Audit contents and findings

Standards Not Met

Number of Standards Not Met: 0
List of Standards Not Met: not applicable

PREVENTION PLANNING

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

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

115.11 (a)

- Does the agency have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment? ☒ Yes ☐ No

- Does the written policy outline the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment? ☒ Yes ☐ No

115.11 (b)

- Has the agency employed or designated an agency-wide PREA Coordinator? ☒ Yes ☐ No

- Is the PREA Coordinator position in the upper-level of the agency hierarchy? ☒ Yes ☐ No

- Does the PREA Coordinator have sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities? ☒ Yes ☐ No

115.11 (c)

- If this agency operates more than one facility, has each facility designated a PREA compliance manager? (N/A if agency operates only one facility.) ☒ Yes ☐ No ☐ NA

- Does the PREA compliance manager have sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards? (N/A if agency operates only one facility.) ☒ Yes ☐ No ☐ NA

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not

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

115.11 (a)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section A. (page 4) indicates, "The NMCD [New Mexico Corrections Department] has a 'zero tolerance' policy regarding all forms of sexual abuse, sexual misconduct and sexual harassment directed toward offenders." This policy also outlines prevention, detection, and response expectations with information including hiring requirements, reporting, retaliation prohibition, education for staff and offenders, risk screening and use of related information, investigations, and searches. Attached with this policy are procedural documents with the same name and revision date, but numbered CD-150101 and CD-105102, detailing reporting, response, investigation, referral, medical and mental health care, and after-action review.

It is noted that language regarding sanctions for those found to have participated in prohibited behaviors is included in separate policies specific to staff and offender disciplinary procedures. Definitions of prohibited contact are also maintained on the agency's public website. These definitions are duplicates of the definitions established by the Department of Justice with the promulgation of the PREA standards. The definitions were updated effective 04/24/2020 to match those included with agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020) and in agency annual PREA reports.

During a review of the definitions included in multiple platforms within the agency (e.g., policy, annual report, staff training, offender publications), it was found that the definitions were inconsistent and did not include all the elements required in the DOJ standard definitions regarding prohibited acts. This causes confusion among stakeholders, both internal and external to the agency and results in the inability to effectively analyze allegation and investigative data.

As a result of the inconsistency in the definitions of prohibited acts across agency platforms and the non-compliance with DOJ PREA definitions, RCC was initially assessed as non-compliant with the requirements of this provision. On 07/12/2021 the Auditor was provided with a new policy version that maintained the same revision date but added a new reviewed date of 03/26/2021. The Auditor was informed by the current PREA Coordinator that changes to policy, such as definitions, that do not change the general direction, standards, or expectations of a policy do not result in a change to the effective date of the policy but will only add a new reviewed date. This was confirmed in agency policy CD-000100 *Adoption of Rules, Policies and Procedures* (01/13/2017), Definitions section H. (page 2) that defines a policy review as, "A scheduled review of policy resulting in clerical adjustments that do not change the general direction, standards or expectations of a policy." The Auditor reviewed the newly issued policy, confirming that definitions included were revised to be consistent with training curriculum, publications, and DOJ definitions of prohibited acts.

Based on this modification, RCC is assessed as compliant with this provision.

115.11 (b)
The New Mexico Corrections Department (NMCD) does not specify the PREA Coordinator or PREA Compliance Manager (PCM) in policy, but these positions have been established within agency structure. Within NMCD, the PREA Coordinator reports to the Inspector General, who then reports to the agency Secretary. The Auditor was provided with an agency organizational chart and appointment letter dated 01/03/2018, designating the former PREA Coordinator and detailing Secretary access provided to this individual, noting, that the Coordinator, "…will have direct access and report to me, for any PREA related issues." The Auditor was provided with the position description of the PREA Coordinator, noting, "The purpose of this position is to be responsible for the development, implementation, and oversite of the

department practices in complying with the standards of the Prison Rape Elimination Act (PREA)." It is noted that contact information for the Coordinator is maintained on the agency's public website.

During an interview, the former PREA Coordinator reported that she regularly communicates with agency PCM's as well as the PCM's assigned to private facilities contracted with to house inmates. She noted that all PCM's participate in all mock and DOJ audits at each facility, with time set aside during these audits for a general meeting and discussion as well as any needed training. She added that she communicates at least daily with agency PCM's via email and/or telephone. The Auditor was informed that the PCM's take direction from the Coordinator in all matters related to PREA, but day to day supervision (e.g., leave management) is under the direction of the facility. RCC is currently the only facility maintaining a part-time PCM. The former PREA Coordinator reported that she has input into selection / hiring decisions along with evaluations.

The former PREA Coordinator indicated that when an issue is identified regarding complying with standard requirements, she generally establishes processes to resolve the issue and monitor continued compliance. She noted the development of monthly audits required by the PCM in each facility that address particular areas of concern and which are included in the agency PREA policy. The same audits are required in private facilities contracting with the agency. The former PREA Coordinator noted that if an issue is facility-specific, she works directly with the facility to resolve, adding that in most instances, the identified resolution is implemented in all facilities as processes are standardized and required in all facilities across the state. She provided an example of a rise in allegations in one facility that led to a 2-to-1 requirement (one staff with at least two inmates or at least two staff with one inmate) and radio notification whenever a staff member is entering a remote area. This requirement was implemented across the state as the standardization of a best practice.

It is noted that the former PREA Coordinator was on leave beginning 12/01/2020 and then retired effective 03/01/2021. A PCM from another facility was identified to respond to requests related to this audit, moving into her office and monitoring the hotline until either the number is moved or there is a new PREA Coordinator. However, this individual has not been identified as the acting PREA Coordinator. On 03/01/2021, an interim PREA Coordinator was named by the Inspector General. An interview was completed with the identified individual, confirming a sound knowledge of PREA responsibilities and requirements and continuity of processes established by the former PREA Coordinator.

On 05/06/2021 the Auditor was informed that the interim PREA Coordinator had left the position and the Inspector General was also leaving that position effective 05/17/2021. With these moves, there was no agency-level individual overseeing PREA implementation and sustainability. The Auditor was later notified that a new interim PREA Coordinator was named effective 06/14/2021 (referred to in this report as the current PREA Coordinator). The Auditor was also informed that the former Inspector General was still fulfilling that role, to include PREA oversight, until such time as a successor was identified. An interview was conducted with the current PREA Coordinator, confirming an introductory knowledge of PREA standards and requirements. The current PREA Coordinator indicated that he could not confirm sufficient time or authority to manage all PREA-related responsibilities as he has spent a majority of his time since assignment preparing for multiple American Correctional Association (ACA) audits. The Auditor was informed that the position has been modified to now include both PREA and ACA oversight on an agency level.

Based on the above noted changes in the position of PREA Coordinator, with insufficient time for the current PREA Coordinator to learn responsibilities, RCC is assessed as non-compliant with the requirements of this provision. Corrective action should include the development and implementation of a comprehensive training plan for the current PREA Coordinator along with documented interactions / direction provided to agency PCM's and meetings / engagement with those above and below his position in the organizational structure.

Updates:
Throughout the corrective action period, the Auditor was provided with documentation of training provided to and participated in by the PREA Coordinator. The Auditor was also provided with documentation of the PREA Coordinator's involvement in PREA-related functions and communication with agency staff, up and down the organizational structure. Based on these activities, WNMCF is now assessed as compliant with the requirements of this provision.

115.11 (c)
The New Mexico Corrections Department (NMCD) does not specify the PREA Coordinator or PREA Compliance Manager (PCM) in policy, but these positions have been established within agency structure.

The Auditor was provided with a memo dated 11/27/2017 from the Warden directed to all staff designating the former PCM. The memo notes, "Everyone is to comply with any information or directive she puts out." It is also noted that contact information for the PCM for each agency facility is posted to the agency's public website.

The Auditor was also provided with a facility organizational chart (undated) indicating that the PCM reports directly to the facility Warden. The Auditor was provided with a copy of the position description for the former PCM in her role as Business Operational Specialist. It is noted that PREA-related responsibilities are not included but noted in a section on an annual evaluation also provided. Per the former PCM, approximately 20 to 25 percent of her time is dedicated to PREA, but that has been increased to two (2) days per week or 40% at the direction of the Warden. It is also noted that in November 2019, the former PCM received a pay adjustment, noting that the former PCM, "…in additional to her regular duties has taken on the task of Roswell Correctional Center PREA…Compliance Manager. This job goes above and beyond the regular call of her duties. She is on call 24 hours if a PREA incident happens. She is responsible for interviewing and gathering information from potential victims of PREA. She is responsible for ensuring all inmates have necessary information available to them for PREA purposes. She maintains all the files and updates them on the computer drive system for PREA." (04/26/2019 memo from Business Manager to RCC Human Resources).

In an interview, the former PCM reported that she did not have sufficient time or authority to complete PREA-related duties. She noted that several administrators did not listen to her, requiring her to go to the former PREA Coordinator to intervene. However, she did report that the Warden was very supportive. Interviews with various administrators indicated a trust of the former PCM and reliance on her for any direction regarding PREA. However, it appears from interviews that staff may overly rely on the former PCM, to the level that when an inmate reports an allegation, regardless of time or day, the former PCM reports to the facility to conduct initial interviews and ensure established procedures are complied with. It was also learned that the PCM had been responsible for all PREA training, with that training not completed when the former PCM was away from the facility on extended leave.

On 12/16/2020, the Auditor was informed in correspondence with the former PCM, that the Warden "…has made several changes in the past couple of months in hopes of making this better. He has had one on one meetings with department heads expressing the need to accommodate the PREA Compliance Manager always and the importance of documentation collection. Warden has also set aside two mandatory days of the week that PCM works only on PREA. He has also removed former PCM from any other duties during critical times in the audit." The Auditor also received an internal memo authored by the Warden reassigning all PCM other duties through the course of this audit. However, the Auditor was also informed that the former PCM was not able to meet internally established timeframes for initial information / documentation submission in response to Auditor requests due to not receiving requested documentation from facility staff.

On 03/17/2021, the Auditor was provided with documentation announcing that an interim PCM had been appointed, at least temporarily filling the position until a permanent replacement for the former PCM is identified. The individual was interviewed and is very knowledgeable regarding RPEA standards and requirements. She was actively involved with staff at all levels to ensure continued compliance with standard requirements and implementation of process to move those standards assessed as non-compliance into compliance. The interim PCM Individual has been very responsive and has open access to and the support of the Warden.

On 06/09/2021, the Auditor received an email from interim PCM that a new permanent PCM has been appointed effective 06/28/2021. Per a 06/28/2021 email from the PCM, the Warden has directed that the permanent PCM, "…will begin training for his new position. PREA training will be conducted by [the interim PCM who] will take the lead for this audit. [The permanent PCM] will take on full PREA duties after the audit." The current PCM was interviewed as during the on-site review. The individual has been totally focused on continuity of established PREA process and sustainability of achieved compliance. He has provided training developed local procedures in many of the places where additional gaps were identified. He also has open communication and the support of the Warden.

Based on the above noted changes in the position of PCM, with insufficient time for the current PCM to fully acclimate to his responsibilities, RCC is assessed as non-compliant with the requirements of this provision. Corrective action should include the development and implementation of a comprehensive training plan for the current PCM along with continued documented interactions / direction provided to agency PCM's and meetings / engagement with those above and below his position in the organizational structure. This will be monitored by the Auditor during the corrective action period.

Updates:
During the corrective action period, the Auditor was impressed with the motivation and positive actions taken by the PCM. He has participated in any applicable training venue available through the PREA Resource Center. He has developed systems to effective track and monitor multiple standard elements that had previously been assessed as non-compliant. The PCM has initiated meetings with all incoming inmates to ensure they have current information and the opportunity to ask questions. He focuses on "hot topics" such as reporting venues and victim advocacy. Per information received from the Warden, the PCM, "…walks and/talks to staff to include upper management and answer any questions that may have on PREA. [He] has interaction and [educates] all new intake inmates on the ways to report Sexual Abuse or Harassment, and the different phone numbers that they can use. [He] talks to inmates about PREA when out on the compound, or when asked." The Warden noted that the PCM works with the PREA Coordinator, other PCM's, this auditor, and consults available resources when he is in need of clarification. Based on these activities, RCC is now assessed as compliant with the requirements of this provision.

Documentation provided for this standard:
- Compliance memo dated 05/20/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA (05/29/2020)* and reviewed 03/26/2021
- Policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA (05/29/2020)*
- Policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA (05/29/2020)*
- Agency organizational chart
- 01/13/2018 Secretary letter regarding appointment of and access for Coordinator
- PREA Coordinator position description dated 01/05/2018
- RCC facility organizational chart (undated)

- 11/27/2017 Warden memo designated PCM
- Position description for PCM (12/21/2017), 06/2020 employee evaluation, and 2019 documentation of pay adjustment due to PREA responsibilities
- 08/28/2020, 10/20/2020 and 11/02/2020 Warden emails regarding reassignment of PCM responsibilities
- Emails and memos regarding PREA Coordinator and PCM assignments
- Policy CD-000100 *Adoption of Rules, Policies and Procedures (01/13/2017)*
- Documentation of PCM training completion
- Documentation from the Warden regarding activities engaged in by the PCM
- Documentation of PREA Coordinator training and PREA-related activities

Interviews conducted:

- PREA compliance managers
- PREA coordinators

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

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

115.12 (a)

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

115.12 (b)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.12 (a)
NMCD employs a Procurement Administrator who oversees all contract development. During an interview, the Auditor was informed that the agency currently maintains contracts with four (4) agencies for the confinement of offenders:

- Lea County – in effect 01/01/1999, with a 2004 amendment noting the contract would remain in effect until 06/30/2005, then automatically renewed each succeeding fiscal year for a period of one (1) year unless the parties mutually agree in writing not to renew the agreement.
- Otero County – in effect 02/01/2013, remaining in effect unless terminated in writing by either party.
- Guadalupe County – in effect 01/01/1999, with a 2004 amendment noting the contract would remain in effect until 06/30/2006, then automatically renewed each succeeding fiscal year for a period of one (1) year unless the parties mutually agree in writing not to renew the agreement.
- CoreCivic which runs the Northwest New Mexico Correctional Center. CoreCivic used to be

Corrections Corporation of America, but recently rebranded to the new name - amended 09/01/2020, effective through 06/30/2024.

It is noted that previously, NMCD maintained a contract with the GEO Group for the operation of a facility in Clayton, New Mexico. In 2019, this contract was terminated due to failure to maintain staffing levels. In 2019, NMCD assumed all operations at the Clayton facility, now known as the Northeast New Mexico Correctional Facility.

During a review of the NMCD website, the Auditor located DOJ PREA audit reports for New Mexico Men's Recovery Academy (NMMRA) dated 02/13/2017 and the New Mexico Women's Recovery Academy (NMWRA) dated 02/13/2017. Via communication with the former PREA Coordinator, it was learned that these facilities recently became privately operated under contract. As a result, the number of applicable contracts increased from four (4) to six (6). The Auditor received a copy of the contract with the GEO Group, in effect 06/14/2019 through 06/30/2023. The contract is not specific to the facilities being operated on behalf of NMCD, but per the information received from the Procurement Administrator, "It was in NMCDs best interest to leave it open so as to allow GEO the opportunity to provide services elsewhere as well if the need ever opened up for NMCD during the term of the contract. The RFP and resulting contracts are specific to the services being provided and were never intended to merely lock down a location."

The Auditor was informed by the Procurement Administrator that the New Mexico Department of Finance and Administration develops templates for all contracts initiated by the state. NMCD is required to obtain approval to add the following articles to each contract, to include those for personal services:

- Security clearances and background checks,
- Cooperation with NMCD investigations, and
- PREA.

The approval is valid for one year and ensures the articles are included for every NMCD contract.

The Auditor was provided with contracts for all noted facilities and confirmed inclusion of the noted articles, which read as follows:

- Security clearances and background checks – "The Contractor and its employees, sub-contractors, or their agents who will have access to NMCD properties and inmates are subject to security clearances and/or background checks. Any security clearances and/or background checks required by the Agency for the Contractor's employees, contractor's agents, employees, or other agent must be obtained prior to commencement of the job. User agency reserves the right to deny any employee, agency, or independent agent of the Contractor access to the Agency property should that individual fail the criteria required for security clearance or be found to be in violation of NMCD policies and procedures."
- Cooperation with NMCD investigations – "…the Contractor must furnish all information and reports required by, or pursuant to, the rules, regulations, and policies of the NMCD, and will permit access to, and the interview of, its employees, subcontractors, or other agents as well as the examination any copying of its records, unless such materials are legally privileged or disclosure is otherwise protected by law, by the NMCD Office of Professional Standards Threat Intelligence Unit…and the United State Department of Justice…and will otherwise fully cooperate with any such investigation."
- PREA – "Any Contractor providing services to NMCD who has direct contact with inmates or parolees who are in the care and custody of the State of New Mexico, shall adhere to and require its employees or other persons performing such services…in DEPARTMENT facilities. Any new contract or contract renewal shall provide for agency contract monitoring to ensure that such persons are complying with PREA standards."

The PREA article was added to the county contracts in 2017 and 2018 when the contracts were amended.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.12 (b)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)*,* section HH. (page 9) requires, "Monthly, the Facility Compliance Officer (at Public Facilities) and the Contract Monitor (at Private Facilities), will complete the Screening for Risk of Sexual Victimization & Abusiveness, form CD-150100.2 and return the form to the Agency PREA Coordinator." The Auditor requested and received the noted monitoring documentation for Guadalupe County for 02/2020, Lea County for 10/2019, Otero County for 12/2019, and Northwest New Mexico Correctional Center for 04/2020, confirming formal monitoring as required.

The Auditor was informed that NMCD maintains all PREA audit reports for contracted facilities on the agency's public website. The Auditor was able to locate reports for:

- Lea County (operated by the GEO Group) – 01/07/2019 and 09/11/2015.
- Otero County (operated by the Management and Training Corporation) – 03/02/2017 and 03/07/2014.
- Guadalupe County (operated by the GEO Group) – 07/25/2020, 09/24/2017 and 05/28/2014.
- Northwest New Mexico Correctional Center (operated by CoreCivic) – 12/29/2017.
- New Mexico Men's Recovery Academy (NMMRA) (operated by the GEO Group) - 02/13/2017.
- New Mexico Women's Recovery Academy (NMWRA) (operated by the GEO Group) - dated 02/13/2017.

Per the former PREA Coordinator, Otero County, the Northwest New Mexico Correctional Center (NNMCC), the New Mexico Men's Recovery Academy (NMMRA), and the New Mexico Women's Recovery Academy (NMWRA) were all scheduled for DOJ PREA audits during 2020, but these have been indefinitely postponed due to COVID19-related restrictions.

The Auditor was able to confirm posting of noted reports on applicable agency public websites as well.

Documentation provided to the Auditor indicated that a State of New Mexico Contractor Monitor is housed in each contracted facility, except for the New Mexico Men's Recovery Academy and the New Mexico Women's Recovery Academy. The associated position description (Compliance Officer A) indicates the individual is responsible for audit and monitoring-related activities. The Recovery Academies are monitored by the Community Corrections Administrator, whose office is at the agency's central office. Interviews conducted with the Procurement Administrator and two (2) facility-based Contract Monitors confirmed that compliance monitoring activities are actively ongoing in each facility, to include the review of identified PREA practices as documented in the monthly audit process reports. Monitors reported regularly reviewing rounds, training, orientation, risk assessments, physical barriers / blind spots, and posting of reporting information for inmates. Monitors also reported compliance with DOJ PREA audit requirements, indicating they may be called on to participate in the audits as needed.

It is noted that previously, NMCD maintained a contract with the GEO Group for the operation of a facility in Clayton, New Mexico. In 2019, this contract was terminated due to failure to maintain staffing levels. In 2019, NMCD assumed all operations at the Clayton facility, now known as the Northeast New Mexico Correctional Facility. Previous PREA audit reports for this facility are also maintained on the agency's public website.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 05/20/2020 from the former PCM addressed to the DOJ Auditor
- Contract with Guadalupe County, in effect until terminated by either party
- Contract with Lea County, in effect until terminated by either party
- Contract with Otero County, in effect until terminated by either party
- Contract 10-77000-20-06469 with CoreCivic, Inc., amended 09/01/2020, effective through 06/30/2024
- Documentation of termination of contract with the GEO Group for facility in Clayton
- Policy CD-150100, *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA* (05/29/2020)
- Job description Compliance Officer A
- Identified monthly Screening for Risk of Sexual Victimization and Abusiveness forms

Interviews conducted:

- Agency contract administrator
- Contract monitors

Standard 115.13: Supervision and monitoring

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

115.13 (a)

- Does the facility have a documented staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? ☒ Yes ☐ No

- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Generally accepted detention and correctional practices? ☒ Yes ☐ No

- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any judicial findings of inadequacy? ☒ Yes ☐ No

- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from Federal investigative agencies? ☒ Yes ☐ No

- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from internal or external oversight bodies? ☒ Yes ☐ No

- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated)? ☒ Yes ☐ No

- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The composition of the inmate population? ☒ Yes ☐ No

- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The number and placement of supervisory staff? ☒ Yes ☐ No

- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The institution programs occurring on a particular shift? ☒ Yes ☐ No ☐ NA

- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any applicable State or local laws, regulations, or standards? ☒ Yes ☐ No

- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The prevalence of substantiated and unsubstantiated incidents of sexual abuse? ☒ Yes ☐ No

- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any other relevant factors? ☒ Yes ☐ No

115.13 (b)

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

115.13 (c)

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

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The facility's deployment of video monitoring systems and other monitoring technologies? ☒ Yes ☐ No

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

115.13 (d)

- Has the facility/agency implemented a policy and practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment? ☒ Yes ☐ No

- Is this policy and practice implemented for night shifts as well as day shifts? ☒ Yes ☐ No

- Does the facility/agency have a policy prohibiting staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility? ☒ Yes ☐ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.13 (a)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section U. (page 7) requires, "Each facility shall develop, document, and make best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and where applicable, video monitoring to protect inmates against sexual abuse. In calculating adequate staffing levels and determining a need for video monitoring, facilities will take into consideration

- Generally accepted detention and correctional practices;
- Any judicial findings of inadequacy;
- Any finding of inadequacy from Federal Investigative agencies;
- Any findings of inadequacy from internal and external oversight bodies; all components of the facility's physical plant (including blind spots);
- The composition of the inmate population;
- The number and placement of supervisory staff; institution programs occurring on a particular shift;
- Any applicable State or Local laws, regulations or standards; the prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
- Any other relevant factors."

The Auditor was provided with a copy of the P.R.E.A. Staffing Plan, and Facility Compliance Meeting, Roswell Correctional Center (RCC), dated August 11, 2020. The plan articulates each element required in this provision and includes documentation of attendance at the staffing plan meeting. The plan also includes program / activity schedules, applicable language from the collective bargaining agreement regarding mandatory and non-mandatory posts, examples of shift rosters, and a schematic and camera layout of the facility.

It is noted that the facility operational capacity is 340 inmates, but the average daily population (ADP) during the documentation period has been 218 inmates. Per information from the former PCM, the lower ADP is due to the re-missioning of the Clayton facility once NMCD took over and the agency moving different inmate populations to different areas / facilities within the agency. RCC is the only dedicated Level 2 facility and are now sharing that population with several other facilities. She noted that it is likely that the population numbers will start to rise again.

During interviews, the Warden and former and interim PCM's were able to clearly articulate the elements required in this provision and how they impact staffing plan development. Although the current PCM had not yet participated in a formal staffing review, he was knowledgeable of the process, he also could articulate how the standard-identified elements impacted staffing plans for the facility.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.13 (b)
Per information from the former PCM, "Any deviation from the Staffing Plan will be documented by memo to the Warden and the Deputy Director of Operations." Per information from the former PREA Coordinator and in an interview with the Warden, the Auditor was informed that deviations also include instances in which an individual from a non-mandatory post is pulled to fill a mandatory post. These are documented in the daily adjustment roster (DAR) which is required to be completed at the end of each shift.

The Auditor was provided with documentation of deviations from the established staffing plan, usually moving individuals from non-mandatory posts or pulling in overtime to cover mandatory posts due to absences of the assigned staff. During the period between the initial documentation and the on-site

review, this documentation continued in monthly installments, demonstrating continued compliance with standard requirements.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.13 (c)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section U. (page 7) requires, "At least one time per year, the facility will hold a meeting to assess, determine and document whether adjustments are needed to the staffing plan, the facility's deployments of video monitoring systems and other monitoring technologies; and the resources the facility has available to commit to ensure adherence to the staffing plan. At the conclusion of the meeting, documentation of the review shall be forwarded to the Agency Level PREA Coordinator for review."

Per information from the former PCM, "The facility PCM is required at least once a year to chair a "Staffing Plan Meeting". The participants of the meeting generally include the PCM, Warden, Deputy Wardens, Chief of Security, Director of Nursing, Behavioral Health Supervisor, Education Supervisor, Human Resource Manager, Plant Manager and Roster Management. During the meeting, a careful analysis is conducted in determining an adequate staffing plan and the need for video monitoring. Each element of this standard is discussed and considered. Participation of the Staffing Plan meeting is documented by a sign in sheet that is attached to the staffing plan, as well as numerous documents which are reviewed and discussed and added to the Staffing Plan. Once the Staffing Plan has been finalized it is sent to the NMCD PREA Coordinator for review, adjustments or approval."

The Auditor was provided with a copy of the P.R.E.A. Staffing Plan, and Facility Compliance Meeting, Roswell Correctional Center (RCC), dated August 11, 2020. The former PCM informed the Auditor that a staffing plan review was not completed for 2019; therefore, the Auditor is not able to confirm completion of annual review as required in this provision.

The Auditor was informed that the only documentation of the PREA Coordinator participation in the annual staffing plan review would be the email from the Warden or former PCM submitting the plan. This does not document consultation with the PREA Coordinator in annual reviews as required in the standard. Per information from the former PREA Coordinator, a revision of the process will be implemented requiring review of and signature documenting review on the annual staffing plan review submitted by each facility.

Interviews with the former, interim, and current PREA Coordinators confirmed knowledge of the requirement for annual staffing plan reviews and their role in those reviews.

Based on the lack of a 2019 staffing plan and the lack of documentation of PREA Coordinator consultation in the review, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/16/2020, the Auditor received information from the facility that a new staffing plan review was scheduled for completion in February 2021, noting that all plans are sent to the PREA Coordinator for review. On 04/21/2021, the Auditor received the 2021 staffing plan review that included documentation of interim PREA Coordinator involvement in the review process. The Auditor was also informed that PREA Coordinator involvement is now incorporated into this process either in the form of presence in review meetings and/or email review and input.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.13 (d)
Agency policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section A.1. (page 1) requires, "Inmates shall be protected from sexual misconduct, personal abuse, corporal or unusual punishment, humiliation, mental abuse, personal injury, disease, property damage, harassment or punitive interference with the daily functions of living, such as eating and sleeping. Shift supervisors shall make unannounced rounds in housing units to deter staff sexual abuse and sexual harassment. Staff members are prohibited from alerting other staff members that supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility."

The Auditor was informed that staff at and above the level of lieutenant are required to conduct unannounced rounds. This would include lieutenants, the captain, unit managers, and the warden. The Auditor was provided documentation of unannounced rounds completed by these individuals, to address all shifts and days of the week.

A sample of administrators as designated above were interviewed regarding the conducting of unannounced rounds. All confirmed the purpose of identifying and deterring PREA-related prohibited behavior. All also indicated that rounds are logged in the area log and/or the log maintained by master control after the completion of the rounds and were required to be designated as "unannounced rounds". It is noted that lieutenants, in their role as shift supervisors, are required to conduct rounds of the facility each shift. The rounds designated as "unannounced rounds" are to be completed in addition to those "regular" rounds. Each individual interviewed was asked how they prevent staff from alerting other staff about rounds in progress. Processes were clearly articulated and included monitoring of radio traffic, not notifying the control center that rounds are occurring until after they are completed, changing the areas visited and direction taken during rounds, and promptly addressing any related behavior. All indicated that they were out in the facility frequently enough that most staff wouldn't think twice about seeing them out on rounds.

During the period between the initial documentation and the on-site review, the Auditor was provided with monthly documentation of unannounced rounds from each housing unit, confirming continued compliance with standard requirements. Additionally, the Team reviewed various logs while on site, confirming the continuation of required unannounced rounds.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:
- Compliance memo dated 09/10/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- P.R.E.A. Staffing Plan, and Facility Compliance Meeting, Roswell Correctional Center (RCC), August 11, 2020
- Documentation of deviations from the staffing plan
- Examples of logs documenting unannounced rounds

Interviews conducted:
- Intermediate or higher-level facility staff
- PREA compliance managers
- PREA coordinators
- Warden

Standard 115.14: Youthful inmates

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

115.14 (a)

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

115.14 (b)

- In areas outside of housing units does the agency maintain sight and sound separation between youthful inmates and adult inmates? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA

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

115.14 (c)

- Does the agency make its best efforts to avoid placing youthful inmates in isolation to comply with this provision? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA

- Does the agency, while complying with this provision, allow youthful inmates daily large-muscle exercise and legally required special education services, except in exigent circumstances? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA

- Do youthful inmates have access to other programs and work opportunities to the extent possible? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.14 (a)
New Mexico statute NMSA 32A-2-20 details provisions for the imposition of adult sentences with regard to youthful offenders, invoking an adult sentence if, "(1) the child is not amenable to treatment or rehabilitation as a child in available facilities; and (2) the child is not eligible for commitment to an institution for children with developmental disabilities or mental disorders." The statute further provides that, "If the court invokes an adult sentence, the court may sentence the child to less than, but shall not exceed the mandatory adult sentence. A youthful offender given an adult sentence shall be treated as an adult offender and shall be transferred to the legal custody of an agency responsible for incarceration of persons sentenced to adult sentences."

Agency policy CD-150100 *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA* (05/29/2020) section R. (page 7) requires, "Inmates under the age of eighteen (18) years old will not be assigned to housing in the same housing unit as adult offenders but will be housed in the Youthful Offenders Management Unit at the Central New Mexico Correctional Facility. Offenders under the age of eighteen (18) will have direct sight/sound contact with staff in areas outside of the housing unit."

The Auditor was provided with State v. Jones, 2010-NMSC-012, 148 N.M. 1, 229 P.3d 474, which states, "Amenability hearing is a condition precedent for exercising adult sentencing authority in youthful offender cases. — Only serious youthful offenders charged with first-degree murder can be tried in district court and automatically sentenced as adults if convicted. All others remain in the juvenile system until after adjudication and may be sentenced as adults only after an amenability hearing." As a result of this litigation, only youthful offenders sentenced for first degree murder can be sentenced to an adult correctional facility. Otherwise, the youthful offender would be housed in a juvenile facility until such time as the individual reaches the age of majority. This was confirmed in discussions with the former PREA Coordinator, who added that the trial and sentencing process in these cases is generally so long that the individual has usually reached the age of majority prior to sentencing and, as a result, very few youthful offenders are actually received by the agency.

The Auditor was provided with a memo from the former PCM indicating that RCC does not house youthful offenders. The Auditor also received an age report for RCC dated 09/15/2020 confirming the facility currently houses no inmate under the age of 19. This was also confirmed during the on-site review. As a result, no interviews were conducted as a part of the review of this provision.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.14 (b)
Agency policy CD-150100 *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA* (05/29/2020) section R. (page 7) requires, "Inmates under the age of eighteen (18) years old will not be assigned to housing in the same housing unit as adult offenders but will be housed in the Youthful Offenders Management Unit at the Central New Mexico Correctional Facility. Offenders under the age of eighteen (18) will have direct sight/sound contact with staff in areas outside of the housing unit."

The Auditor was provided with a memo from the former PCM indicating that RCC does not house youthful offenders. The Auditor also received an age report for RCC dated 09/15/2020 confirming the facility currently houses no inmate under the age of 19. This was also confirmed during the on-site review. As a result, no interviews were conducted as a part of the review of this provision.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.14 (c)
Agency policy CD-150100 *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA* (05/29/2020) section R. (page 7) requires, “Inmates under the age of eighteen (18) years old will not be assigned to housing in the same housing unit as adult offenders but will be housed in the Youthful Offenders Management Unit at the Central New Mexico Correctional Facility. Offenders under the age of eighteen (18) will have direct sight/sound contact with staff in areas outside of the housing unit.”

The Auditor was provided with a memo from the former PCM indicating that RCC does not house youthful offenders. The Auditor also received an age report for RCC dated 09/15/2020 confirming the facility currently houses no inmate under the age of 19. This was also confirmed during the on-site review. As a result, no interviews were conducted as a part of the review of this provision.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:
- Compliance memo dated 09/09/2020 from the former PCM addressed to the DOJ Auditor
- PCM memo reporting that no youthful offenders are housed at RCC
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Age Report Roswell Correctional Center - RCC – All Ages (09/15/2020)
- 06/16/2020 memo from PCM to DOJ Auditor regarding no youthful offenders
- New Mexico statute NMSA 32A-2-20
- State v. Jones, 2010-NMSC-012, 148 N.M. 1, 229 P.3d 474

Interviews conducted:
- No interviews regarding this standard were conducted as no youthful offenders are housed at this facility

Standard 115.15: Limits to cross-gender viewing and searches

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

115.15 (a)

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

115.15 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female inmates, except in exigent circumstances? (N/A if the facility does not have female inmates.)
  ☐ Yes ☐ No ☒ NA

- Does the facility always refrain from restricting female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision? (N/A if the facility does not have female inmates.) ☐ Yes ☐ No ☒ NA

115.15 (c)

- Does the facility document all cross-gender strip searches and cross-gender visual body cavity searches? ☒ Yes ☐ No

- Does the facility document all cross-gender pat-down searches of female inmates? (N/A if the facility does not have female inmates.) ☐ Yes ☐ No ☒ NA

115.15 (d)

- Does the facility have policies that enables inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks? ☒ Yes ☐ No

- Does the facility have procedures that enables inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks? ☒ Yes ☐ No

- Does the facility require staff of the opposite gender to announce their presence when entering an inmate housing unit? ☒ Yes ☐ No

115.15 (e)

- Does the facility always refrain from searching or physically examining transgender or intersex inmates for the sole purpose of determining the inmate's genital status? ☒ Yes ☐ No

- If an inmate's genital status is unknown, does the facility determine genital status during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that

information as part of a broader medical examination conducted in private by a medical practitioner? ☒ Yes ☐ No

115.15 (f)

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

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.15 (a)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section Y. (page 8) requires, "Staff members shall not conduct cross-gender (Male Officer to Female Inmate, or Female Officer to Male Inmate) strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners. The facility shall document all cross-gender strip searches and cross-gender visual body cavity searches. The facility shall not permit cross-gender pat- down searches by male officers of female inmates, absent exigent circumstances. All cross- gender pat-down searches of female inmates will be documented. In the event that these types of searches should occur, an SIR shall be generated documenting the need for the search."

Agency policy CD-130301, *Search Policy* (12/08/06), section A. (page 1), requires, "Strip searches must be done by an officer of the same gender as the inmate and in an area that affords a reasonable degree of privacy, except in emergency circumstances. Visual inspections of inmate body cavities shall only be conducted by a trained officer of the same sex, in private, and based on a reasonable belief that the inmate is carrying contraband or other prohibited material."

It is noted that during the audit documentation period and between initial documentation and on-site review, no cross-gender strip or visual body cavity searches were conducted. As a result, no secondary documentation is available for review. During initial internet research conducted by the Auditor prior to

initiating this review, a lawsuit regarding an allegation related to strip and body cavity searches was located. The Auditor was provided with the complaint and summons associated with this litigation and confirmed that the allegations contained therein had been administratively investigation under abuse and harassment allegations prior to filing of the litigation. This investigation was closed as unsubstantiated.

Interviews of female security staff confirmed that cross-gender strip searches would only be conducted if the situation were a life and death emergency, and no other options were immediately available.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.15 (b)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)*,* section Y. (page 8) requires, "Staff members shall not conduct cross-gender (Male Officer to Female Inmate, or Female Officer to Male Inmate) strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners."

Agency policy CD-130301, *Search Policy* (12/08/06), section A. (page 1), requires, "Female inmates will only be pat searched by female [officers], with the exception of an emergency."

RCC does not house female inmates. As a result, this provision is not applicable to the facility.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.15 (c)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)*,* section Y. (page 8) requires, "The facility shall document all strip searches in commonly used areas such but as not limited to booking, receiving, kitchen, medical and conducted food service…The facility shall document all cross-gender strip searches and cross-gender visual body cavity searches. The facility shall not permit cross-gender pat- down searches by male officers of female inmates, absent exigent circumstances. All cross- gender pat-down searches of female inmates will be documented. In the event that these types of searches should occur, an SIR shall be generated documenting the need for the search."

During the audit documentation period and between initial documentation and on-site review, no cross-gender searches were conducted. As a result, no secondary documentation is available for review. However, female custody staff interviewed noted the need to document any such searches that were conducted in response to exigent circumstances.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.15 (d)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)*,* section Z. and AA. (page 8) requires, "Inmates shall be afforded the opportunity to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Staff members of the opposite sex of the inmate population in their facility must announce their presence when entering an inmate housing unit. These announcements must be logged into the housing unit daily log for that unit."

All random staff interviewed confirmed a knowledge of the requirement to announce when females enter housing units, adding that it was done consistently by all female staff (female on unit, female present,

female on the floor, etc.). Additionally, all but one random staff interviewed acknowledged that inmates have the ability to shower, toilet and dress without being seen by staff of the opposite gender. The one individual who dissented indicated that the officer's desk is in direct view of the showers and at times, when making rounds, inmates in some state of undress have been viewed.

During on-site interviews random staff and inmates interviewed confirmed female staff announce themselves when entering housing units. This was also observed whenever members of the Team moved about the facility. A majority of interviewees also confirmed that inmates are able to dress, shower, and toilet without being viewed by staff of the opposite gender. The few who indicated this was not the case generally referenced viewing incident to tier checks or when inmates changed clothes in their bunk area rather than in the shower area. It is recommended that the requirement to change clothing in the shower area and for inmates to be dressed minimally in boxers when in their bunk area be added to the inmate handbook on its next revision.

Per information from the former PCM, "In addition to the policy, there are signs directing staff of the opposite gender to announce themselves. The signs can be seen prior to entering the housing units."

During the on-site review, Team members confirmed that inmates are able to dress, shower, and toilet without being viewed by staff of the opposite gender. Adequate barriers have been installed to ensure privacy as required.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.15 (e)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section L. (page 6) requires, "Transgender and intersex inmates shall not be searched or examined by non-medical staff for the sole purpose of determining the inmate's genital status. Genital status shall be determined by interviews or medical records reviews."

Agency policy CD-150800, *Transgender Inmates* (09/13/2018), section C. (page 3) requires that, "Transgender and intersex inmates shall not be searched or examined by non-medical staff for the sole purpose of determining the inmate's genital status. If necessary, genital status shall be determined by interviews or medical records reviews."

This prohibition is also included in agency policy CD-130300, *Search Policy* (12/08/2016), section J. (page 4)

All random staff interviewed understood the prohibitions associated with the strip search of transgender and intersex inmates. Transgender inmates interviewed confirmed they had no reason to believe that they were strip-searched for the sole purpose of determining genital status.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.15 (f)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section V. (page 7) requires, "The agency shall train security staff in how to conduct cross gender pat down searches and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs."

Agency policy CD-150800, *Transgender Inmates* (09/13/2018) requires, "All staff, custody and non-custody, will be trained prior to working with the inmate population and annually during annual refresher

classes at their respective facility on: how to communicate effective with LGBTI inmates/offenders and how to properly conduct pat-downs and strip searches of Transgender and Intersex inmates/offenders."

The Auditor was provided with the PowerPoint materials used in annual in-service training, noting inclusion of the following information:

- *How do we conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, detainees and residents in a professional and respectful manner?*
- *Searches will be performed in a professional manner, in accordance to the policies and procedures established at the facility.*
- *Cross-gender pat searches of female inmates/detainees are also prohibited absent exigent circumstances.*
- *Cross-gender strip searches and cross-gender visual body cavity searches (meaning a search of the anal or genital opening) are prohibited except in exigent circumstances or when performed by medical practitioners.*
- *Exigent Circumstances: Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of the facility.*
- *Facilities shall fully document and justify all:*
  - *cross-gender strip searches*
  - *cross-gender visual body cavity searches; and*
  - *cross-gender pat down searches of female inmates/detainees.*

The corresponding curriculum guide provides the facilitator with detail to effectively provide training for this portion of the PREA module.

All custody staff interviewed as a part of random staff interviews confirmed completion of the required search training, acknowledging that the training is provided in the academy on hire and a refresher is provided annually as an element of the general PREA training. A review of applicable training records confirmed completion of required training.

In an interview with the facility training coordinator, it was reported that staff would search transgender inmates in the same manner as searching female inmates regarding hand placement and positioning. It was also confirmed that new staff receive this training in an in-depth format at the academy and in annual in-services as a refresher.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 09/10/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-130300, *Search Policy* (12/08/2016)
- Policy CD-130301, *Search Policy* (12/08/2016)
- Policy CD-150800, *Transgender Inmates* (09/13/2018)
- Roswell Correctional Center Training Schedule Orientation July 2020
- Schedule for Roswell Correctional Center 40-hour In-Service Training
- Prison Rape Elimination Act Staff Training Curriculum as revised 03/2020 and corresponding PowerPoint
- Photographs of signage regarding female to announce before entry
- Complaint and summons current related litigation and associated administrative investigation
- Training records of select staff

Interviews conducted:

- Non-medical staff involved in cross-gender strip or visual searches
- Random sample of inmates
- Random sample of staff
- Training coordinator
- Transgender inmates

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

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

115.16 (a)

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

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

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

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

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

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Other (if "other," please explain in overall determination notes)? ☒ Yes ☐ No

- Do such steps include, when necessary, ensuring effective communication with inmates who are deaf or hard of hearing? ☒ Yes ☐ No

- Do such steps include, when necessary, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary? ☒ Yes ☐ No

- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Have intellectual disabilities? ☒ Yes ☐ No

- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Have limited reading skills? ☒ Yes ☐ No

- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Are blind or have low vision? ☒ Yes ☐ No

115.16 (b)

- Does the agency take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient? ☒ Yes ☐ No

- Do these steps include providing interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary? ☒ Yes ☐ No

115.16 (c)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.16 (a)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section S. (page 7) requires, "Inmates with disabilities and inmates who are limited English proficient shall have access to all aspects of the Department's efforts to prevent, detect and respond to sexual abuse and sexual harassment."

Agency policy 041001, *Inmate Orientation* (03/05/2015) section B. (page 2 - 3) requires, "Within seven (7) days of admission to a facility other than RDC, inmates will receive Facility Specific

Orientation…Inmates will receive written materials and/or translations in their own language. When available, verbal translators may substitute for written translations. When a literacy problem exists, a staff member will assist the inmate with understanding the material."

The Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 12) requires, "All institutional and facility block of inmate education will be available in formats accessible to all inmates including those who are:

- Limited English proficient;
- Deaf;
- Visually impaired;
- Otherwise disabled; and
- Limited in their reading skills."

The inmate orientation video is closed captioned for those inmates who are deaf or hard of hearing. It is also an audio presentation so that inmates who are visually impaired are able to effectively participate in orientation. Additionally, a TTY is available for use as needed for inmates who are deaf or hard of hearing.

The Auditor was provided with the following information from the former PREA Coordinator, "Inmates are assessed by education staff at RDC or upon arrival at their first facility. All facilities maintain TTY phones, language line…To my knowledge, RCC has not had to utilize the resources available to communicate with an inmate."

During the initial documentation review, the Auditor requested information about processes to identify inmates who have literacy problems, comprehension issues, etc. on intake to RCC. The Auditor also requested documentation of any assistance provided to a disabled inmate (sign language interpreter, use of the TTY, provision of staff assistance for inmates with literacy problems, use of any special materials for inmates with low comprehension levels, etc.) as it relates to PREA orientation, reporting, and/or investigations. None of this information or documentation was received.

During the audit documentation period and between initial document and on-site review, no ADA-related accommodation requests were received. As such, no related secondary documentation is available for review.

Per information from the facility training coordinator, staff are trained in assisting inmates who are limited English proficient during initial academy training.

At the time of the on-site review, RCC housed no cognitively or physically disabled inmates. Visually and hearing-impaired inmates interviewed reported that specialized materials, such as large print handbooks and brochures, have not been provided. These inmates indicated they would rely on other inmates for assistance due to the reported stigma rom other inmates for receiving assistance from staff.

Based on the lack of procedural information and documentation regarding special needs inmates, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/16/2020, the Auditor received the following procedural information from the former PCM, "At RCC, ITAP [Initial Transitional Plan] Meetings are held within 10 days of the inmate arriving. These multidisciplinary committees include the Classification Supervisor, Unit Manager, Education, Behavioral Health, Medical, and Security. The inmate is spoken to away from any other inmates and is able to ask any questions about RCC and how things run. At this time, the PREA fact sheet is given to the inmate once again and the PCM's name is given to them to ensure that the inmate knows who to contact if any PREA questions may arise…Additionally, Education receives an 'Education file' that includes if the inmate has any literacy problems, comprehension problems, or requires any assistance for any disabilities that the inmate may

have. They take these to ITAP and TAP meetings to ensure that they know the inmate's needs. The Education File contains 'Chronos' showing these issues and also includes results from all the testing that is done for each inmate upon entering the prison system at RDC in Los Lunas." The Auditor was also provided with agency policy CD-105000, *Offender Management Program (OMP)* (01/08/2014) that requires in section D. (page 3), "The TAP [Transition Accountability Plan] shall be developed in accordance with the inmate's assessed risk and needs and will guide the activities, referrals, programs, treatment, and internal Departmental communications necessary for each inmate's successful reintegration into the community." TAP Committee reviews are documented in a formal report that includes identification of needs and recommendations by medical, behavioral health, education / employment, security, and classification participants. The Auditor again requested documentation of the provision of any assistance for inmates identified as disabled in the orientation, allegation reporting and investigation processes. On 12/18/2020, the Auditor received documentation of educational analysis of an inmate, but nothing regarding the provision of assistance in orientation, reporting or investigation as requested.

On 12/22/2020, the Auditor was informed via email by the former PCM, "With a whole new Education staff, there is no process. I will get with them to see what will work best as well as the staff member that conducts orientation." On 03/17/2021, the Auditor was provided with procedural information indicating:

- *Coordination with Education Director regarding equipment for special education and/or learning-disabled inmates, to include, smartboards, colored overlays, phonics cards, video camera for learning by observation, speakers to amply devices for better hearing, and a magnifier for visually disabled.*
- *The availability of a hearing assistance / TTY telephone for deaf inmates (located in the Captain's office)*
- *Availability of staff interpreters and telephonic interpreters*

Per information from the former PCM, since 09/2020, there have been no instances in which inmates have needed special assistance or assistive devices to participate in orientation, report allegations or participate in investigations. Additionally, the facility did not receive an inmate needing assistance or experience an incident in which assistance was needed for reporting and investigatory purposes during the period between initial documentation and on-site review.

As a result, RCC is assessed as compliant with the requirements of this provision. It is recommended that the facility and/or agency develop materials for visually and auditorily impaired inmates, providing them in public areas such as libraries, where inmates can access them without staff assistance.

115.16 (b)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section S. (page 7) requires, "Inmates with disabilities and inmates who are limited English proficient shall have access to all aspects of the Department's efforts to prevent, detect and respond to sexual abuse and sexual harassment."

Agency policy 041001, *Inmate Orientation* (03/05/2015) section B. (page 2 - 3) requires, "Within seven (7) days of admission to a facility other than RDC, inmates will receive Facility Specific Orientation…Inmates will receive written materials and/or translations in their own language. When available, verbal translators may substitute for written translations."

The Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 12) requires, "All institutional and facility block of inmate education will be available in formats accessible to all inmates including those who are:

- Limited English proficient;
- Deaf;

- Visually impaired;
- Otherwise disabled; and
- Limited in their reading skills."

The agency maintains a contract with Language Line Services, Inc. that went into effect in 2009. According to the language of the contract, the agreement is automatically renewed for one-year periods unless cancelled in writing by one of the parties. Most random staff interviewed were aware of the availability of these services.

Per information from the former PCM, "The most commonly used and necessary languages throughout NMCD prison facilities are English and Spanish. All brochures, pamphlets and the inmate handbook are available in both English and Spanish. Copies are provided hereto for review. The PREA Video has the option for Spanish subtitles as well." The Auditor was provided with copies of published materials (signage, orientation manual, intake handout, and PREA Inmate Handbook). The Auditor was also provided with a listing of nine (9) RCC staff who are fluent in Spanish and are used as interpreters as needed.

Limited English proficient inmates interviewed reported that materials translated into Spanish had not been provided. However, while on-site, the Team observed all wall paintings in Spanish and Spanish printed materials available in reading racks in the library.

Per information from the facility training coordinator, staff are trained in assisting inmates who are limited English proficient during initial academy training.

During the initial documentation review, the Auditor requested documentation of any translation assistance provided to an inmate (either Spanish or the language line) as it relates to PREA orientation, reporting, and/or investigations. This documentation has not been received.

Based on the lack of documentation regarding limited English proficient inmates, RCC was initially assessed as non-compliant with the requirements of this provision. Process information was received as outlined with provision (a) of this standard.

Per the former PCM, since 09/2020, there have been no instances in which inmates have needed special assistance or assistive devices to participate in orientation, report allegations or participate in investigations. Additionally, the facility did not receive an inmate needing assistance or experience an incident in which assistance was needed for reporting and investigatory purposes during the period between initial documentation and on-site review.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.16 (c)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section S. (page 7) requires, "The agency shall not use inmate interpreters to assist disabled or limited English proficient inmates in participating in efforts to prevent, detect, and respond to sexual abuse and sexual harassment, except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first responders, or investigation of the inmate's allegations, is prohibited."

Sixteen of the seventeen (17) random staff interviewed indicated they would never enlist the services of an inmate translator, noting the ability to use staff translators for Spanish. Additionally, most confirmed a knowledge of the availability of the language line for use as needed. Those who were not aware of the language line indicated they would seek the assistance of the shift supervisor or PCM to address

translation needs rather than seek assistance from an inmate. The restrictions regarding the use of inmate interpreters was explained to the one individual who indicated use of an inmate the reporting inmate was comfortable with. No one reported any historical knowledge of the use of inmate interpreters.

During on-site interviews with LEP inmates, no interpretive issues were reported while these individuals were housed at RCC.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 09/10/2020 from the PCM addressed to the DOJ Auditor
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Contract with Language Line Services, Inc. in effect in 2009 and automatically renewed each year for one-year periods unless cancelled by either of the parties
- Photographs of signage in both English and Spanish
- 06/18/2020 memo from the former PCM addressed to the DOJ PREA Auditor listing out RCC staff who are fluent in Spanish
- PREA Inmate Handbook (undated) in Spanish
- Inmate intake handout in English and Spanish
- Prison Rape Elimination Act of 2003 Manual de Orientacion (undated)
- Policy CD-105000, *Offender Management Program (OMP)* (01/08/2014)
- Flyer with directions for use of the Linguistica International interpreter telephone line
- Fee schedule information for translation services provided by Linguistica Inernational
- Documentation of accommodations / assistance available for disabled and special needs inmates

Interviews conducted:

- Agency head designee
- Inmates with disabilities or who are LEP
- Random sample of staff
- Training coordinator

Standard 115.17: Hiring and promotion decisions

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

115.17 (a)

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? ☒ Yes ☐ No

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse? ☒ Yes ☐ No

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? ☒ Yes ☐ No

- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? ☒ Yes ☐ No

- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse? ☒ Yes ☐ No

- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? ☒ Yes ☐ No

115.17 (b)

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

- Does the agency consider any incidents of sexual harassment in determining whether to enlist the services of any contractor who may have contact with inmates? ☒ Yes ☐ No

115.17 (c)

- Before hiring new employees, who may have contact with inmates, does the agency perform a criminal background records check? ☒ Yes ☐ No

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

115.17 (d)

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

115.17 (e)

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

115.17 (f)

- Does the agency ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions? ☒ Yes ☐ No

- Does the agency ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in any interviews or written self-evaluations conducted as part of reviews of current employees? ☒ Yes ☐ No

- Does the agency impose upon employees a continuing affirmative duty to disclose any such misconduct? ☒ Yes ☐ No

115.17 (g)

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

115.17 (h)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.17 (a)
The Auditor was provided with a blank New Mexico Corrections Department hiring forms packet, which includes the NMCD Self-Declaration of Sexual Abuse/Sexual Harassment. The form requires the applicant to respond to the following questions:

- *Have you ever engaged in sexual abuse in a prison, jail, lockup, community confinement, juvenile facility, or other institutions (as defined in 42 U.S.C 1997);*
- *Have you ever been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force overt or implied threats of force or coercion, or when the victim did not consent or was unable to consent or refuse?*
- *Have you ever been civilly or administratively adjudicated to have engaged in the activity described in paragraph (2) above?*

Per information from the former PCM, "To apply for a position in the Corrections Department, an applicant will fill out an online application, through the New Mexico State Personal Office. Interviews will be set, and the applicants will fill out an additional application packet when they come for an interview…Each applicant will consent to a background check; fill out a PREA Questionnaire regarding prior institutional employment…and a self-disclosure form. The self-disclosure form asks the applicant all questions required by provision (a) of the standard. All applicants are required to sign the form acknowledging that they have a continuing duty to disclose any facts that would change the answers. Prior to any promotions, the employee will undergo a background check and sign a self-disclosure form…All employees and contract staff are required to update and then sign the form during the annual in-service training."

Per information received from the agency Compliance Officer, she also reviews all prior allegation / investigation information for every hire, rehire, and promotion; however, the review is not conducted if the individual has never worked for NMCD before as they would not be in the system. She indicated that the Human Resources office from the facility in which the individual is applying sends an email request for review to her. The facility HR office is also responsible for a similar review for any facility the applicant worked for outside of NMCD. The review is of all spreadsheets of investigations conducted prior to 2013, when the IAPRO database was launched, which now maintains all investigation information, not just limited to PREA-related investigations.

The Auditor requested documentation of sexual misconduct disclosure for three (3) selected new hires and three (3) selected promotions but did not receive responsive documentation.

The Auditor was informed that the same disclosure is required for any new contract staff member. The Auditor requested documentation of sexual misconduct disclosure for three (3) selected new contract staff. Only one of the requested forms was received, and it did not have any of the questions marked with "yes" or "no" responses, only signatures.

Based on the lack of documentation regarding sexual misconduct disclosures for new hires, promotions, and contract staff, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/21/2020, the Auditor was provided with sexual misconduct disclosure documentation as requested for three (3) promotions and three (3) new hires. It is noted that the form for one (1) promotion does not have any of the "yes/no" boxes checked, and a correct / completed form was requested and later

received. On 12/21/2020, the Auditor was provided with sexual misconduct disclosure documentation as requested for three (3) contract staff. It is noted that the service start date for one of the individuals was 11/26/2019 under the new medical contract. The Auditor had been informed that with the initiation of the new contract, new sexual misconduct disclosure forms and criminal background checks were completed. However, for this individual a disclosure was provided that was dated in 2018, even though the individual initiated services under a prior contract in 2017. Explanatory information and current documentation were requested and later received.

During the period between initial documentation and on-site review, the Auditor was provided with a listing of all new hires, promotions, and new contract staff. From these lists, the Auditor selected individuals for whom standard applicable documentation was requested. All documentation was provided and confirmed compliance with standard and policy requirements with the exception of one (1) contractor from September 2020 and one (1) from October 2020. These individuals completed sexual misconduct disclosures on the day services were initiated rather than prior to the securing of services as required by the standard. Processes were promptly revised to ensure this documentation was obtained and reviewed prior to the approval of facility access and the initiation of service provision. The revised process was clearly evidence in documentation provided through July 2021.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.17 (b)
The Auditor was provided with a blank New Mexico Corrections Department hiring forms packet, which includes the NMCD Self-Declaration of Sexual Abuse/Sexual Harassment. The form requires the applicant to respond to the following questions:

- *Has a substantiated allegation of sexual harassment ever been made against you?*

Per information from the former PCM, “To apply for a position in the Corrections Department, an applicant will fill out an online application, through the New Mexico State Personal Office. Interviews will be set, and the applicants will fill out an additional application packet when they come for an interview…Each applicant will consent to a background check; fill out a PREA Questionnaire regarding prior institutional employment…and a self disclosure form. The self-disclosure form asks the applicant all questions required by provision (a) of the standard. All applicants are required to sign the form acknowledging that they have a continuing duty to disclose any facts that would change the answers. Prior to any promotions, the employee will undergo a background check and sign a self-disclosure form…All employees and contract staff are required to update and then sign the form during the annual in-service training.”

Per information received from the agency Compliance Officer, she also reviews all prior allegation / investigation information for every hire, rehire, and promotion; however, the review is not conducted if the individual has never worked for NMCD before as they would not be in the system. She indicated that the Human Resources office from the facility in which the individual is applying sends an email request for review to her. The facility HR office is also responsible for a similar review for any facility the applicant worked for outside of NMCD. The review is of all spreadsheets of investigations conducted prior to 2013, when the IAPRO database was launched, which now maintains all investigation information, not just limited to PREA-related investigations.

The Auditor requested documentation of sexual misconduct disclosure for three (3) selected new hires and three (3) selected promotions but did not receive responsive documentation.

The Auditor was informed that the same disclosure is required for any new contract staff member. The Auditor requested documentation of sexual misconduct disclosure for three (3) selected new contract staff. Only one of the requested forms was received, and it did not have any of the questions marked with “yes” or “no” responses, only signatures.

Based on the lack of documentation regarding sexual misconduct disclosures for new hires, promotions, and contract staff, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/21/2020, the Auditor was provided with sexual misconduct disclosure documentation as requested for three (3) promotions and three (3) new hires. It is noted that the form for one (1) promotion does not have any of the "yes/no" boxes checked, and a correct / completed form was requested and received. On 12/21/2020, the Auditor was provided with sexual misconduct disclosure documentation as requested for three (3) contract staff. It is noted that the service start date for one of the individuals was 11/26/2019 under the new medial contract. The Auditor had been informed that with the initiation of the new contract, new sexual misconduct disclosure forms and criminal background checks were completed. However, for this individual a disclosure was provided that was dated in 2018, even though the individual initiated services under a prior contract in 2017. Explanatory information and current documentation were requested and received.

During the period between initial documentation and on-site review, the Auditor was provided with a listing of all new hires, promotions, and new contract staff. From these lists, the Auditor selected individuals for whom standard applicable documentation was requested. All documentation was provided and confirmed compliance with standard and policy requirements with the exception of one (1) contractor from September 2020 and one (1) from October 2020. These individuals completed sexual misconduct disclosures on the day services were initiated rather than prior to the securing of services as required by the standard. Processes were promptly revised to ensure this documentation was obtained and reviewed prior to the approval of facility access and the initiation of service provision. The revised process was clearly evidence in documentation provided through July 2021.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.17 (c)
Agency policy CD-030200 *Recruitment, Selection, and Hire of Correctional Officers, Correctional Officer Specialists and Probation and Parole Officers* (05/14/2020) section E. (page 2) requires, "In accordance with state and federal statutes, a criminal record check shall be conducted on all new employees, contract personnel, interns, and volunteers prior to assuming their duties to identify whether there are criminal convictions that have a specific relationship to job performance or delivery of services."

The requirement to complete criminal background checks for every potential new employee and new contractor was confirmed in an interview with a representative from Human Resources. Additionally, the former PREA Coordinator reported the central office Compliance Officer also reviews all applicable databases and systems for prior allegations and investigations for any hire, promotion, or lateral transfer candidate.

Per information received from the former PCM, each applicant is required to complete a PREA questionnaire regarding prior institutional employment. A blank form was included in the application packet provided to the Auditor. The form requests, "Please identify any and all substantiated allegations of sexual abuse or sexual harassment investigation against the above candidate while in your employment. Please provide date of the incident, the nature of the allegation, the findings and any disciplinary action taken. If not applicable please indicate N/A or none."

NMCD Prison Rape Elimination Act Questionnaire for Prior Institutional Employers forms are completed by the central office Compliance Officer if the prior employer is NMCD. If the employer is outside NMCD, the form is forwarded to the former employer by staff from the local Human Resources office.

The Auditor requested documentation of criminal background check completion prior to employment for three (3) selected new hires but did not receive responsive documentation.

Based on the lack of documentation regarding criminal background checks for new hires, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/21/2020, the Auditor was provided with documentation of required criminal background checks for the three (3) new hires as previous requested. The Auditor confirmed these had been completed prior to the initiation of employment.

During the period between initial documentation and on-site review, the Auditor was provided with a listing of all new hires. From these lists, the Auditor selected individuals for whom standard applicable documentation was requested. All documentation was provided and confirmed compliance with standard and policy requirements.

Based on this information, RCC is assessed as compliant with the requirements of this provision.

115.17 (d)
Agency policy CD-030200 *Recruitment, Selection, and Hire of Correctional Officers, Correctional Officer Specialists and Probation and Parole Officers* (05/14/2020) section E. (page 2) requires, "In accordance with state and federal statutes, a criminal record check shall be conducted on all new employees, contract personnel, interns, and volunteers prior to assuming their duties to identify whether there are criminal convictions that have a specific relationship to job performance or delivery of services."

The requirement to complete criminal background checks for every potential new employee and new contractor was confirmed in an interview with the contractor coordinator. The Auditor was informed that a criminal background check was required before any individual was allowed access to the facility, to include those individuals classified as "vendors" or those providing contracted services on a short-term or limited basis, who are under escort at all times and who do not interact with inmates.

The Auditor requested documentation of criminal background check completion prior to initiation of services for three (3) selected new contract staff. No responsive documentation was received.

Based on the lack of documentation regarding criminal background checks for new contract staff, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/21/2020, the Auditor was provided with documentation of criminal background checks for two (2) of the three (3) identified new contract staff. A subsequent request was submitted for the final document, noting that if documentation was not available, the required criminal background check was to be completed as soon as possible and documentation provided. On 06/15/2021, the Auditor received documentation of the last missing contractor criminal background check, run 12/30/2020 to address previous missing documentation. The Auditor has also been provided with current documentation of criminal background checks for each contractor initiating services since initial documentation.

During the period between initial documentation and on-site review, the Auditor was provided with a listing of all contract staff. From these lists, the Auditor selected individuals for whom standard applicable documentation was requested. All documentation was provided and confirmed compliance with standard and policy requirements.

Based on the provision of noted documentation, RCC is assessed as compliant with the requirements of this provision.

115.17 (e)
Per information received from the former PREA Coordinator, periodic background checks are completed for all employees and contract staff every three years. The process is initiated via an email from her office to the Human Resources Bureau Chief in Santa Fe and all PCM's. "The Bureau Chief will send

out an email to all HR staff in all facilities to begin the process. Normally an NCIC form is attached to the employee paychecks to sign and return. Each [facility] has several staff that are NCIC certified who will run the NCIC. In 2021 we will have to discuss the process, as many do not pick up paychecks or paystubs anymore, it is all electronic. We will begin the process in March and all facilities will have till May to run all employees. This includes our contract staff (medical and food service). Each HR division in the facilities will keep an excel spreadsheet to ensure that the background has been run on all staff." She confirmed that the process was completed in 2016 and 2019, but was not with the agency in 2013, so could not confirm completion at that time.

In interviews, Human Resources staff and the volunteer / contractor coordinator confirmed the requirement to complete criminal background checks on all employees and contract staff every three years. The Auditor was provided with documentation for the checks done in 2016 and 2019. It was learned that the periodic background checks did not include contract staff and therefore are not compliant with the requirements of this provision.

Based on the omission of contract staff from periodic criminal background checks, RCC was initially assessed as non-compliant with the requirements of this provision. The Auditor was provided with documentation of current criminal background checks for all contract staff, bringing them current with the five (5) year requirements. The facility has modified procedures to ensure contract staff are included in all future group checks, completed every three (3) years; the next such check will occur in 2022. As a result, RCC is now assessed as compliant with the requirements of this provision.

115.17 (f)
Per the information and documentation provided for provisions (a) and (b) of this standard, all new hire, promotional candidates, and new contract staff are required to complete a sexual misconduct disclosure form. The form requires the individual to confirm, "By signing below, I understand that I have a continuing affirmative duty to disclose any facts that would change my answers above." The Auditor was also informed that each employee is required to complete the sexual misconduct disclosure form each year during annual in-service.

Per provisions (a) and (b), the Auditor requested sexual misconduct disclosure forms for three select new hires, but no responsive documentation was received. The Auditor was however able to review these forms for select staff who completed annual PREA training. Additionally, as documented with standards 115.31 and 115.32, all employees and contract staff have completed training for the 2020/2021 training year (ending 06/30/2021), resulting in a current sexual misconduct form on file for these individuals.

The Auditor was provided with a memo from the Director of the New Mexico State Personnel Board, State Personnel Office, reporting, "Please be advised that State employees do not complete self-evaluations. Supervisors are required to do evaluations on employees they directly supervise." As a result of this information, the self-evaluation portion of this provision is not applicable to RCC.

Based on the above, RCC is assessed as compliant with the requirements of this provision. The lack of identified documentation provided was addressed in provisions (a) and (b).

115.17 (g)
The Auditor was provided with a blank New Mexico Corrections Department hiring forms packet, which includes the NMCD Self-Declaration of Sexual Abuse/Sexual Harassment. The form states, "By signing below, you certify that, to the best of your knowledge and [belief], the information you provide on this form is true, complete, and made in good faith. You certify that your understanding is that material omissions regarding such misconduct, or the provision of materially false or fraudulent information, you could be disqualified from further consideration for employment or, if falsity is discovered after you become employed, you can be terminated from employment."

The Auditor was informed that this disclosure form is required for every hire, promotion and transfer applicant and every new contract staff.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.17 (h)
The central office Compliance Officer confirmed that she provides any prior allegation and/or investigation information contained in available databases and systems in response to any request from other states or agencies regarding prior agency employees. This was confirmed in an interview with Human Resources staff.

Per information from the former PREA Coordinator and the Compliance Officer, there have been no such requests regarding a former RCC employee. As a result, there is no secondary documentation available for review.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:
- Compliance memo dated 09/10/2020 from the former PCM addressed to the DOJ Auditor
- Agency policy CD-030200 *Recruitment, Selection, and Hire of Correctional Officers, Correctional Officer Specialists and Probation and Parole Officers* (05/14/2020)
- NMCD Prison Rape Elimination Act Questionnaire for Prior Institutional Employers for select individuals
- 07/20/2017 memo from Director, New Mexico State Personnel Board, State Personnel Office
- Documentation of RCC staff criminal background checks completed in 2016 and 2019
- Documentation of current criminal background checks for all contract staff

Interviews conducted:
- Human resources staff
- Volunteer / contractor coordinators

Standard 115.18: Upgrades to facilities and technologies

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

115.18 (a)

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

115.18 (b)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.18 (a)
Agency policy CD-150100 *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA* (05/29/2020) section BB. (page 8) requires, "When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect the inmates from sexual abuse. When installing or updating a video monitoring system, electronic surveillance system or other monitoring technology, the agency shall consider how such technology may enhance the agency's ability to protect inmates from sexual abuse."

Since the facility's last PREA audit (site visit beginning 04/09/2018 and final report dated 05/21/2018), no significant, applicable modifications were made to RCC's physical plant. As such, no local

documentation was available. However, NMCD assumed responsibility for the operation of the Northeast New Mexico Correctional Facility from the GEO Group. Per the former PREA Coordinator, NMCD has always owned the facility but had contracted for its operation by the GEO Group, later resuming internal operation in late 2019. As such, this facility is also not applicable to the requirements of this provision.

During an interview with the Secretary's designee, it was reported that modifications would be based on the classification of the facility and its physical design, and on the classification of the inmates being placed in the environment. A complete review is done when moving any population to ensure the facility fits the population to be housed, with accommodations for special populations like sex offenders, those at risk, etc.

During an interview with the Warden, it was confirmed that there were no modifications and/or additions applicable to this provision since the last DOJ PREA audit. He noted that RCC is in the initial planning stages of moving chemical storage to another location to open the education area. He noted that as a part of the planned process, a new education administrator will be hired and a complete assessment will be completed with the new administrator, the Warden, the Captain, and the PCM with completion of any identified modifications by the Physical Plant Manager (e.g., mirrors).

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.18 (b)
Agency policy CD-150100 *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA* (05/29/2020) section BB. (page 8) requires, "When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect the inmates from sexual abuse. When installing or updating a video monitoring system, electronic surveillance system or other monitoring technology, the agency shall consider how such technology may enhance the agency's ability to protect inmates from sexual abuse."

Since the facility's last PREA audit (site visit beginning 04/09/2018 and final report dated 05/21/2018). The Auditor received the State New Mexico Prison Surveillance – Roswell Correctional Network Document – Network Specifications (05/10/2019) detailing all camera locations and areas of coverage. According to the former PCM, this document details the revisions made to the surveillance system in May 2019. The Auditor requested clarification / explanatory information regarding this document as the former PCM reported that it shows the changes and updates that were made to the surveillance system in May 2019. Additionally, the Auditor requested documentation of the former PCM participation in decisions made regarding the surveillance system modifications / additions (e.g., meeting minutes). None of this information / documentation was received.

During interviews, the Secretary's designee and Warden expressed a thorough knowledge of provision requirements. The Secretary's designee noted that cameras can be used in some areas, but not in others, such as bathrooms. To ensure inmate safety, additional patrols by staff may be implemented along with things like physical barriers in bathrooms that allow staff to see heads and feet while still providing inmates with privacy. The interviewee noted that the agency likes to use technology, but also employs the presence of the officers, rounds, etc. to ensure safety. Additionally, a thorough knowledge of operations and the ability to implement boundaries, some of which may by physical barriers enhances inmate safety.

The Warden added that the process to add or modify cameras is currently long and that cameras added in May 2020 were actually requested several years ago.

Based on the lack of information / documentation regarding camera system upgrades, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/16/2020, the Auditor was provided with a document listing out all camera system modifications that were completed in May 2019, to include camera additions and replacements as well as adjustments to several existing cameras. The Auditor was also provided with administrative staff meeting minutes from April 2019 in which it was noted that the vendor making camera system modifications would start work soon. The former PCM noted, "These decisions were made at least 5 years before I ever became involved in with PREA. This has been on the budget '[wish list]' for many years." The Auditor reviewed the previous DOJ PREA audit report dated 05/21/2018 and found no information about the development of plans for this significant modification. The Auditor received additional documentation regarding the finalization of plans and budget requests indicating that final decisions made regarding system updates were made since the DOJ PREA audit and, as such, should have involved the documented consideration of PREA and sexual safety in these decisions.

On 03/16/2021, the Auditor was provided with a memo from the Warden indicating, "Roswell Correctional Center (RCC) supplemented its Video Monitoring System in May 2019. Although the request and funds for additional cameras was submitted in April 2016, approved in April of 2019 and installed in May of 2019. The additional cameras were requested in 2016 by [the Warden at that time] after a walk through with Physical Plant Manager…and PREA Compliance Manager…Blind spots and area of concern were identified at that time. In May 2019 twelve (12) cameras were added to the Video Monitoring System. The placement of the additional cameras was predetermined after [the Warden], Physical Plant Manager…and PREA Compliance Manager…decided upon the placement to protect inmates from sexual abuse. At any time RCC is planning facility upgrades (new buildings, new cameras, etc.) a meeting will be held with Business Manager, Chief of Security, PREA Compliance Manager, Physical Plant Manager and the Warden. When a decision is made a copy of the meeting minutes will be filed, a copy will be sent to the ACA/PREA Compliance Manager and to Central Office…Emails will be collected updating the PCM when there will install any new camera to the video system/unit. On this email it will provide dates and locations and a floor plan with the camera locations."

During the period between initial documentation and on-site review, no plans for modification to the existing camera system were initiated with the exception of:

- May 2021 - The Auditor was provided with documentation of a meeting in which the Warden, PCM, and Plant Supervisor were present and participated in discussions regarding planned placement of additional cameras.
- June 2021 – The Auditor was provided with documentation of a meeting in which the Warden, PCM, Chief of Security, and Physical Plant Manager designed camera and mirror locations in the non-contact visiting stations to be installed in the facility's visiting room.

Based on the above, RCC is assessed as compliant with the requirement of this provision.

Documentation provided for this standard:

- Compliance memo dated from the former PCM addressed to the DOJ Auditor
- Policy CD-150100 *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA* (05/29/2020)
- Roswell Correctional Network Document – Network Specifications (05/10/2019)
- Listing of camera system modifications completed in May 2019
- 04/22/2019 RCC Department Head meeting minutes
- Purchase and budget request documentation associated with camera system upgrades / modifications

Interviews conducted:

- Agency head designee
- Warden

RESPONSIVE PLANNING

Standard 115.21: Evidence protocol and forensic medical examinations

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

115.21 (a)

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

115.21 (b)

- Is this protocol developmentally appropriate for youth where applicable? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.) ☐ Yes ☐ No ☒ NA

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

115.21 (c)

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

- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible? ☒ Yes ☐ No

- If SAFEs or SANEs cannot be made available, is the examination performed by other qualified medical practitioners (they must have been specifically trained to conduct sexual assault forensic exams)? ☒ Yes ☐ No

- Has the agency documented its efforts to provide SAFEs or SANEs? ☒ Yes ☐ No

115.21 (d)

- Does the agency attempt to make available to the victim a victim advocate from a rape crisis center? ☒ Yes ☐ No

- If a rape crisis center is not available to provide victim advocate services, does the agency make available to provide these services a qualified staff member from a community-based

organization, or a qualified agency staff member? (N/A if the agency *always* makes a victim advocate from a rape crisis center available to victims.) ☐ Yes ☐ No ☒ NA

- Has the agency documented its efforts to secure services from rape crisis centers? ☒ Yes ☐ No

115.21 (e)

- As requested by the victim, does the victim advocate, qualified agency staff member, or qualified community-based organization staff member accompany and support the victim through the forensic medical examination process and investigatory interviews? ☒ Yes ☐ No

- As requested by the victim, does this person provide emotional support, crisis intervention, information, and referrals? ☒ Yes ☐ No

115.21 (f)

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

115.21 (g)

- Auditor is not required to audit this provision.

115.21 (h)

- If the agency uses a qualified agency staff member or a qualified community-based staff member for the purposes of this section, has the individual been screened for appropriateness to serve in this role and received education concerning sexual assault and forensic examination issues in general? (N/A if agency *always* makes a victim advocate from a rape crisis center available to victims.) ☐ Yes ☐ No ☒ NA

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.21 (a)
NMCD Office of Professional Standards (OPS) training investigators are only authorized to conduct administrative investigations as these specially trained investigators are no certified law enforcement officers. Per the former PCM, "If the facility receives an allegation that appears to be criminal in nature, the scene would be secured and the Department of Public Safety (New Mexico State Police) would be called to the facility to conduct an investigation and obtain evidence."

Agency policy CD-150102, *Offender Protection Against Sexual Abuse and Sexual Misconduct; PREA* (05/29/2020), defines procedures to be followed in the event of a sexual assault, including evidence collection, forensic medical examinations, after action and follow up, and investigation. Procedures are based on *A National Protocol for Sexual Assault Medical Forensic Examinations, Adults / Adolescents* (Second Edition, April 2013). Additionally, the Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) page 31 – 32 details evidence collection, to include placement in paper bags, and labeling.

All staff interviewed, regardless of position, were knowledgeable about at least the basics of evidence collection, beginning with securing the crime scene and ensuring the alleged victim is safe and separated from the suspect. A majority of the interviewees believed that the former PCM conducted PREA investigations; however, she is not a trained investigator and investigation responsibilities fall to other trained facility staff. It is noted that this has changed with the appointment of the current PCM, but it is recommended that staff are provided with information regarding the duties and responsibilities of the current PCM as his role is significantly different from that of the former PCM.

During a review of investigations completed between initial documentation review and the on-site review, the Auditor was informed that videos reviewed as part of the allegation review and investigatory process are maintained as evidence with the Serious Incident Report packet in the Warden's office. However, it was also learned that these are not managed with a chain of custody form. It is recommended that agency processes be updated to include formal evidence management procedures and documentation with these videos to ensure they are properly retained as formal evidence for use in criminal investigations, disciplinary actions, litigation, and other formal proceedings.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.21 (b)
Agency policy CD-150102, *Offender Protection Against Sexual Abuse and Sexual Misconduct; PREA* (05/29/2020), defines procedures to be followed in the event of a sexual assault, including evidence collection, forensic medical examinations, after action and follow up, and investigation. Procedures are based on *A National Protocol for Sexual Assault Medical Forensic Examinations, Adults / Adolescents* (Second Edition, April 2013).

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.21 (c)
Agency policy CD-150102, *Offender Protection Against Sexual Abuse and Sexual Misconduct; PREA* (05/29/2020), section C.1 – 10. (page 3 - 4) requires, "The Warden or designee will ensure that victims of sexual assault are promptly transferred under appropriate security provisions by Emergency Medical Services or NMCD personnel as is medically appropriate to a community health care facility for treatment and gathering of evidence…This will be at no charge to the inmate. The consent of the victim shall be required for any routine emergency examination and treatment offered at the community health care facility, which is not otherwise required by law. The examiner will prepare consent forms, etc. for the examination…The examiner will establish the medical forensic history…The examiner will photograph

medical evidence…The examiner will perform the examination and collect medical evidence…The examiner will gather toxicology samples for drug testing…The examiner will perform a sexually transmitted infection evaluation and provide for treatment...The examiner will perform a pregnancy risk evaluation and schedule follow-up care…The examiner will provide follow up instructions and release the victim for discharge."

Per the Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 14): "If requested by the inmate, the victim advocacy representative or Department of Mental Health Professional will accompany the victim inmate to the forensic medical examination process and interviews to provide emotional support, crisis intervention, information and referrals." The same document (page 16) reads, "If a SAFE or SANE cannot be made available, the examination can be performed by [another] qualified medical practitioner only after contacting the Warden and the PREA Management Team." Page 39 defines the PREA Management Team as including "…the Inspector General/PREA Coordinator, PREA Administrator, PREA Compliance Managers, PREA/OPS Management Analysts, Executive Assistant." The same manual, page 16, notes, "All forensic medical examinations that are done by someone other than a SANE [or] SAFE shall be documented and forwarded to the PREA Coordinator. This shall, however, rarely if at all be completed in the same manner." Page 31 notes, "Victims must agree to have a forensic exam prior to transporting for the exam. Should an inmate refuse to have the exam, we must document the refusal on a Release of Liability for Refusal of Medical Treatment Form. Forensic examinations will be offered at no cost to the victim. Victims will only be transported for a sexual assault forensic exam if the assault occurred within the 120hr time frame."

The Auditor was also informed by the former PCM that, "Shift Supervisors contact Warden, Duty Officer, and PCM for all PREA incidents. They all know to contact La Piñon Advocacy Center if a sexual abuse were to occur at RCC and a SANE exam is going to be needed. It would be documented in the SIR [serious incident report]."

All information provided to the Auditor regarding forensic medical exams refers to inmate-on-inmate abuse. The Auditor asked whether an inmate who is the alleged victim of sexual abuse by an employee, contractor or volunteer that involved penetration or exchange of body fluids within 120 hours also be offered a forensic medical examination and was informed by the former PREA Coordinator, "This includes all sexual abuse allegations. The facility is required to call out State Police, NMCD will defer to State Police if a SANE Exam is needed. However there have been instances, where State Police has not completed a SANE Exam and the facility went ahead and did one." It is recommended that this information be included in future updates to applicable materials.

The provision of all medical and mental health services at no cost to the inmate, including any associated with a PREA allegation, was confirmed in interviews with health services providers.

The Auditor conducted interviews with representatives from New Mexico SAFE/SANE organizations, confirming that any inmate requiring a forensic medical examination would be transported to a regional center, were SANE coverage is maintained 24 hours per day. Representatives confirmed that in some areas, SANE's work shifts in the center and are always available. In smaller communities, SANE's are on call and periodically an exam may need to be scheduled out a day or so to ensure the SANE is available; however, exams would always be conducted within established timeframes to ensure the ability to collect possible evidence. The Auditor confirmed that there should be no instance in which a SANE was not available to conduct an exam. The Auditor was also informed that the inmate would need to be medically stable for the exam to be conducted and addressing emergent medical issues would be the first priority, transporting the inmate to an adjacent emergency room first, followed by transfer to the SANE center for the forensic medical examination. Representatives added if the inmate needs to remain

at the hospital for medical care, the SANE could conduct the exam at the hospital as all SANE's also have hospital privileges.

No inmate from RCC has been the alleged victim of sexual abuse that indicated the need for a forensic medical examination. As a result, there is no secondary documentation available for review.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.21 (d)
RCC maintains a Memorandum of Understanding with La Piñon, Sexual Assault Recovery Services of Southern New Mexico. This MOU went into effect 08/05/2019 and "…remains in effect for a period of one year from the effective date for the first calendar year. Upon review, revision as agreed upon by all parties as needed, and signing of all parties after one year, the MOU remains in effect unless terminated by either party…" Per information obtained from the former PREA Coordinator, the MOU is currently under review and revision following discussions with advocates to clarify their responsibilities. Prior to COVID-related restrictions, quarterly meetings were are held between the central office PREA Office and advocates to discuss services detailed in the expired MOU, with all agreeing to continue services until an amendment or new MOU is issued.

The MOU does not specifically address attendance and provision of support during forensic medical examination and subsequent investigatory interviews, but does require that La Piñon, "Provide in-person advocacy when resources and staff permit availability." Advocacy support during and after forensic examinations was confirmed in an interview with a representative from the community-based advocacy organization. She noted that she has never been called out for such services at RCC but would normally be contacted by the facility and then proceed to the hospital where she would meet with the inmate. She noted that transport staff would typically stand outside the room in which the inmate was placed to allow confidentiality of communications between the inmate, the SAFE/SANE and the advocate. She also noted that follow up support services would be provided via telephone calls or mail, adding that currently in-person services at the facility are restricted due to COVID concerns. It is noted that the Auditor was provided monthly updates between initial documentation and on-site review regarding the progress of the development of an updated MOU.

The Auditor did not locate any information on the Serious Incident Checklist that addresses sexual assault specifically and questioned how Shift Supervisor know they are to contact the advocate before transporting an inmate to the hospital for a forensic medical examination and where such action would be documented. Per information received from the former PREA Coordinator, "The facility is required to call out State Police, NMCD will defer to State Police if a SANE Exam is needed…For RCC a call is made to…La Piñon if a SANE Exam is needed. [La Piñon] will also attend the SANE as the victim advocate. A victim advocate is always contacted for a SANE exam." It is recommended that information be added to the applicable checklist to provide an area for documentation of advocate notifications as indicated.

During an interview, the former PCM confirmed a good working relationship with La Piñon's director. This was also confirmed in an interview with the La Piñon director. The former PCM noted that all forensic examinations would be coordinated with the state SANE director. The SANE Director noted in an interview that if an inmate were in need of a forensic medical examination, an advocate from the SANE facility would be made available to the inmate while on site. Follow up support would be provided through La Piñon initiated by a telephone call from the inmate. The current PCM will include in his initial duties a meeting with representatives from La Piñon to ensure continuity of and/or expansion to services provided.

The Auditor reviewed all investigations conducted between 01/2019 and 09/2020 as provided with initial documentation along with investigations completed between initial documentation and on-site review.

None of the inmates who were identified as alleged victims in any abuse investigation remained housed at RCC. As a result, there were no inmates who reported sexual abuse available for interview.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.21 (e)
Agency policy CD-031801, *Office of Professional Standards (OPS), Personnel investigations and Staff Misconduct Reporting* (06/03/2019) section E.14.f. (page 13) requires, "Investigators shall accommodate any request from a victim to have a victim advocate, qualified agency staff member or qualified community-based organization staff member present during any and all investigatory interviews."

Information regarding the availability of advocacy support is provided to inmates in the PREA Inmate Handbook (undated), which states, "If you would like advocacy or to talk to someone from your local Rape Crisis Center, you may dial *9999 from any inmate phone." This handbook is available in both English and Spanish. The Prison Rape Elimination Act (PREA) Resource Guide for Inmates (08/23/2019) states, "A sexual assault counselor or victim advocate from a rape crisis center can provide emotional support by being an objective listener (someone who is not directly involved in your situation who can listen without biases). This person can help you make informed choices by providing information about common reactions to the trauma of sexual violence, medical considerations, law enforcement procedures, and other legal issues." Although the resource manual provides procedural information regarding a forensic medical examination, neither publication provides information to the inmate about the process for the advocate presence at such an exam.

As noted above, policy CD-031801, *Office of Professional Standards (OPS), Personnel investigations and Staff Misconduct Reporting* (06/03/2019) indicates that the onus to contact an advocate for support during an investigatory interview is with the inmate, that the investigator will accommodate inmate requests. The Auditor requested additional information / clarification regarding associated processes, particularly how inmates have been made aware of the need to make such a request and how this is accomplished if the investigation is being conducted by an outside investigator from a law enforcement agency. No response was received. A representative from La Piñon confirmed the provision of support services during and following a forensic medical examination; however, indicated she was not aware of the ability to provide support services during subsequent investigatory interviews, noting that she has only done so once in another facility. She assumed that the inmate would have to contact her and request such support, which would then be arranged with the facility.

During an interview, the former PCM reported that the PREA Coordinator is responsible for oversight of agreements with advocates, which would also include ensuring state qualifications for advocates are met by providers. However, the interim and current PCM indicated that, per agreement between the two agencies, La Piñon was responsible to ensure that all advocates meet state dictated requirements for advocacy provision. It is recommended that this responsibility be clearly articulated in a formal manner, either in the MOU under development or in a separate agreement.

The Auditor reviewed all investigations conducted between 01/2019 and 09/2020 as provided with initial documentation along with investigations completed between initial documentation and on-site review. None of the inmates who were identified as alleged victims in any abuse investigation remained housed at RCC. As a result, there were no inmates who reported sexual abuse available for interview.

Based on the lack of information provided to inmates regarding processes for advocacy support during forensic medical examinations, RCC was initially assessed as non-compliant with the requirements of this provision. The Auditor was provided with updated versions of the PREA handbook, PREA Orientation Brochure, and PREA Resource Guide (all revised 11/13/2020) along with distribution of these materials to all agency PCM's with instructions for use. Per information from the former PREA Coordinator, the

updated information is available to current inmates in materials available in the inmate library and in unit manager offices. Additionally, the information is included on one of the inmate playing cards (King of spades).

Based on these actions, RCC is assessed as compliant with the requirements of this provision.

115.21 (f)
Agency policy 031801, *Office of Professional Standards (OPS), Personnel investigations and Staff Misconduct Reporting* (06/03/2019) section A.4. (page 7) requires, "All allegations of criminal conduct, including any criminal sexual penetration or criminal sexual contact of an inmate by a staff member, must be reported to the appropriate law enforcement authorities, in addition to completing an OPS referral. In addition, during each Prison Rape Elimination Act (PREA) related investigation, the assigned OPS Investigator or designed Investigations Officer shall request the outside law enforcement agency's investigators follow the requirements of PREA standard 115.71."

Criminal investigations are conducted by the New Mexico State Police (NMSP), a division of the Department of Public Safety. Per a 10/02/2019 letter from the Major of the NMSP Standards/Training Bureau, NMSP officers "…are required to attend and graduate a police academy in which they learn how to enforce laws and conduct criminal investigations. A variety of topics are taught in the academy including, but not limited to Sexual Assault Investigation, Crime Scene Processing/Evidence Preservation, Interview and Interrogation and Internal Affairs." RCC collaborates with NMSP for evidence collection, investigation, and the conducting of forensic medical examinations as indicated.

The Auditor inquired if there was a written agreement with the New Mexico State Police for the conduct of criminal investigations or if there was a statutory provision that authorized the same. The Auditor also requested contact information for a representative from the New Mexico State Police. No response was received.

Based on the lack of information provided to the Auditor regarding the New Mexico State Police and therefore, the Auditor's inability to assess compliance with requirements, RCC was initially assessed as non-compliant with the requirements of this provision. Corrective action should include the provision of requested information followed by review by the Auditor. On 12/18/2020, the Auditor was provided with contact information for a New Mexico State Police lieutenant who oversees detective operations. The Auditor conducted an interview with the identified individual confirming NMSP response to reports received from RCC based on the level and immediacy of the allegation. The interviewee also confirmed the provision of reports associated with these investigations along with NMSP coordination with local District Attorneys for approval to move forward with criminal charges. On 12/22/2020, the Auditor was informed that there currently is no memorandum of understanding or interagency agreement between the facility and/or NMCD and the New Mexico State Police regarding the conduct of criminal investigations. However, the Auditor was provided with New Mexico statute 29-11-5, *Sexual crimes prosecution and treatment program* that requires, "The administrator shall develop, with the cooperation of the criminal justice department [corrections department], the New Mexico state police, the New Mexico law enforcement academy, other authorized law enforcement agencies and existing community-based victim treatment programs, a statewide comprehensive plan to train law enforcement officers and criminal justice and medical personnel in the ability to deal with sexual crimes, to develop strategies for the prevention of such crimes, to provide assistance in the assembly of evidence for the facilitation of prosecution of such crimes, and to provide medical and psychological treatment to victims of such crimes…The comprehensive plan shall be implemented throughout the state."

Based on the provision of this information, RCC is assessed as compliant with the requirements of this provision.

115.21 (g)
Criminal investigations are conducted by the New Mexico State Police (NMSP), a division of the Department of Public Safety. Per a 10/02/2019 letter from the Major of the NMSP Standards/Training Bureau, NMSP officers "…are required to attend and graduate a police academy in which they learn how to enforce laws and conduct criminal investigations. A variety of topics are taught in the academy including, but not limited to Sexual Assault Investigation, Crime Scene Processing/Evidence Preservation, Interview and Interrogation and Internal Affairs."

Per information from the former PCM, "If the facility receives an allegation that appears to be criminal in nature, the scene would be secured and the Department of Public Safety (New Mexico State Police) would be called to the facility to conduct an investigation and obtain evidence…If the NMSP determines a SANE exam is needed the inmate will be transferred to an appropriate agency (rape crisis center or local hospital)…"

The Auditor inquired if there was a written agreement with the New Mexico State Police for the conduct of criminal investigations or if there was a statutory provision that authorized the same. The Auditor also requested contact information for a representative from the New Mexico State Police. No response was received.

No Department of Justice component is responsible for conducting investigations at RCC or within NMCD.

Based on the lack of information provided to the Auditor regarding the New Mexico State Police and therefore, the Auditor's inability to assess compliance with requirements, RCC was initially assessed as non-compliant with the requirements of this provision. Corrective action should include the provision of requested information followed by review by the Auditor. On 12/18/2020, the Auditor was provided with contact information for a New Mexico State Police lieutenant who oversees detective operations. The Auditor conducted an interview with the identified individual confirming NMSP response to reports received from RCC based on the level and immediacy of the allegation. The interviewee also confirmed the provision of reports associated with these investigations along with NMSP coordination with local District Attorneys for approval to move forward with criminal charges. On 12/22/2020, the Auditor was informed that there currently is no memorandum of understanding or interagency agreement between the facility and/or NMCD and the New Mexico State Police regarding the conduct of criminal investigations. However, the Auditor was provided with New Mexico statute 29-11-5, *Sexual crimes prosecution and treatment program* that requires, "The administrator shall develop, with the cooperation of the criminal justice department [corrections department], the New Mexico state police, the New Mexico law enforcement academy, other authorized law enforcement agencies and existing community-based victim treatment programs, a statewide comprehensive plan to train law enforcement officers and criminal justice and medical personnel in the ability to deal with sexual crimes, to develop strategies for the prevention of such crimes, to provide assistance in the assembly of evidence for the facilitation of prosecution of such crimes, and to provide medical and psychological treatment to victims of such crimes…The comprehensive plan shall be implemented throughout the state."

Based on the provision of this information, RCC is assessed as compliant with the requirements of this provision.

115.21 (h)
NMCD maintains agreements with community-based advocacy organizations and, therefore, RCC staff do not fill this role.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 09/03/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150102, *Offender Protection Against Sexual Abuse and Sexual Misconduct; PREA* (05/29/2020)
- Policy 031801, *Office of Professional Standards (OPS), Personnel investigations and Staff Misconduct Reporting* (06/03/2019)
- A National Protocol for Sexual Assault Medical Forensic Examinations, Adults / Adolescents, Second Edition (April 2013)
- The Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated)
- Memorandum of Understanding with La Piñon, Sexual Assault Recovery Services of Southern New Mexico, effective 08/05/2019
- PREA Inmate Handbook English and Spanish (undated) and revised 11/13/2020
- Prison Rape Elimination Act (PREA) Resource Guide for Inmates English and Spanish (08/23/2019) and revised 11/13/2020
- 10/02/2019 letter from the Major of the New Mexico State Police Standards/Training Bureau
- PREA Orientation Brochure in English and Spanish (revised 11/13/2020)
- New Mexico statute 29-11-5, *Sexual crimes prosecution and treatment program*
- Policy CD-090300 *Institutional Evidence / Contraband Control, Tracking and Disposal* (06/16/2015)

Interviews conducted:

- PREA compliance managers
- Random sample of staff
- Representative from community-based victim advocacy organization
- SAFE/SANE staff

Standard 115.22: Policies to ensure referrals of allegations for investigations

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

115.22 (a)

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

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

115.22 (b)

- Does the agency have a policy and practice in place to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior? ☒ Yes ☐ No

- Has the agency published such policy on its website or, if it does not have one, made the policy available through other means? ☒ Yes ☐ No

- Does the agency document all such referrals? ☒ Yes ☐ No

115.22 (c)

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

115.22 (d)

- Auditor is not required to audit this provision.

115.22 (e)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
115.17

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

Instructions for Overall Compliance Determination Narrative

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

115.22 (a)
Agency policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section A.2. (page 1) requires, "An investigation shall be conducted and documented whenever a criminal sexual behavior, sexual misconduct or threat is reported." The same policy, section A.5. (page 1) requires, "The Agency shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment."

The Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 32) requires, "The OPS will review, assign and investigate as promptly, thoroughly and objectively as possible, all reports of inmate sexual harassment, including third-party and anonymous reporting."

Per information received from the former PREA Coordinator, all allegations are referred to OPS for review. During the triage process, if it is determined that the allegation is included within policy definitions of prohibited behavior, an investigative case assignment is completed and forwarded to the Warden. The allegation is then formally investigated.

While on site, a Team member conducted an informal interview with a Shift Commander, confirming a thorough understanding of responsibilities associated with allegation reports, to include referral to law enforcement officials.

The Auditor was provided with eight (8) investigation reports in response to all the allegations received during 2019 and 2020, confirming the completion of a formal investigation for each allegation. The Auditor was also provided with documentation associated with four (4) allegations between initial documentation and on-site review. All were assigned for investigation and final investigation reports forwarded, confirming continued compliance

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.22 (b)
Agency policy CD-150102, *Offender Protection Against Sexual Abuse and Sexual Misconduct, PREA* (05/29/2020), section A.8. (page 2) requires, "Allegations of sexual abuse and sexual harassment are to be referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. All such referrals will be documented." The same policy, section B.5. (page 2) requires, "All allegations of criminal conduct including criminal sexual penetration of an inmate by a staff member must be reported to the appropriate law enforcement authorities by the investigations officer."

Agency policy 031801, *Office of Professional Standards (OPS) Personnel investigations and Staff Misconduct Reporting* (06/03/2019) section D.1., 2. and 4. (page 17) requires, "When, during the course of an investigation, the Investigations Officer becomes aware that the facts discovered indicate a violation of criminal law, the Investigations Officer shall immediately report the violation to the Bureau Chief of OPS, and the appropriate Disciplinary Authority and CAO [Chief Administrative Officer]. The Bureau Chief of OPS shall consult with the NMCD General Counsel to determine whether reasonable cause exists to believe that a violation of state or federal criminal law has occurred and, if so, shall immediately

notify the law enforcement agency with the appropriate jurisdiction…The Bureau Chief of OPS, the NMCD General Counsel, or the CAO may determine that the Investigative Report be submitted to the appropriate law enforcement agency for possible prosecution."

Per information from the former PCM, "NMCD-OPS Investigators are not certified law enforcement officers and therefore cannot conduct criminal investigations. NMCD-OPS Investigators do conduct all administrative investigations. NMCD does ensure that all allegations of sexual abuse and sexual harassment are administratively investigated. If the allegation is criminal in nature, the facility is required to call NMSP (New Mexico State Police) to conduct a criminal investigation. An administrative investigation will be completed, once the NMSP has completed their investigation, so that the criminal case is not jeopardized." This was confirmed in interviews with investigatory staff.

During 2019 and 2020, eight (8) allegations were received, (7) seven of which were harassment and one (1) was abuse. The abuse clearly involved an allegation that was criminal in nature. However, the allegation was not referred to law enforcement. The Auditor requested clarification as to why this was not done and did not receive a response to this request.

Based on the failure to refer to law enforcement an allegation that clearly was criminal in nature, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/16/2020, the Auditor was provided with minutes from a 12/09/2020 meeting with the former PCM, Warden, Unit Managers, Chief of Security, ACA Officer, Behavioral Health Supervisor, and Business Manager in which instruction was provided that, "If an inmate at RCC reports a sexual assault, the State Police, Medical and Behavior Health must be called. No exceptions."

During the period between initial documentation and on-site review, four (4) additional allegations were reported. One of these included an allegation that was potentially criminal. On 07/05/2021 the Auditor was provided with a referral to the New Mexico State Police associated with this investigation, along with later documentation that the allegation was declined for criminal investigation.

From the information obtained while on-site and the referral of the noted allegation for criminal investigation, it appears that RCC has addressed the identified compliance issue. The Auditor will continue to monitor all allegations and investigations throughout the corrective action period to determine if all applicable allegations are referred to law enforcement, particularly assessing continuity through transition to the current PCM.

Updates:
During the corrective action period, RCC referred one (1) allegation for a criminal investigation. Following review by the New Mexico State Police, a determination was made that the criminal investigation would not be forwarded for prosecution but was returned to RCC for informational purposes only. RCC staff have demonstrated a through knowledge of requirements associated with law enforcement referrals and have established lines of communication needed for follow up with referred allegations.

115.22 (c)
All criminal investigations are conducted by the New Mexico State Police.

Per information from the former PCM, "The responsibilities for conducting criminal and administrative investigations are outlined on the agency public website. https://cd.nm.gov/prea/prea.html under the Investigation Process tab." The Auditor located and reviewed this posting, which includes information regarding zero tolerance, law enforcement and prosecutorial referrals, administrative investigation processes, and applicable finding options.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.22 (d)
All criminal investigations are conducted by the New Mexico State Police.

Per information from the former PCM, “The responsibilities for conducting criminal and administrative investigations are outlined on the agency public website. https://cd.nm.gov/prea/prea.html under the Investigation Process tab.” The Auditor located and reviewed this posting, which includes information regarding zero tolerance, law enforcement and prosecutorial referrals, administrative investigation processes, and applicable finding options.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.22 (e)
No component within the Department of Justice conducts administrative or criminal investigations within NMCD.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:
- Compliance memo dated 09/03/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy 031801, *Office of Professional Standards (OPS) Personnel investigations and Staff Misconduct Reporting* (06/03/2019)
- Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated)
- Agency public website
- Applicable investigation reports
- 12/09/2020 meeting minutes with identified administrative staff
- Documentation of law enforcement referral and declination of prosecution for applicable investigation

Interviews conducted:
- Agency head designee
- Investigative staff

TRAINING AND EDUCATION

Standard 115.31: Employee training

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

115.31 (a)

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on inmates' right to be free from sexual abuse and sexual harassment ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on the dynamics of sexual abuse and sexual harassment in confinement? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on the common reactions of sexual abuse and sexual harassment victims? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to detect and respond to signs of threatened and actual sexual abuse? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to avoid inappropriate relationships with inmates? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities? ☒ Yes ☐ No

115.31 (b)

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

115.31 (c)

- Have all current employees who may have contact with inmates received such training? ☒ Yes ☐ No

- Does the agency provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures? ☒ Yes ☐ No

- In years in which an employee does not receive refresher training, does the agency provide refresher information on current sexual abuse and sexual harassment policies? ☒ Yes ☐ No

115.31 (d)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.31 (a)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section CC. (page 8) requires, "Prior to contact with any inmate, any employee, volunteer and/or contractor will have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection and response policies and procedures."

Agency policy CD-150800, *Transgender Inmates* (09/13/2018) requires, "All staff, custody and non-custody, will be trained prior to working with the inmate population and annually during annual refresher classes at their respective facility on: how to communicate effective with LGBTI inmates/offenders and how to properly conduct pat-downs and strip searches of Transgender and Intersex inmates/offenders."

The Auditor reviewed the current training curriculum, confirming inclusion of all standard required elements. Additionally, included on the agency's public website is PREA-related information directed to staff. This includes effective communication with inmates as well as the following:

> *Inmates and staff have the right to be free from retaliation for reporting or participating in an investigation relating to sexual abuse or sexual harassment. Inmates have a right to be free from*

sexual abuse and harassment. You should always avoid inappropriate relationships with inmates by setting boundaries and remaining consistent with your job duties. Undue familiarity matters will be investigated as PREA matters in most if not all cases. Be confident in your role. If a situation does not feel right, trust your instincts. REPORT. Inmates involved in incidents may become withdrawn, act out or begin to behave differently. If you notice this, please report and follow up immediately. Victims of sexual abuse or assault, even if it was prior to incarceration, may exhibit signs of PTSD. Report and submit for mental health referrals when necessary.

Per information obtained from the former PCM, the agency's training year runs from July 1 through June 30 each year. All staff are required to attend a 40-hour block of training, which includes general PREA training. The Auditor was provided with a sample schedule for the 40-hour training, confirming the inclusion of two (2) hours dedicated to PREA.

The former PCM reported that "NMCD provides PREA training to all security staff during the academy. Each non-security staff is required to attend Corrections 101 within the first year of employment. However, they are required to attend the facility in-service training immediately after being hired. The PCM at the facility will ensure that each new employee is given the PREA basics, until they can attend in-service training or Corrections 101."

All staff interviewed confirmed completion of required training, with all but one of the seventeen (17) indicting the most recent completion was within the last twelve (12) months. All interviewees acknowledged the inclusion of all standard-required elements and many were able to clearly articulate what they were taught regarding those elements.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.31 (b)
Included on the agency's public website is PREA-related information directed to staff. This includes effective communication with inmates as well as "…dynamics in prisons will differ if you are working in a male facility versus a female. When it comes to relationships in men's prisons, assaults and incidents tend to be based on power and control. In female facilities, we tend to see more nurturing and incidents that are based on personal relationships and perceived friendships."

A review of the general PREA training curriculum provided revealed that information regarding dynamics of both male and female inmates is not included. Per information from the former PREA Coordinator, the agency provides training specific to female inmates to all staff working in female facilities, which is also required of staff who transfer from a male to a female facility. However, there is no similar training provided to staff working in male facilities or required of staff who transfer from a female to a male facility. In response to concerns expressed by NMCD regarding the provision of gender-neutral training meeting provision requirements, the Auditor submitted a request for review and clarification from the PREA Resource Center. The following response was received, "I believe the intent of the standard is clear and the gender specific training must be provided that covers both genders (male and female) that an employee will be working with. A gender-neutral training does not seem to meet the intent of the standard."

It is noted that during the audit documentation period, no staff transferred to RCC from a female facility.

Based on the lack of training specific to the dynamics of male inmates or specialized training provided to staff who transfer from a female to a male facility, RCC was initially assessed as non-compliant with the requirements of this provision. The Auditor was provided with the final draft revisions to the agency general PREA training curriculum, confirming inclusion of all elements required in provision (a) and information regarding male, female, and gender non-conforming inmates, which would meet the

requirements of this provision. On 05/06/2021, the Auditor received confirmation from the interim PREA Coordinator and interim PCM that the revised curriculum was in place agency-wide and in use at RCC during current training.

Based on this information, RCC is as compliant with the requirements of this provision.

115.31 (c)
Generally, RCC provides full PREA training in an in-person setting each training year (July through June) as an element of the 40-hour block training. This was confirmed in interviews with the former PREA Coordinator, former PCM, and the facility training coordinator. The Auditor requested training records for the 2018/2019 and 2019/2020 training years for all staff who had been included in interviews. A review of these records revealed the following compliance assessment:

2018/2019 training year (07/01/2018 – 06/30/2019)	
Total number of records requested	33
Number of staff for whom records were requested not employed during the training year	4
Number of applicable records	29
Non-compliant records received	7
Overall compliance rate with records provided	76%

2019/2020 training year (07/01/2019 – 06/30/2020)	
Total number of records requested	33
Number of staff for whom records were requested not employed during the training year	0
Number of applicable records	33
Non-compliant records received	12
Overall compliance rate with records provided	64%

Reasons for non-compliance included:
- No training documentation received for the 2019/2020 training year.
- Documentation provided for the 2019/2020 training year was actually for the 2020/2021 training year; no record of completion during the 2019/2020 training year.
- Documentation provided for the 2018/2019 training year was actually for the 2017/2018 training year; no record of completion during the 2018/2019 training year.

The former PCM noted that since RCC is such a small facility, training is usually provided during the fall, with additional training in the spring as a “catch up” for any staff member who missed the fall sessions. She noted that early in 2020, the facility held a new hire academy at RCC, rather than sending new hires to Santa Fe for the academy. This was much more efficient; however, it pulled the Training Coordinator away from block training for several weeks. This delayed the spring training until March, when the participation was slowed by COVID-related restrictions, limiting class attendance to four (4) participants per session.

Per the former PREA Coordinator, due to COVID-related in-class participation restrictions, she is implementing the provision of update information to staff in the form of refresher pages were developed by the PREA Resource Center. These address the following:
- PREA basics
- Effects of abuse
- Professional communication and boundaries
- Inmate privacy
- Ways inmates can report
- Inmate support services
- Helping inmates who primarily speak another language
- Reporting knowledge, suspicion or information
- First responder duties
- Completing an incident report

- Investigations
- Encouraging inmates to report sexual abuse

If the individual staff member received full training during the 2019/2020 training year, the provision of this refresher training during the 2020/2021 training year meets standard requirements.

Based on the training compliance rates for the 2018/2019 and 2019/2020 training years, RCC was initially assessed as non-compliant with the requirements of this provision. On 05/05/2021, the Auditor received tracking documentation detailing completion of PREA training for the current training year (07/01/2020 through 06/30/2021) for all RCC employees and contract staff. Additionally, the Auditor was regularly provided with documentation of continuing in-service training provision to facility staff and contractors during the period between initial documentation and on-site review.

As a result, RCC is assessed as compliant with the requirements of this provision.

115.31 (d)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section EE. (page 9) requires, "The agency shall document, through employee signature or electronic verification, that employees understand the training they have received."

Per information received from the former PCM, "After the employee has attended PREA training the employee must sign an acknowledgment that they have received training and that they understood the training they had received." This form, the NMCD Staff and Contractor PREA Acknowledgment form, also serves as documentation of attendance in the noted training. The acknowledgment signed by the employee reads, "By signing this document, I am confirming that I understand the training I have received. I am aware that if I do not understand all or a portion of the training, it is my responsibility to speak with the PREA Compliance Manager at the facility."

A review of training records for select staff confirmed completion of the noted acknowledgment form. However, based on the training compliance information provided for provision (c), current acknowledgment forms were not available for staff whose records were selected for review.

Based on the unavailability of current acknowledgment forms for selected staff, RCC was initially assessed as non-compliant with the requirements of this provision. On 05/05/2021, the Auditor received tracking documentation detailing completion of PREA training for the current training year for all RCC employees and contract staff. Training includes the completion of the required acknowledgment form.

As a result, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:
- Compliance memo dated 09/03/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-150800, *Transgender Inmates* (09/13/2018)
- NMCD Presents PREA – Prison Rape Elimination Act training curriculum and PowerPoint
- Roswell Correctional Center Training Schedule (1) orientation July 2020 and (2) annual in-services January 2020
- NMCD Staff and Contractor PREA Acknowledgment forms for select staff
- PRC PREA Refreshers
- 05/06/2021 email confirmation of implementation of revised training curriculum

Interviews conducted:

- Random sample of staff
- Training coordinator

Standard 115.32: Volunteer and contractor training

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

115.32 (a)

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

115.32 (b)

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

115.32 (c)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.32 (a)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section CC. (page 8) requires, "Prior to contact with any inmate, any employee, volunteer and/or contractor will have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection and response policies and procedures."

Per information received from the former PREA Coordinator, the annual PREA training requirements in place for staff are also required of all contract staff. The Auditor reviewed the current training curriculum, confirming inclusion of all standard required elements. Generally, RCC provides full PREA training in an in-person setting each training year (July through June) as an element of the 40-hour block training.

The Auditor requested documentation of training completion for the last two (2) training years for the contractors who were interviewed as part of the assessment process. A review of those records revealed the following:

2018/2019 training year (07/01/2018 – 06/30/2019)	
Total number of records requested	8
Number of contract staff for whom records were requested not employed during the training year	4
Number of applicable records	4
Non-compliant records / no records received	3
Overall compliance rate with records provided	25%

2019/2020 training year (07/01/2019 – 06/30/2020)	
Total number of records requested	8
Number of contract staff for whom records were requested not employed during the training year	0
Number of applicable records	8
Non-compliant records / no records received	1
Overall compliance rate with records provided	88%

It is noted that of the four applicable contract staff during the 2018/2019, records were only received for one (1) individual. Additionally, one (1) record was not received for the 2019/2020 training year. These records were requested by the Auditor during the initial documentation review but were not provided. It is noted that the non-compliance rates above may be related to the lack of records provided as requested rather than the failure to complete required training, but without the records, the Auditor cannot make a final determination.

Included on the agency's public website is the form "Prison Rape Elimination Act Volunteer/Limited Service Contractor Training Acknowledgment" which includes the following:

Training previously received and materials given on:

- *The Prison Rape Elimination Act;*
- *NMCD's Policy on Zero Tolerance;*
- *Reporting incidents of sexual abuse;*
- *State law 30-9-11.*

I understand that if I engage in sexual abuse with inmates, I shall be prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and will be reported to relevant licensing bodies.

It is noted that New Mexico State Law 30-9-11 details the definition of Criminal Sexual Penetration and includes the following:

Criminal sexual penetration in the second degree consists of all criminal sexual penetration perpetrated…on an inmate confined in a correctional facility or jail when the perpetrator is in a position of authority over the inmate…

NMCD requires that all prospective volunteers complete an application process followed by a criminal background check. Once cleared, the individual is scheduled for volunteer training, which includes a PREA module. This was confirmed in information received from the former PCM and an interview with the Volunteer Coordinator. The Auditor was also informed that volunteers are required to attend an annual PREA refresher training, which uses the same curriculum as the initial training. This training, New Mexico Corrections Department PREA Prison Rape Elimination Act, was reviewed and inclusion of standard elements was confirmed.

RCC currently has 66 volunteers. The Auditor requested documentation of training completion for the three volunteers interviewed as well as an additional volunteer who was suspended on the first day of service for non-PREA behavior. None of these records were received. As a result, the Auditor could not confirm documentary compliance with this provision.

All contract staff and volunteers interviewed confirmed completion of training as required, clearly articulating components of that training. Interviewees also confirmed inclusion of the standard required elements and detailed reporting procedures in compliance with policy.

Based on the training compliance rates and the failure to provide documentation as requested, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/18/2020 and 12/21/2020, the Auditor received documentation of general PREA training completion for one contract staff member for 2017 and 2019; no documentation received for 2018 or two (2) other identified second contract staff members. On 12/22/2020, the Auditor received documentation for 2018/2019 training completion for the two (2) remaining contract staff and was informed that the final contract staff was not employed by the facility until 07/2019 and therefore did not complete 2018/2019 training. On 12/21/2020 the Auditor received documentation of training completion for selected volunteers.

Between initial documentation and on-site review, the Auditor was provided with a listing of all new contract staff from which records were selected and provided, confirming compliance with standard training requirements. With COVID-related restrictions, all volunteers were prohibited from accessing the facility. Per information received while on-site, the facility hopes to bring volunteers back sometime in late August or September. All returning volunteers will be required to complete new training prior to being provided access to the facility and interaction with inmates. Documentation of completion will be provided to address training understanding acknowledgment issues identified with provision (c) of this standard.

Based on the receipt of this documentation, RCC is now assessed as compliant with the requirements of this provision.

115.32 (b)
The training provided to contract staff is the same training provided to agency employees. All contract staff are required to complete training annually. Contractors who serve more as vendors, those who provide minimal services pursuant to purchase orders, are not provided formal training as they are under constant escort and do not interact with inmates.

As noted with provision (a), the Auditor was not provided with documentation as requested and therefore cannot confirm the completion for training for contract staff as required.

The Auditor was provided with examples of Volunteer / Limited Service Contractor Training Acknowledgment forms for select vendors, confirming compliance with the requirements for this specific classification of individual entering the facility. The individual is provided with materials regarding PREA and acknowledges receipt of these materials along with the statement, “I understand that if I engage in sexual abuse with inmates, I shall be prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and will be reported to relevant licensing bodies.”

Volunteers are provided with training annually once they have completed the application and background check process. The Auditor was provided with the Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) that provides the following direction (page 11):

- *In any case where a contractor or volunteer has or may have more than 20 hours a week contact with any inmate, that contractor/volunteer will participate in the same and full amount of the mandatory employee block of PREA instruction and must go through the Volunteer training block (4 hours);*
- *In any case where a contractor or volunteer has or may have 19 hours a week or less contact with any inmate, that contractor/volunteer will participate in a condensed form of mandatory PREA*

contractor/volunteer block of instruction, and must go through the Volunteer training block (4 hours); and

- *In those cases involving a contractor who may have slight or no contact with an inmate, supervision of the contractor will be maintained the full time the contractor is present in any institution or facility. Those contractors will be provided the PREA policy and sign an acknowledgment of zero-tolerance.*

The Auditor requested documentation of training completion for the three volunteers interviewed as well as an additional volunteer who was suspended on the first day of service for non-PREA behavior. None of these records were received. As a result, the Auditor could not confirm documentary compliance with this provision.

All contract staff and volunteers interviewed confirmed completion of training as required, clearly articulating components of that training. Interviewees also confirmed inclusion of the standard required elements and detailed reporting procedures in compliance with policy.

Based on the training compliance rates and the failure to provide documentation as requested, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/18/2020 and 12/21/2020, the Auditor received documentation of general PREA training completion for one contract staff member for 2017 and 2019; no documentation received for 2018 or two (2) other identified second contract staff members. On 12/22/2020, the Auditor received documentation for 2018/2019 training completion for the two (2) remaining contract staff and was informed that the final contract staff was not employed by the facility until 07/2019 and therefore did not complete 2018/2019 training. On 12/21/2020 the Auditor received documentation of training completion for selected volunteers.

Between initial documentation and on-site review, the Auditor was provided with a listing of all new contract staff from which records were selected and provided, confirming compliance with standard training requirements. With COVID-related restrictions, all volunteers were prohibited from accessing the facility. Per information received while on-site, the facility hopes to bring volunteers back sometime in late August or September. All returning volunteers will be required to complete new training prior to being provided access to the facility and interaction with inmates. Documentation of completion will be provided to address training understanding acknowledgment issues identified with provision (c) of this standard.

Based on the receipt of this documentation, RCC is now assessed as compliant with the requirements of this provision.

115.32 (c)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section DD. (page 9) requires, “The agency shall maintain documentation confirming that volunteers and contractors understand the training they have received.”

Per information received from the former PCM, “After the employee has attended PREA training the employee must sign an acknowledgment that they have received training and that they understood the training they had received.” This form, the NMCD Staff and Contractor PREA Acknowledgment form, also serves as documentation of attendance in the noted training. The acknowledgment signed by the contract staff member reads, “By signing this document, I am confirming that I understand the training I have received. I am aware that if I do not understand all or a portion of the training, it is my responsibility to speak with the PREA Compliance Manager at the facility.”

The training acknowledgement forms that were provided to the Auditor confirmed a current acknowledgment of an understanding of training provided for seven of eight contract staff reviewed.

Included on the agency's public website is the form "Prison Rape Elimination Act Volunteer/Limited Service Contractor Training Acknowledgment" which includes the following:

> *By signing this document I acknowledge that I have received training on my responsibilities under the agency sexual abuse & sexual harassment prevention, detection, response policies & procedures. I also understand that if I want to attend in person training on this topic again, I have the opportunity to ask the facility PREA compliance Staff.*

The Auditor was provided with examples of acknowledgment forms that were signed by volunteers. It is noted that the form does not include language whereby the participant acknowledges an understanding of the training completed.

Based on the acknowledgment form for volunteers omitting the acknowledgment of an understanding of the training completed, RCC is assessed as non-compliant with the requirements of this provision. It is noted that currently, all volunteer access to the facility is suspended due to COVID-related restrictions and the acknowledgment issue, per the former PREA Coordinator, will be remedied prior to their return. On 10/27/2020, the former PREA Coordinator sent instruction to the agency Volunteer Coordinator instructing the distribution of the correct / complete acknowledgment form to all facility chaplains, noting that every volunteer is required to attend training and sign the form prior to reentry. This will be monitored for completion / compliance during the corrective action period. Additionally, a current acknowledgment form is required for the one contract staff for whom the form was not provided as requested. On 12/21/2020, the Auditor received the current training acknowledgment form for the final contract staff member.

The Auditor was later provided with the new acknowledgement form for volunteers that now states, "I further acknowledge that I understand the documents and training that I have received." Also provided was a 07/27/2021 email from the current PREA Coordinator distributing the revised form to all applicable stakeholders. During the corrective action period, the Auditor will monitor and confirm use of the correct acknowledgment form as volunteers are retrained for reentry to the facility for the provision of services.

Updates:
09/28/2021 the Auditor was provided with documentation of training completed for twenty-six (26) volunteers prior to the opening of access to the facility for these individuals. Documentation included the revised acknowledgement forms which include the participant's acknowledgment of an understanding of the training completed. Conversation with the facility individual responsible for oversight of the provision of this training also confirmed a thorough understanding of the requirement to use this form. Based on this, RCC is now assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 09/10/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- New Mexico Corrections Department PREA Prison Rape Elimination Act curriculum for volunteers
- PRC PREA Refreshers
- NMCD Staff and Contractor PREA Acknowledgment form for specified contract staff
- Prison Rape Elimination Act Training Acknowledgment form for a sample of volunteers
- Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated)
- Volunteer / Limited Service Contractor Training Acknowledgment forms for select vendors
- Revised training understanding acknowledgment form for volunteers with email distribution
- Documentation of training completion using the revised acknowledgment form

Interviews conducted:

- Training coordinator

- Volunteers and contractors who have contact with inmates
- Volunteer / contractor coordinators

Standard 115.33: Inmate education

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

115.33 (a)

- During intake, do inmates receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment? ☒ Yes ☐ No

- During intake, do inmates receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment? ☒ Yes ☐ No

115.33 (b)

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Their rights to be free from sexual abuse and sexual harassment? ☒ Yes ☐ No

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Their rights to be free from retaliation for reporting such incidents? ☒ Yes ☐ No

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Agency policies and procedures for responding to such incidents? ☒ Yes ☐ No

115.33 (c)

- Have all inmates received the comprehensive education referenced in 115.33(b)? ☒ Yes ☐ No

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

115.33 (d)

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

- Does the agency provide inmate education in formats accessible to all inmates including those who are deaf? ☒ Yes ☐ No

- Does the agency provide inmate education in formats accessible to all inmates including those who are visually impaired? ☒ Yes ☐ No

- Does the agency provide inmate education in formats accessible to all inmates including those who are otherwise disabled? ☒ Yes ☐ No

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

115.33 (e)

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

115.33 (f)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.33 (a)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section F. (page 5) requires, "Information shall be provided to inmates about sexual abuse, sexual harassment and sexual assault including:

- Prevention/intervention;
- Rights to be free from sexual abuse, sexual harassment and retaliation for reporting such,
- Self-protection,
- How to report,
- Zero Tolerance,
- Reporting sexual abuse/assault; and
- Treatment/counseling"

Per information from the former PCM, all inmates receive a facility handbook on arrival. The Auditor reviewed a copy of the Roswell Correctional Center Inmate Handbook revised 05/14/2020 and confirmed inclusion of PREA-related information to include definitions, how to avoid sexual victimization, verbally reporting to any staff member or through a family member, accessing victim advocacy services, and reporting to a third party outside NMCD. The handbook is available in both English and Spanish. Inmates are also provided with the PREA Inmate Handbook (undated) that provides more detailed information, to include zero tolerance and additional reporting options.

In interviews with Intake staff and classification staff, the Auditor was informed that, on arrival, inmates

are met with in the waiting area in medical where PREA is verbally explained and presented via signage painted on the walls. They are also provided with the facility handbook and the PREA handbook, however, from the documentation provided, this may occur during formal orientation. Once newly arriving inmates are processed into the intake dorm, the Intake Officer provides formal orientation in the form of viewing the orientation video, which is also available in Spanish. Staff interpreters are also available to assist as needed. On very rare occasions, (e.g., inmates arrive at the facility late in the day after the Intake Officer has already departed), formal orientation would be provided on the next day; however, inmates would still be provided with the facility handbook and PREA handbook and be able to view PREA signage in the medical area and in the dorm. Inmates are required to sign the Roswell Correctional Center PREA Inmate Handbook Acknowledgment Form, confirming receipt of the handbook and viewing of the PREA intake video. Classification staff also reported meeting with inmates either on the day of arrival or within the first 24 hours, where PREA reporting and support services are again reviewed with the inmate during the risk assessment process. The Auditor was informed that there is no real documentation regarding the information provided to inmates immediately on intake, but the acknowledgment form and verification of orientation completion are signed when the entire process is complete, which may be one to two days after arrival. It is noted that the provision does not require documentation of this initial provision. Shortly after the on-site review, the facility enhanced local processes by placing a one-page handout (in both English and Spanish) in the bag of uniforms issued to inmate on arrival at the facility. Facility staff were continuously looking to improve and streamline processes while ensuring inmates received needed information.

It is noted that during the on-site review, no new inmates were received at the facility, so Team members were not able to view the intake process.

Per information from the former PCM, “In January 2020, a new process began in which inmate are given a PREA Intake Sheet upon arrival at the facility. This intake sheet gives the inmate all information regarding the zero tolerance policy, ways to report, and advocacy information.” This sheet was reviewed by the Auditor, confirming inclusion of the identified information.

During on-site interviews, only one (1) of thirty-seven (37) inmates interviewed indicated they did not receive PREA information on intake, confirming information received from intake staff.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.33 (b)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section G. (page 5) requires, “The agency shall provide comprehensive education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents.”

Agency policy CD-041001, *Inmate Orientation* (03/05/2015), section B. (page 2 – 3) requires, “Within seven (7) days of admission to a facility other than RDC, inmates will receive Facility Specific Orientation. Each inmate shall be provided orientation and given an Inmate Handbook which will include a list of services, list of available policies, and a specific description of an instructions for access to all of the following…Sexual Abuse and/or Assault.”

Per information received from Intake staff, inmates are shown the PREA orientation video and are required to sign the New Mexico Corrections Department Orientation Verification form, confirming, “The following topics were explained during Orientation by the New Mexico Corrections Facility Staff. I also received an Inmate Handbook, which briefly describes the following topics…Sexual Abuse and/or Assault.” Orientation is generally completed on the inmate’s day of arrival at the facility. The Auditor

viewed the PREA orientation video for inmates, confirming inclusion of information regarding zero tolerance, reporting, prevention, and advocacy support services. It is noted that the video appears to be slightly outdated as staff included by name and title (e.g., agency Secretary and PREA Coordinator) are no longer in those positions. As part of the intake / orientation process, inmates are also required to sign a PREA Inmate Handbook Acknowledgment Form, which states, "I _____ acknowledge that I have received a PREA inmate handbook and observed the intake video on PREA."

Per information from the former PCM included in the On-Line Audit System (OAS), RCC received 375 inmates during the audit documentation period. Of there, 332 received formal orientation within 30 days of arrival, creating a compliance rate of 88%. The Auditor was later informed that the listing of inmates received was incomplete, not covering a full 12-month period and was then provided with an updated listing of 418 inmates received between 08/01/2019 and 08/31/2020. The Auditor was informed that of these 418 inmates, 389 remained at RCC for at least 30 days. The Auditor requested updated orientation completion rates for this new listing of inmates, which was not received from the former PCM.

The Auditor requested documentation of arrival date and completion of orientation for a total of 35 inmates, selecting every 12th name on the master list of 418 (inmates from 08/01/2019 to 08/31/2020) plus one additional inmate to ensure representation from every month during the identified period. The Auditor was provided with documentation if the identified inmate was still housed at RCC. The former PREA Coordinator had been able to provide some additional documents, but not for all identified inmates prior to her departure from the agency.

During on-site interviews conducted with inmates, a total of seventeen (17) inmates indicated they did not receive formal orientation and/or did not participate in the risk assessment process. The Auditor requested and received documentation of date of arrival and orientation completion, confirming that all noted inmates had completed orientation as required. Between initial documentation and on-site review, the Auditor was provided with lists of inmates who had been received at the facility each month, selecting inmates for whom proof of practice documentation was requested. All documentation confirmed that orientation was completed as required.

It is noted that no inmates were received at the facility while the Team was on-site; therefore, the formal orientation process was not observed.

Based on the lack of documentation provided for requested inmates and the self-disclosed compliance rate for orientation completion, RCC was initially assessed as non-compliant with the requirements of this provision. To address the identified deficiency, the staff completed a facility-wide review of all inmates currently housed at RCC to ensure documentation of handbook receipt and orientation completion was available / on file. Wherever documentation could not be located, a handbook was provided and PREA orientation completed, with new documentation retained. Based on these actions, RCC is now assessed as compliant with the requirements of this provision.

115.33 (c)
Agency policy CD-041001, *Inmate Orientation* (03/05/2015), section B. (page 2 – 3) requires, "Within seven (7) days of admission to a facility other than RDC, inmates will receive Facility Specific Orientation. Each inmate shall be provided orientation and given an Inmate Handbook which will include a list of services, list of available policies, and a specific description of an instructions for access to all of the following…Sexual Abuse and/or Assault."

Per information received from Intake staff, inmates are shown the PREA orientation video and are required to sign the New Mexico Corrections Department Orientation Verification form, confirming, "The following topics were explained during Orientation by the New Mexico Corrections Facility Staff. I also

received an Inmate Handbook, which briefly describes the following topics…Sexual Abuse and/or Assault." Orientation is generally completed on the inmate's day of arrival at the facility.

Per information included in the On-Line Audit System, the average length of stay at RCC is 1.69 years. Per information received from the former PCM, a roster of all inmates who have been housed continuously at RCC since the standards were promulgated in 2012 has been created, noting that orientation has been provided for all these inmates. The Auditor requested a copy of this roster, but it was not provided.

Based on the lack of documentation provided regarding any inmates who have been housed at the facility continuously since 2012, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/21/2020, the Auditor was provided with Work Roster dated 12/11/2020 detailing the arrival date of all inmates currently housed at RCC, confirming that no inmate had been housed continuously at the facility since prior to 08/20/2012. All inmates were received after the timeframe for provision of PREA orientation on transfer. Non-compliance with transfer orientation is addressed in provision (b). With the receipt of this information, RCC is assessed as compliant with the requirements of this provision.

115.33 (d)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)*,* section G. (page 5) requires, "The agency shall provide comprehensive education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents…This information shall be communicated orally and in writing, in a language clearly understood by the offender, upon arrival at a facility. Information will be made available to inmates, as needed to include those who are Limited English Proficient, deaf, visually impaired, otherwise disabled and limited in reading skills." Section H. of the same policy requires, "The agency shall provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills."

Agency policy CD-041001, *Inmate Orientation* (03/05/2015), section B. (page 3) requires, "Inmates will receive written materials and/or translations in their own language. When available, verbal translators may substitute for written translations. When a literacy problem exists, a staff member will assist the inmate with understanding the material."

The Orientation Verification form, required to be signed by all inmates completing orientation along with the facilitating staff member, has an area to document assistance provided to inmates with limited English proficiencies. The form notes, "The above inmate speaks only Spanish or indicated a problem understanding the English language and was assisted by _____." None of the inmate orientation verification forms requested and reviewed by the Auditor indicated the provision of specialized orientation information.

Per the Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 12): "All institutional and facility block of inmate education will be available in formats accessible to all inmates including those who are:

- Limited English proficient;
- Deaf;
- Visually impaired;
- Otherwise disabled; and
- Limited in their reading skills."

The inmate orientation video is available in Spanish for inmates whose primary language is Spanish. It is also closed captioned for inmates who are deaf or hard of hearing. Inmates who are visually impaired are able to hear the information provided via the video. Additional, educational material in comic book format are available via booklets produced by the PREA Resource Center (*Ending Silence – Don't Touch Me* and *I Reported*). Those who provide orientation also have access to staff who are fluent in Spanish. The agency also maintains a contract with Language Line Services, Inc. that went into effect in 2009 for use as needed with inmates whose primary language is neither English nor Spanish. According to the language of the contract, the agreement is automatically renewed for one-year periods unless cancelled in writing by one of the parties. Most random staff interviewed were aware of the availability of these services.

During the initial documentation review, the Auditor requested information about processes to identify inmates who are in need of special orientation (e.g., low comprehension, low reading, limited English proficient, etc.) along with documentation of the provision of any special orientation. None of this information or documentation was received.

Based on the lack of procedural information and documentation regarding special needs inmates, RCC was initially assessed as non-compliant with the requirements of this provision. During the audit documentation period and between initial document and on-site review, no ADA-related accommodation requests were received. As such, no related secondary documentation is available for review.

At the time of the on-site review, RCC housed no cognitively or physically disabled inmates. Visually and hearing-impaired inmates interviewed reported that specialized materials, such as large print handbooks and brochures, have not been provided. These inmates indicated they would rely on other inmates for assistance due to the reported stigma from other inmates for receiving assistance from staff.

Based on the lack of procedural information and documentation regarding special needs inmates, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/16/2020, the Auditor received the following procedural information from the former PCM, "At RCC, ITAP [Initial Transitional Plan] Meetings are held within 10 days of the inmate arriving. These multidisciplinary committees include the Classification Supervisor, Unit Manager, Education, Behavioral Health, Medical, and Security. The inmate is spoken to away from any other inmates and is able to ask any questions about RCC and how things run. At this time, the PREA fact sheet is given to the inmate once again and the PCM's name is given to them to ensure that the inmate knows who to contact if any PREA questions may arise…Additionally, Education receives an 'Education file' that includes if the inmate has any literacy problems, comprehension problems, or requires any assistance for any disabilities that the inmate may have. They take these to ITAP and TAP meetings to ensure that they know the inmate's needs. The Education File contains 'Chronos' showing these issues and also includes results from all the testing that is done for each inmate upon entering the prison system at RDC in Los Lunas." The Auditor was also provided with agency policy CD-105000, *Offender Management Program (OMP)* (01/08/2014) that requires in section D. (page 3), "The TAP [Transition Accountability Plan] shall be developed in accordance with the inmate's assessed risk and needs and will guide the activities, referrals, programs, treatment, and internal Departmental communications necessary for each inmate's successful reintegration into the community." TAP Committee reviews are documented in a formal report that includes identification of needs and recommendations by medical, behavioral health, education / employment, security, and classification participants. The Auditor again requested documentation of the provision of any assistance for inmates identified as disabled in the orientation, allegation reporting and investigation processes. On 12/18/2020, the Auditor received documentation of educational analysis of an inmate, but nothing regarding the provision of assistance in orientation, reporting or investigation as requested.

On 12/22/2020, the Auditor was informed via email by the former PCM, “With a whole new Education staff, there is no process. I will get with them to see what will work best as well as the staff member that conducts orientation.” On 03/17/2021, the Auditor was provided with procedural information indicating:

- *Coordination with Education Director regarding equipment for special education and/or learning-disabled inmates, to include, smartboards, colored overlays, phonics cards, video camera for learning by observation, speakers to amply devices for better hearing, and a magnifier for visually disabled.*
- *The availability of a hearing assistance / TTY telephone for deaf inmates (located in the Captain’s office)*
- *Availability of staff interpreters and telephonic interpreters.*

Per information from the former PCM, since 09/2020, there have been no instances in which inmates have needed special assistance or assistive devices to participate in orientation, report allegations or participate in investigations. Additionally, the facility did not receive an inmate needing assistance or experience an incident in which assistance was needed for reporting and investigatory purposes during the period between initial documentation and on-site review.

As a result, RCC is assessed as compliant with the requirements of this provision. It is recommended that the facility and/or agency develop materials for visually and auditorily impaired inmates, providing them in public areas such as libraries, where inmates can access them without staff assistance.

115.33 (e)
Agency policy CD-041001, *Inmate Orientation* (06/29/2018), section B. (page 3) requires, “Completion of orientation will be documented and maintained on the Orientation Verification form.”

The Auditor requested documentation of arrival date and completion of orientation for a total of 35 inmates, selecting every 12th name on the master list of 418 (inmates from 08/01/2019 to 08/31/2020) plus one additional inmate to ensure representation from every month during the identified period. The Auditor was provided with documentation if the identified inmate was still housed at RCC. The former PREA Coordinator had been able to provide some additional documents, but not for all identified inmates prior to her departure.

Based on the lack of documentation provided for requested inmates and the self-disclosed compliance rate for orientation completion, RCC was initially assessed as non-compliant with the requirements of this provision. To address the identified deficiency, the staff completed a facility-wide review of all inmates currently housed at RCC to ensure documentation of handbook receipt and orientation completion was available / on file. Wherever documentation could not be located, a handbook was provided and PREA orientation completed, with new documentation retained. Based on these actions, RCC is now assessed as compliant with the requirements of this provision.

115.33 (f)
Per information from the former PCM, PREA-related information is played through the E TV system on all inmate televisions on a rotating schedule. The former PCM reported that the “PREA video is played on all inmate TVs every time new intakes come into RCC. There is no set schedule.” It is noted that Team members did not observe this process while on site.

Additionally, signage is available throughout the facility regarding zero tolerance, reporting and advocacy access. These are available in both English and Spanish. The Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 12) requires, “Each institution PCM and facility designee will ensure that Posters are maintained within areas that staff and inmates are present and make readily available inmate handbooks for all inmates.”

Playing cards containing PREA information are accessible to inmates in their housing units or when requested by inmates. These cards include a variety of PREA-related information, to include roles, advocacy support services, reporting, zero tolerance, investigations, and inmate rights.

Inmates are provided with a variety of PREA informational materials in the inmate library. These include the Prison Rape Elimination Act (PREA) Resource Guide for Inmates (01/01/2015).

While on-site, Team members observed PREA information painted on walls in all housing units. Team members made recommendations to clarify some of these postings to better differentiate between the agency reporting line and the line to access victim advocacy services. The Auditor was provided with photographic documentation of some of these revisions already made. The Team also recommended additional postings in areas outside of housing units that are frequented by inmates (e.g., food services, work and programming areas) to continue to enhance information dissemination.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 09/10/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-041001, *Inmate Orientation* (03/05/2015)
- Photographs of PREA zero tolerance, reporting hotline, and advocacy line signage painted on walls
- Roswell Correctional Center Inmate Handbook (05/14/2020) in English and Spanish
- New Mexico Corrections Department PREA Inmate Handbook (undated) in both English and Spanish
- Roswell Correctional Center PREA Inmate Handbook Acknowledgment Form for selected inmates
- PREA Intake Sheet in English and Spanish
- New Mexico Corrections Department Orientation Verification forms for select inmates
- Inmate orientation video
- Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated)
- *Ending Silence, I Reported and Don't Touch Me* educational material for inmates published by the PREA Resource Center
- Contract with Language Line Services, Inc. in effect in 2009 and automatically renewed each year for one-year periods unless cancelled by either of the parties
- PREA playing cards
- Prison Rape Elimination Act (PREA) Resource Guide for Inmates (01/01/2015)
- RCC Work Roster dated 12/11/2020
- Documentation of facility-wide review of orientation completion and handbook receipt

Interviews conducted:

- Classification staff
- Intake staff
- Random sample of inmates

Standard 115.34: Specialized training: Investigations

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

115.34 (a)

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

115.34 (b)

- Does this specialized training include techniques for interviewing sexual abuse victims? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).) ☒ Yes ☐ No ☐ NA

- Does this specialized training include proper use of Miranda and Garrity warnings? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).) ☒ Yes ☐ No ☐ NA

- Does this specialized training include sexual abuse evidence collection in confinement settings? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).) ☒ Yes ☐ No ☐ NA

- Does this specialized training include the criteria and evidence required to substantiate a case for administrative action or prosecution referral? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).) ☒ Yes ☐ No ☐ NA

115.34 (c)

- Does the agency maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).) ☒ Yes ☐ No ☐ NA

115.34 (d)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.34 (a)
Agency policy CD-150100, *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA*, (05/29/2020) section FF. (page 9) requires, "Medical, Mental Health, and Investigative Staff must take the training class for their respective specialized areas concerning PREA." Agency policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section A.6. (page 1) requires, "In addition to the general training provided to all employees, the agency shall ensure that to the extent the agency itself conducts sexual abuse investigations, that its investigators have received training in conducting such investigations in confinement settings."

Information contained in the DOJ On-Line Audit System indicated that there are 53 agency and facility investigators. Per information obtained from the former PREA Coordinator, this is the total number of investigators across the agency, including central office and every facility and would include individuals who can complete any type of investigation, not just those initiating from a PREA allegation. The total number of RCC investigators was corrected to three (3) staff who have been trained to conduct PREA investigations. Additionally, currently one (1) individual in the Office of Professional Standards out of central office has been designated for completion of all PREA investigations assigned to that unit. It is noted that agency procedures require that only staff members of the rank of Captain or above are authorized to complete PREA investigations.

The agency's public website details the steps for the completion of a criminal investigation. It also notes the following:

> *An administrative investigation will [be] conducted on all allegations, even if the inmate is no longer under the Department's jurisdiction. All administrative investigations will be conducted by an investigator, who has been certified through the NMCD Office of Professional Standards (OPS). In addition to the general PREA training provided to all NMCD staff, the investigators receive specialized training in conducting sexual abuse investigations within a confinement setting.*

Per information from the former PREA Coordinator, once an allegation is triaged at headquarters by designated staff, it is assigned to an investigator if the allegation falls within established PREA definitions. If the allegation appears to be criminal, the investigation will be assigned to an investigator out of the Office of Professional Standards (OPS) out of central office. Every investigator qualified to conduct PREA investigations has to be OPS certified and have completed specialized training. To be able to participate

in such training, a request from the Warden must be approved and the candidate must attend a 40-hour OPS certification class. During this overall investigatory training, specialized training is also conducted regarding the conduct of PREA investigations.

The Auditor was provided with certificates of completion of the identified training (Investigating Sexual Assaults in a Correctional Setting) for the three (3) RCC and one (1) OPS investigators. Additionally, the Auditor had been provided with the certificate of completion of required training for the PCM as he had transferred from another facility. No additional investigators were trained between initial documentation and on-site review.

All investigators interviewed confirmed completion of specialty training, included with a 40-hour Office of Professional Standards overall investigation training. All were able to clearly articulate critical elements contained in the training.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.34 (b)
The agency's public website details the steps for the completion of a criminal investigation. It also notes the following:

> *An administrative investigation will [be] conducted on all allegations, even if the inmate is no longer under the Department's jurisdiction. All administrative investigations will be conducted by an investigator, who has been certified through the NMCD Office of Professional Standards (OPS). In addition to the general PREA training provided to all NMCD staff, the investigators receive specialized training in conducting sexual abuse investigations within a confinement setting. This training includes techniques for interviewing sexual abuse victims, use of Miranda and Garrity warnings, sexual abuse evidence collection in a confinement setting and the criteria and evidence required to substantiate a case for administrative action.*

The Auditor was provided with the training curriculum and associated PowerPoint for the *Investigating Sexual Assaults in a Correctional Setting* training. This is a four (4) hour training block that is included in the OPS investigator training. A review of the curriculum supported compliance with standard requirements with the inclusion of the following sections:

- Lack of Inmate Cooperation (page 10 – 11)
- Victim Services (page 26 – 27)
- Investigator Knowledge and Skills
  - Investigator Ethics (page 29 – 30)
- Interviews and Interrogations
  - Identifying Victims (page 35 – 36)
  - Cultural Competency and Victims (page 45)
- Interviews and Interrogations
  - Miranda Warnings (page 36 – 38)
  - Garrity Warnings (page 38)
- Difficulties in Obtaining Evidence (page 11 – 12)
- Evidence (page 46 – 49)
- Investigator Knowledge and Skills
  - Referrals for Prosecution (page 32 – 34)

It is noted that participants are required to pass a written test with a score of 75% or higher to successfully complete the training.

All investigators interviewed confirmed inclusion of the required elements in PREA investigations training, able to articulate the meaning of these elements.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.34 (c)
Agency policy CD-150100, *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA*, (05/29/2020) section FF. (page 9) requires, "Medical, Mental Health, and Investigative Staff must take the training class for their respective specialized areas concerning PREA. The agency will maintain documentation that these specialized staff members have been trained."

The Auditor was provided with certificates of completion of the identified training (Investigating Sexual Assaults in a Correctional Setting) for the three (3) RCC and one (1) OPS investigators. Additionally, the Auditor had been provided with the certificate of completion of required training for the PCM as he had transferred from another facility

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.34 (d)
All potentially criminal allegations are referred first to the New Mexico State Police, which is organizationally under the Department of Public Safety. The Auditor was provided with an 10/02/2019 letter from the Major overseeing the New Mexico State Police Standard/Training Bureaus indicating,

> *All New Mexico State Police Officers are required to attend and graduate a police academy in which they learn how to enforce laws and conduct criminal investigations. A variety of topics are taught in the academy, including but not limited to, Sexual Assault Investigation, Crime Scene Processing/Evidence Preservation, Interview and Interrogation and Internal Affairs. Some of the topics covered in those classes are:*
> - *Legal issues*
> - *Cultural competency*
> - *Trauma and victim response*
> - *Medical and mental health care issues of sexual assault victims*
> - *First responder responsibilities, evidence collection, processing and preservation*
> - *Interviews of victims and suspects*
> - *Ensuring proper report documentation*
> - *Working with District Attorneys and Victim Advocates*
> - *5th Amendment rights*
> - *Application of Garrity rights*
>
> *All New Mexico State Police officers must successfully complete each block of instruction and pass a proficiency exam for each required class. These classes are mandated by the New Mexico Law Enforcement Academy Board.*

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:
- Compliance memo from the former PCM addressed to the DOJ Auditor
- Policy CD-150100, *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA* (05/29/2020)
- Policy CD-150101, *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA* (05/29/2020)
- Certificates of investigator training completion
- Investigating Sexual Assaults in a Correctional Setting training curriculum and PowerPoint (revised 01/2015)
- 10/02/2019 letter from the New Mexico Department of Public Safety, Major of the Standards/Training Bureaus to the NMCD PREA Coordinator

Interviews conducted:

- Investigative staff
- Training coordinator

Standard 115.35: Specialized training: Medical and mental health care

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

115.35 (a)

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to detect and assess signs of sexual abuse and sexual harassment? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) ☒ Yes ☐ No ☐ NA

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to preserve physical evidence of sexual abuse? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) ☒ Yes ☐ No ☐ NA

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to respond effectively and professionally to victims of sexual abuse and sexual harassment? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) ☒ Yes ☐ No ☐ NA

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how and to whom to report allegations or suspicions of sexual abuse and sexual harassment? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) ☒ Yes ☐ No ☐ NA

115.35 (b)

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

115.35 (c)

- Does the agency maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) ☒ Yes ☐ No ☐ NA

115.35 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.31? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners employed by the agency.) ☒ Yes ☐ No ☐ NA

- Do medical and mental health care practitioners contracted by or volunteering for the agency also receive training mandated for contractors and volunteers by §115.32? (N/A if the agency does

not have any full- or part-time medical or mental health care practitioners contracted by or volunteering for the agency.) ☒ Yes ☐ No ☐ NA

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.35 (a)
Agency policy CD-150100, *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA*, (05/29/2020) section FF. (page 9) requires, "Medical, Mental Health, and Investigative Staff must take the training class for their respective specialized areas concerning PREA."

The Auditor was provided with the curriculum *Behavioral Health and Medical Specialized Training* (undated) which was developed by Just Detention International (JDI) in collaboration with NMCD. The training consists of the following modules:

- *Specialized Training for Mental Health Professionals*
- *The PREA Standards and Reporting*
- *Effective and Professional Response to Sexual Abuse and Sexual Harassment*
- *Respectful Communication with LGBTI Prisoners*
- *Forensic Exams and Rape Crisis Services in New Mexico*

The Auditor was also provided with the curriculum, *Forensic Medical Examinations Training for Correctional Medial and Mental Health Staff* (05/09/2017).

A review of the provided curriculum confirmed inclusion of the following standard-required elements:

- How to detect and assess signs of sexual abuse and sexual harassment – Module 1
- How to preserve physical evidence of sexual abuse – Module 5
- How to respond effectively and professionally to victims of sexual abuse and sexual harassment – Module 2, Module 3, Module 4
- How and to whom to report allegations or suspicions of sexual abuse and sexual harassment – Module 3

Per information received from the former PREA Coordinator, participants complete the training modules in an in-class setting, however, this was converted to on-line with COVID-related restrictions. Upon completion, the participant is required to complete an exam, which is forwarded to the Compliance Officer out of central office, who is responsible for grading the exams and issuing certificates to all who pass. A participant is required to miss two (2) or less to pass. If they miss three (3) or more, they are required to retake the test, not the entire training session / class.

The Auditor was provided with documentation of specialty training completion by five (5) of the six (6) medical and all five (5) mental health providers. (It is noted that clerical support staff were not included in compliance assessments.) This is an overall compliance rate of 91%. Of primary concern was the lack of any documentation of the completion PREA-related training (general PREA and PREA for health services) for one of the physicians who meets regularly with inmates

Interviews with a majority of medical and mental health providers confirmed completion of specialty training as required. Mental health providers clearly articulated the elements included in the training, to include specific standard requirements. Medical providers struggled more with training elements, many focusing on information regarding transgender inmates and one indicating evidence collection would include the collection of body fluid samples and DNA as would be completed during a forensic medical examination. Two (2) individuals indicated they had not completed the training, even though training certificates were received. One (1) individual indicated the training was very involved and she would need to take it again to understand it. All but one staff indicated the training was completed in July 2020, noting they had been informed it was a new requirement. No explanatory information for this was received in response to a query posed to the former PCM. Based on the information provided in interviews with medical providers, it is strongly recommended that a refresher be provided for these individuals to ensure a thorough understanding of training components.

Based on the overall specialty training completion compliance rate of 91%, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/18/2020, the Auditor was provided with the missing documentation of specialty training completion dated 08/06/2020. The Auditor was informed by the interim and current PCM that general PREA training requirements were to be completed on the individual's first day of service and specialty training requirements were to be completed within a very short period thereafter. The responsibility of ensuring required training is completed was assigned to the PCM. This was confirmed in documentation provided for any new medical or mental health staff member who was hired or whose services were secured during the period between initial documentation and on-site review.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.35 (b)
Agency policy CD-150102, *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA*, (05/29/20) section A.3. (page 1) requires, "A facility health care professional will take a history and conduct an examination to document the extent of physical injury and to determine if there are injuries that merit transfer to another medical facility (*CD-170100.MM*). The purpose of the examination is to determine the patient's stability for transfer to a site that provides forensic examinations."

No health services staff within NMCD perform forensic medical examinations. Per information received from the former PCM, inmates requiring a forensic medical examination would be taken to either Eastern New Mexico Medical Center in Roswell or Artesia General Hospital in Artesia, both of which are approximately 25 miles from the facility. The decision regarding which hospital would be made by the SANE. This was confirmed in interviews with ten (10) of the eleven (11) health services staff interviewed. The remaining individual believed that medical staff at the facility completed such exams; the process was explained to the individual during the interview.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.35 (c)
Agency policy CD-150100, *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA*, (05/29/2020) section FF. (page 9) requires, "Medical, Mental Health, and Investigative Staff must take the training class for their respective specialized areas concerning PREA. The agency will maintain documentation that these specialized staff members have been trained."

Per information received from the former PREA Coordinator, participants complete the training modules in the agency's electronic training system and take an exam. The exam is forwarded to the PREA Unit at Headquarters and a certificate of completion is issues following confirmation that the exam was passed.

The Auditor was provided with certificates of completion for all medical and mental health staff as noted in provision (a) of this standard.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.35 (d)
Agency policy CD-150100, *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA*, (05/29/2020) section CC. (page 8) requires, "Prior to contact with any inmate, any employee, volunteer and/or contractor will have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection and response policies and procedures." Per information received from the former PCM, the general PREA class, known as PREA 101, is taught during annual in-service.

Per information from the former PREA Coordinator, NMCD Staff and Contractor PREA Acknowledgment forms documents completion of the required general PREA training as well as an understanding of the training completed. The Auditor requested documentation of two-years of general PREA training completion for these individuals as annual training is required per agency policy. Of these eleven (11) individuals, two mental health providers were not employed at RCC during the 2018/2019 training year. One remaining mental health provider did not have documentation of training completion for the 2018/2019 training year. This results in an overall compliance rate of 89% (8 of 9 individuals).

Per information received from the former PREA Coordinator, the contracted medical service agency was changed 11/25/2019 to the current provider. When the previous agency left, all personnel files were removed from the facility. As a result, historical documentation of general PREA training is not available for medical providers. Due to the changes in staff and the unavailability of 2018/2019 records, the Auditor assessed compliance with general PREA training only based on the 2019/2020 training year. Documentation of completion was provided for ten (10) of the eleven (11) individuals, resulting in an overall compliance rate of 91%. The same individual who did not have documentation for general PREA training also had no documentation for specialty training completion.

Based on the general PREA training completion compliance rate of 88% for mental health staff and 91% for medical staff, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/18/2020, the Auditor received documentation of initial training for the identified medical staff member. On 03/29/2021, the Auditor received documentation of completion of general PREA training in 2021 for one (1) of the mental health staff. On 04/13/2021, the Auditor received documentation of 2021 training completion for the final existing staff member. On 05/05/2021, the Auditor received tracking documentation detailing completion of PREA training for the current training year (07/01/2020 through 06/30/2021) for all RCC employees and contract staff. Additionally, the Auditor was regularly provided with documentation of continuing in-service training provision to facility staff and contractors during the period between initial documentation and on-site review. The Auditor was informed by the interim and current PCM that general PREA training requirements were to be completed on the individual's first day

of service and specialty training requirements were to be completed within a very short period thereafter. The responsibility of ensuring required training is completed was assigned to the PCM. This was confirmed in documentation provided for any new medical or mental health staff member who was hired or whose services were secured during the period between initial documentation and on-site review.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated from the former PCM addressed to the DOJ Auditor
- Policy CD-150100, *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA* (05/29/2020)
- Policy CD-150102, *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA* (05/29/2020)
- Curriculum *Behavioral Health and Medical Specialized Training* (undated)
- Curriculum Forensic Medical Examinations – Training for Correctional Medical and Mental Health Staff (05/09/2017)
- Training exams and certificates of completion for select applicable staff

Interviews conducted:

- Medical and mental health staff
- Training coordinator
- Volunteer / contractor coordinators

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Standard 115.41: Screening for risk of victimization and abusiveness

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

115.41 (a)

- Are all inmates assessed during an intake screening for their risk of being sexually abused by other inmates or sexually abusive toward other inmates? ☒ Yes ☐ No

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

115.41 (b)

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

115.41 (c)

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

115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual,

transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes? ☒ Yes ☐ No

115.41 (e)

- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, as known to the agency, prior acts of sexual abuse? ☒ Yes ☐ No

- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, as known to the agency, prior convictions for violent offenses? ☒ Yes ☐ No

- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, as known to the agency, history of prior institutional violence or sexual abuse? ☒ Yes ☐ No

115.41 (f)

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

115.41 (g)

- Does the facility reassess an inmate's risk level when warranted due to a referral? ☒ Yes ☐ No

- Does the facility reassess an inmate's risk level when warranted due to a request? ☒ Yes ☐ No

- Does the facility reassess an inmate's risk level when warranted due to an incident of sexual abuse? ☒ Yes ☐ No

- Does the facility reassess an inmate's risk level when warranted due to receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness? ☒ Yes ☐ No

115.41 (h)

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

115.41 (i)

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

Auditor Overall Compliance Determination

☒ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.41 (a)
Agency policy CD-150100, *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA*, (05/29/2020) section J. (page 5) requires, "Inmates shall be screened within 48 hours of arrival at the facility and reassessed 25 days after the inmate's arrival, for potential vulnerabilities or tendencies of acting out with sexually aggressive behavior."

Per information received from the former PCM, the assessment process is as follows:

- *When an inmate is received at the facility, he is generally placed in D Unit for one week, during which time he receives his property and Classification Officers complete the initial risk assessment. This is done by the Classification Officer bringing a laptop into the area from their offices that are maintained outside the mail perimeter. This initial assessment is often completed on the same day as arrival. It is noted that although Classification Officers are not officed in inmate-accessible areas, they have established office hours when they are available in the office inside the main perimeter.*
- *There are three (3) trailers in a row, two for housing and one of which is where Classification Officers are available. Inmates are brought to this trailer to complete assessments.*
- *Assessments are completed in the electronic system unless for some reason a laptop isn't available or the staff cannot access the system / internet. If such an incident were to occur, the assessment would be completed on paper and then enters in the system as soon as possible.*

- *Classification Officers maintain their own individual tracking systems to ensure follow-up assessments are completed as required. Additionally, one of the Unit Managers developed a tracking system in a secure shared drive. This individual also tracks all assessment timelines and reminds Classification Officers when assessments are coming due.*

The former PREA Coordinator informed the Auditor that the assessment process was recently updated, now allowing assessors to include notes and narrative information in the assessment being completed; that more recent assessment examples provided should include documentation of this update.

It is noted that there is no formal training or user manual available detailing how assessments are to be completed. The former PCM included this in the 40-hour training provided to anyone newly appointed to the position of Classification Officer. The former PCM provided as an example a time when some Classification Officers were only including information directly from the inmate in the assessment. She corrected the issue and then included the requirement to include all available information / documentation in the assessment in the newly appointed training she provides. It is recommended that the agency develop some form of standardized training or access to a user manual to enable assessors across the state to have consistent, complete assessment information and instruction. This will also ensure that assessors are interpreting questions in the same manner (e.g., which criminal offenses are considered violent, what is considered to be a slight build, etc.).

During interviews conducted on-site, a significant number of inmates interviewed indicated they had not been asked risk assessment questions either for the initial (72-hour) or follow up (30-day) assessments. Related corrective action is addressed in provisions (b) and (f) of this standard.

It is noted that no risk assessments were completed while the Team was on-site, so the process was not directly observed.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.41 (b)
Agency policy CD-150100 *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA* (05/29/2020) section J. (page 5) requires, “Inmates shall be screened within 48 hours of arrival at the facility and reassessed 25 days after the inmate’s arrival, for potential vulnerabilities or tendencies of acting out with sexually aggressive behavior.”

This same policy, section HH. (page 9) requires, “Monthly, the Facility Compliance Officer (at Public Facilities) and the Contract Monitor (at Private Facilities), will complete the Screening for Risk of Sexual Victimization & Abusiveness, form CD-150100.2 and return the form the Agency PREA Coordinator.” Per information received from the former PCM, if non-compliance is discovered during the audit, the Warden is required to take appropriate progressive disciplinary action. The forms for completion of these audits are included with the agency PREA policy. The Auditor reviewed the monthly compliance audits relative to this standard for August 2019, November 2019, March 2020, and August 2020, confirming a regular review of compliance with standard requirements.

Per information contained in the DOJ On-Line Audit System, RCC received a total of 375 inmates during the audit documentation period. Of these, 358 inmates remained at the facility for at least 72 hours. Per information obtained from the former PCM, there are two primary reasons for the decrease in inmate population numbers prior to the 72-hour assessment mark:

- Protective custody-related moves with inmates coming from celled housing to open dorms and free movement, identifying issues with opposition gangs, etc. that weren’t an issue in a cell setting.
- Inmates arriving needing medical care beyond what RCC has (they don’t have 24-hour medical and there are no psychotropic drugs on grounds) so the inmates are transferred back out.

The Auditor was informed that the data previously provided was incomplete and did not include a full 12-month period; the former PCM then provided the Auditor with a new listing of all inmates received between 08/01/2019 and 08/31/2020, noting the arrival of 418 inmates at RCC. The former PCM reported that of the 418 inmates, 401 remained at the facility for at least 72 hours.

The Auditor requested documentation of the arrival date and completion of the initial (72-hour) risk assessment for a total of 35 inmates on the new listing of 418 intake inmates, selecting every 12th name on the master list of 418 plus one additional inmate to ensure representation from every month during the identified period. Of the inmates selected for file review, one (1) inmate left the facility before the 72-hour timeframe and one (1) had an electronic assessment completed beyond the 72 hours. Per information from the PCM, this inmate's assessment was completed on paper within the timeframe but was entered into the electronic system beyond the 72 hours. The Auditor was provided with the Unit Manager tracking spreadsheet to confirm that the hard copy assessment was completed within timeframe, also noting late entry into the electronic system. The Auditor therefore confirmed compliance in all 34 records reviewed. Additionally, the Auditor reviewed selected samples of monthly audits of select PREA standards, to include review of with risk assessment timeframes, confirming continued compliance with standard requirements.

During interviews while on-site, a total of seventeen (17) inmates reported that they had not participated in either the initial and/or follow up risk assessment process at all. The Auditor requested and received documentation of date of arrival and initial risk assessment completion, confirming that all noted inmates had these risk assessments completed as required. Between initial documentation and on-site review, the Auditor was provided with lists of inmates who had been received at the facility each month, selecting inmates for whom proof of practice documentation was requested. All documentation confirmed that all risk assessments were completed as required.

During interviews conducted on-site, a significant number of inmates interviewed indicated they had not been asked risk assessment questions either for the initial (72-hour) or follow up (30-day) assessments. Following probing questions by the interviewer, many reported that they were called in by a staff member and asked to sign a paper, spending only a few minutes with the staff member. Several inmates indicated that the staff member told them they had seen in a previous assessment that the inmate had been a previous victim of abuse and were then asked to sign a document indicating whether the wanted a follow up assessment with a mental health provider. Some reported only being asked if anything had changed but were still not specifically asked assessment questions. To address the issue, the PCM conducted training with all classification staff and applicable supervisors to relay risk assessment expectations. Included in the agenda was a discussion, "Directed Classification staff that each review will be conducted by asking inmates each question, and some things might have changed since last review…Addressed concern of Auditor that some inmates advised that they did not know who their Case Worker was, and the need for use of contact sheet to show that inmate contact is being made during office hours." Additionally, the PCM initiated a documentation process in which inmates were required to sign a form during all risk assessments confirm an in-person meeting with the assigned classification officer and being asked assessment questions. The Auditor was provided with exampled of completed forms and will continue to review throughout the corrective action period. It is noted that the PCM and Chief of Security held a facility-wide scheduling townhall meeting on 08/26/2021 to review PREA-related processes with all facility inmates and provide a forum for inmates to ask questions.

Based on the above, RCC is assessed as non-compliant with the requirements of this provision. Processes to address the deficiency are already implemented and will be monitored by the Auditor during the corrective action period.

Updates:

- The Auditor received additional intake inmate lists and was able to request documentation of initial and follow-up risk assessments during the corrective action period, selecting records to ensure representation across the entire period of intake under review. These were provided and confirmed completion of reviews in compliance with standard requirements. Additionally, each review was accompanied by the sign in sheet in which the inmate verified the following, "By signing this SRNS Screening call out form, I acknowledge that I have met with and was asked assessment questions by a RCC staff member." The assessment process, confirmation system implemented, and townhall meetings held to share information with inmates demonstrates that the facility now exceeds standard requirements. RCC staff are commended regarding the work done to ensure completion of meaningful assessments for all facility inmates.

115.41 (c)
Risk assessments are completed in a secured component of the Criminal Management Information System (CMIS). The assessment was developed based on standard requirements. All assessors are required to complete all assessments in this system.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.41 (d)
Risk assessments are completed in a secured component of the Criminal Management Information System (CMIS). The system was reviewed, and the Auditor confirmed inclusion of the following elements:

- Mental / physical disability or developmental disability,
- Age,
- Slight build,
- First incarceration,
- Is the inmate's criminal history exclusively non-violent offenses,
- Sexual orientation,
- Prior sexual victimization,
- Inmate perception of vulnerability,
- Prior convictions for sex offender against an adult or child,
- Is detained solely for civil immigration purposes, and
- Does the inmate / offender project a perceived gender status that is non-conforming?

During interviews, staff responsible for risk assessments clearly articulated the elements contained in the assessment. They appeared very comfortable with the information to be collected and ensured confidentiality of the inmate during the assessment process. Initial assessments were generally completed anywhere from within hours of arrival to 48-hours after intake. Each individual acknowledged the sensitive nature of the assessment and reported they worked to ensure the comfort level of the inmate. All inmates were verbally asked all questions on the assessment. Assessors also pulled available and applicable information from the inmate's master record.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.41 (e)
Risk assessments are completed in a secured component of the Criminal Management Information System (CMIS). The system was reviewed, and the Auditor confirmed inclusion of the following elements:

- Current conviction for sex offender,
- Sexual misconduct report,
- Prior conviction for sex offender,
- Prior convictions of violent offenders,
- Prior acts of sexual abuse, and

- History of prior institutional violence or sexual abuse.

During interviews, staff responsible for risk assessments clearly articulated the elements contained in the assessment. They appeared very comfortable with the information to be collected and ensured confidentiality of the inmate during the assessment process. Initial assessments were generally completed anywhere from within hours of arrival to 48-hours after intake. Each individual acknowledged the sensitive nature of the assessment and reported they worked to ensure the comfort level of the inmate. All inmates were verbally asked all questions on the assessment. Assessors also pulled available and applicable information from the inmate's master record.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.41 (f)
Agency policy CD-150100 *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA* (05/29/2020) section J. (page 5) requires, "Inmates shall be screened within 48 hours of arrival at the facility and reassessed 25 days after the inmate's arrival, for potential vulnerabilities or tendencies of acting out with sexually aggressive behavior."

This same policy, section HH. (page 9) requires, "Monthly, the Facility Compliance Officer (at Public Facilities) and the Contract Monitor (at Private Facilities), will complete the Screening for Risk of Sexual Victimization & Abusiveness, form CD-150100.2 and return the form the Agency PREA Coordinator." Per information received from the former PCM, if non-compliance is discovered during the audit, the Warden is required to take appropriate progressive disciplinary action. The forms for completion of these audits are included with the agency PREA policy. The Auditor review the monthly compliance audits relative to this standard for August 2019, November 2019, March 2020, and August 2020, confirming a regular review of compliance with standard requirements.

Per information contained in the DOJ On-Line Audit System, RCC received a total of 375 inmates during the audit documentation period. Of these, 332 inmates remained at the facility for at least 30 days. The Auditor was informed that the data previously provided was incomplete and did not include a full 12-month period; the former PCM then provided the Auditor with a new listing of all inmates received between 08/01/2019 and 08/31/2020, noting the arrival of 418 inmates at RCC. The former PCM reported that of the 418 inmates, 389 remained at the facility for at least 30 days.

The Auditor requested documentation of the arrival date and completion of the follow up (30-day) risk assessment for a total of 35 inmates on the new listing of 418 intake inmates, selecting every 12th name on the master list of 418 plus one additional inmate to ensure representation from every month during the identified period. Of the inmates selected for file review, four (4) inmates left the facility before the 30-day timeframe and one (1) was completed beyond timeframes. Per information from the former PCM, this inmate's assessment was completed on paper within the timeframe but was entered into the electronic system beyond the 30-day time frame. The Auditor therefore confirmed compliance in all 31 records reviewed. Additionally, the Auditor reviewed selected samples of monthly audits of select PREA standards, to include review of with risk assessment timeframes, confirming continued compliance with standard requirements

During interviews conducted with staff responsible for the completion of risk assessments, the Auditor confirmed a thorough knowledge of standard requirements and established systems to ensure completion of identified reviews. Staff reported that they are expected to complete follow up assessments within 25 days, providing for some flexibility to address unforeseen circumstances before the 30-day requirement would elapse. Interviewees confirmed meeting with each inmate being assessed and reviewing all assessment questions with each inmate, updating information as needed. However, in an informal follow up interview conducted while on-site, in response to the information received from inmate

interviews, Team members were informed that during follow-up assessments, only the questions in the bottom portion of the assessment are asked of the inmate as the top questions never change. When the risk assessment was reviewed, it was noted that the "bottom ones" were the questions related to sexual abusiveness and the "top ones" were questions related to sexual victimization, both sections of which can change in the time period between assessments.

During interviews while on-site, a total of seventeen (17) inmates reported that they had not participated in either the initial and/or follow up risk assessment process at all. The Auditor requested and received documentation of date of arrival and follow-up risk assessment completion, confirming that all but one (1) noted inmate had these risk assessments completed as required. A follow-up assessment could not be located for the final inmate, so one was completed 08/16/2021. Between initial documentation and on-site review, the Auditor was provided with lists of inmates who had been received at the facility each month, selecting inmates for whom proof of practice documentation was requested. All documentation confirmed that all risk assessments were completed as required.

During interviews conducted on-site, a significant number of inmates interviewed indicated they had not been asked risk assessment questions either for the initial (72-hour) or follow up (30-day) assessments. Following probing questions by the interviewer, many reported that they were called in by a staff member and asked to sign a paper, spending only a few minutes with the staff member. Several inmates indicated that the staff member told them they had seen in a previous assessment that the inmate had been a previous victim of abuse and were then asked to sign a document indicating whether the wanted a follow up assessment with a mental health provider. Some reported only being asked if anything had changed but were still not specifically asked assessment questions. To address the issue, the PCM conducted training with all classification staff and applicable supervisors to relay risk assessment expectations. Included in the agenda was a discussion, "Directed Classification staff that each review will be conducted by asking inmates each question, and some things might have changed since last review…Addressed concern of Auditor that some inmates advised that they did not know who their Case Worker was, and the need for use of contact sheet to show that inmate contact is being made during office hours." Additionally, the PCM initiated a documentation process in which inmates were required to sign a form during all risk assessments confirm an on-person meeting with the assigned classification officer and being asked assessment questions. The Auditor was provided with exampled of completed forms and will continue to review throughout the corrective action period. It is noted that the PCM and Chief of Security held a facility-wide scheduling townhall meeting on 08/26/2021 to review PREA-related processes with all facility inmates and provide a forum for inmates to ask questions.

Based on the above, RCC is assessed as non-compliant with the requirements of this provision. Processes to address the deficiency are already implemented and will be monitored by the Auditor during the corrective action period.

Updates

- The Auditor received additional intake inmate lists and was able to request documentation of initial and follow-up risk assessments during the corrective action period, selecting records to ensure representation across the entire period of intake under review. These were provided and confirmed completion of reviews in compliance with standard requirements. Additionally, each review was accompanied by the sign in sheet in which the inmate verified the following, "By signing this SRNS Screening call out form, I acknowledge that I have met with and was asked assessment questions by a RCC staff member." The assessment process, confirmation system implemented, and townhall meetings held to share information with inmates demonstrates that the facility now exceeds standard requirements. RCC staff are commended regarding the work done to ensure completion of meaningful assessments for all facility inmates.

115.41 (g)
Agency policy CD-150100 *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA* (05/29/2020) section J. (page 5) requires, "Inmates will be reassessed thereafter due to a referral, request, incident of sexual abuse or sexual harassment, or receipt of additional information that bears upon an inmate's risk of sexual victimization or abusiveness. Housing and program assignments will be made accordingly…In the event of an incident, both the inmate perpetrator and/or inmate victim will be re-screened."

The former PREA Coordinator informed the Auditor that the assessment process was recently updated, previously not allowing assessors to include notes and narrative information in the assessment being completed; that more recent assessment examples provided should include documentation of this update. This revision also included the ability to document the reason for the assessment (e.g., initial, follow-up, for cause, etc.).

Per information received from the former PCM, she would be responsible for alerting assessors that a new "for cause" assessment is needed in response to investigation findings, noting this has not occurred at RCC. This was confirmed in a review of investigation reports from 2018 through 2020.

Interviews with assessors revealed confusion regarding when "for cause" assessments are required, with one indicating a need for reassessment whenever an inmate was gone from the facility for more than 10 days (e.g., out to court), with another indicating reassessment if the inmate was a victim or referred to mental health. It is recommended that refresher information be provided to all assessors to ensure a thorough understanding of processes and requirements.

The explanatory memo provided by the former PCM with the initial documentation indicated that examples of "for cause" assessments in response to new information received through a PREA investigation were included. However, no such documentation was provided. There was no response to requests for clarification and/or documentation.

The Auditor submitted a request for clarification regarding the question assessing the history of institutional violence, asking what would happen if an inmate was found guilty of a new violence-related infraction other than sexual abuse that had not been captured in a previous assessment and processes associated with staff being informed that a new assessment may be needed. No response was received in response to this request.

Based on the lack of documentation of "for cause" assessments and process information regarding new violence-related infractions RCC is assessed as non-compliant with the requirements of this provision. Corrective action should include provision of applicable documentation and processes sufficient for the Auditor to reassess compliance and develop additional corrective action as indicated.

Updates:
- 12/18/2020 the Auditor was informed by the former PCM that the information provided in the initial explanatory memo had been incorrect, that no "for cause" assessments have been completed for any current RCC inmate. This was confirmed via email from an IT Quality Assurance Analyst.
- 12/18/2020 the Auditor was provided with agency policy CD-080100 *Institutional Classification, Inmate Risk Assessment and Central Office Classification* (08/24/2016) which includes information regarding what constitutes a violent criminal offense within the State of New Mexico. However, this does not address the issue regarding violent internal infractions and how that information is captured in new, for cause, assessments.
- 07/27/2021 the PCM held training for all classification officers and applicable supervisors. Included in the agenda was a discussion, "Directed Classification to use the comment section to state the

reason for the review (72-hour review, 30-[day] review, 6-month review or inmate involved in PREA." Per information received from the current PCM, he will inform classification staff when a "for cause" assessment needs to be completed in response to inmate involvement in a substantiated investigation or institutional violence that needs to be included in the assessment.

- During the corrective action period, the Auditor was provided with examples of "for cause" assessments completed in response to allegations received. Initially, these assessments were completed as soon as an allegation was received, but a subsequent assessment was not completed if the allegation was determined to be unfounded, resulting in the possibility that inmates could be inaccurately identified as potential victims or potential predators. Per information received from the PCM and PREA Coordinator, this practice was stopped and investigation-related "for cause" assessments only completed as applicable following the completion of an investigation. During the course of the investigation, facility staff took needed steps to ensure separation of alleged victims from accused individuals to ensure safety. This change in process supplements separation activities and minimizes the applicable of inaccurate risk identifiers.

Based on the training conducted, actions taken, and documentation provided, RCC is now assessed as compliant with the requirements of this provision.

115.41 (h)

Agency policy CD-150100 *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA* (05/29/2020) section K. (page 5 - 6) states, "Inmates shall not be disciplined for refusing to participate in the screening process."

The Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 17) specifies,

> *Facilities and institutions are prohibited from applying any type of administrative disciplinary procedures against inmates who fail to answer questions related to:*
>
> - *Any mental, physical or developmental disability;*
> - *Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming;*
> - *Whether or not the inmate has previously experienced sexual victimization; or*
> - *The inmate's own perception of vulnerability.*
>
> *A refusal to answer any of the above identified screening questions must be documented on the screening document. Any refusal by an inmate to answer any other PREA intake screening and reassessment questions could result in institutional disciplinary action as deemed appropriate by the institution or facility.*

It is noted that the information contained in the Prison Rape Elimination Act Sexual Assault Response Team PREA Manual is contradictory and confusing in comparison with the information include in agency policy. Per information from the former PREA Coordinator, the manual is being updated to prohibit discipline related to any refusal regarding the assessment process. A copy of the revised manual (revised 11/03/2020) was received 08/18/2021, which now reads,

> *Facilities and institutions are prohibited from applying any type of administrative disciplinary procedures against inmates who fail to participate in the assessment process. A refusal to answer any of the above identified screening questions must be documented on the screening document.* (page 16).

The Auditor was also provided with a risk assessment in which a refusal was documented but for which the inmate was not disciplined.

Per information obtained from the former PCM, inmates are not required to participate in the assessment process and are not disciplined for refusal. In an inmate refuses, the assessor is to complete the assessment with the information that is available to them (e.g., inmate records, appearance of the inmate,

etc.). Per information received from the former PREA Coordinator, assessments are printed from the electronic system and placed in a "PREA section" of the inmate's file. If an inmate refuses to participate in the assessment process, a notation will be added to the paper assessment that the inmate refused to participate. Both the former PREA Coordinator and former PCM noted that this very rarely happens.

During interviews, risk assessors confirmed the prohibition regarding disciplining inmates for refusal to participate in the assessment process, meeting standard requirements. However, the Auditor received mixed information regarding the associated processes. One assessor reported the requirement to complete the assessment with all information available from other sources, noting the refusal on the hard copy of the assessment maintained in the inmate's master file. However, another assessor reported that the "yes/no" scoring of assessment would not be completed and only narrative comments included, with the inmate called back within 25 days to attempt again to complete the assessment. Both assessors indicated this has never happened with any of the assessments they have completed. Based on the contradicting information provided, it is recommended that refresher information be provided to all assessors to ensure a thorough knowledge and application of processes.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.41 (i)
The Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 18) requires, "All staff is prohibited from dissemination of any PREA screening for risk of victimization and abusiveness except on a need and right to know basis."

Per information received from the former PREA Coordinator, the system in which assessments are completed / maintained electronically is separate from the overall case management system. This confidential component can only be accessed by assessors, which includes classification officers, unit managers, the PCM, and the Coordinator, with the PCM having read only access. Access is gained by user log in and assigned by position. A system access request (SAR) must be submitted and approved by the Coordinator before access beyond these designated positions is granted. There have been no instances in which access beyond identified positions has been requested and, as such, there is no secondary documentation available for review. The risk assessment is completed within the database system with the inmate present. Once complete, the assessment is printed, and the hard copy placed in the PREA section of the inmate's master file. All master files are maintained in a locked file room, to which very limited staff have access. NMCD is currently in the process of relocating inmate master files from each facility to a centralized location.

A hard copy of the risk assessment is maintained in the inmate's master record, which is maintained in a secure file room with restricted access. Agency policy CD-040101, *Inmate Records* (06/09/2016), section B.1. and 2. (page 1) requires, "Inmate Records shall be kept in a secure location, safeguarded from unauthorized and improper disclosure, and will not be available to inmates at any time, unless an inmate is authorized by the Warden, or designee, to inspect his or her file or the contents thereof. Every effort shall be made to preserve all inmate records. Access to the file room at the facilities will be limited to authorized personnel. During normal operations the Advanced Records Coordinator or the Records Manager shall determine who has authorized access. After-hours access, will be determined by the shift supervisor."

When logging into the Criminal Management Information Systems (CMIS), the user receives the following warning:

- *You are accessing a confidential information database.*
- *This information is for official use only and is restricted to those individuals with a need to know.*
- *Unauthorized disclosure of this information is a violation of NMCD policies.*

- *By clicking "Application Logon" I acknowledge and accept full responsibility for the proper use of this information.*

Confidentiality and applicable parameters for the use of related information must be acknowledged each time the user logs in before access to the system is granted.

The Auditor was provided with a review of the assessment system via a skype meeting with the former PREA Coordinator. Restrictions on access were confirmed during this review.

The confidentiality of information contained in the electronic assessment system as well as restrictions on access were confirmed in interviews with the interim PREA Coordinator, risk assessors and all PCM's. However, the current PREA Coordinator reported that access to the confidential information in the risk assessment system is available to those who make housing and programming assignments, to include classification staff, intake officers, and sergeants, but indicated there has been discussion of limiting it to just PCM's. The current PREA Coordinator provided the Auditor with policy language and system screen shots that confirm continuation of noted processes since he has assumed the PREA Coordinator position.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 07/30/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-040101, *Inmate Records* (06/09/2016)
- Examples of completed monthly PREA audit tools
- Examples of initial and follow-up risk assessments
- Screen shot from log on into the Criminal Management Information System (CMIS)
- 10/01/2020 PREA Coordinator email regarding database systems and security
- Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated and revised 11/03/2020)
- 12/18/2020 email from NMCD IT Quality Assurance Analyst regarding for cause assessments completed for RCC inmates
- Policy CD-080100 *Institutional Classification, Inmate Risk Assessment and Central Office Classification* (08/24/2016)
- Policy CD-044000 *Information Technology Management* (02/04/2021)

Interviews conducted:

- PREA compliance managers
- PREA coordinators
- Random sample of inmates
- Staff responsible for risk screening

Standard 115.42: Use of screening information

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

115.42 (a)

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

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

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

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

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

115.42 (b)

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

115.42 (c)

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

- When making housing or other program assignments for transgender or intersex inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems?
  ☒ Yes ☐ No

115.42 (d)

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

115.42 (e)

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

115.42 (f)

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

115.42 (g)

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: lesbian, gay, and bisexual inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.) ☒ Yes ☐ No ☐ NA

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: transgender inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.) ☒ Yes ☐ No ☐ NA

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.) ☒ Yes ☐ No ☐ NA

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.42 (a)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section N. and O. (page 6) requires, "Inmates with a history of criminally sexual behavior shall be identified, monitored, and counseled… Inmates at risk for sexual victimization shall be identified, monitored, and counseled."

Agency policy CD-080100, *Institutional Classification, Inmate Risk Assessment and Central Office Classification* (08/24/2016), section A. (page 7) requires, "The NMCD shall establish procedures to implement and monitor an inmate's status related to their risk assessment, program assignment, good time and release preparation. This will include consideration of any special needs of the inmate." Policy CD-080102, *Institutional Classification* (08/24/2016) details all classification actions for reception and parent facilities throughout the agency. Classification staff take into account all available information, include PREA risk identifiers, when making decisions regarding an inmate's classification.

The Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 18) requires, "Any inmate who has an assessment result of PREA high risk of sexual victimization or sexual abusiveness shall have an alert placed on their record. Any inmate that is assessed as a PREA known victim or known predator will have an alert placed on their record." Per information from the former PREA Coordinator, it is possible that an offender score as both a known victim / high victim potential and known abuser / high risk of sexual abusiveness. In the event this were to occur, information regarding both identifiers would be included in the alerts maintained for the inmate and the inmate would be housed accordingly.

Per information received from the former PREA Coordinator, "If an inmate scores high for victimization or abusiveness, [a] note is placed in the 'Caution' section of CMIS [Criminal Management Information System]. All notes regarding housing are located here, such as if an [inmate] claims an enemy there is a caution on both inmates to ensure that they are never housed together. The same as inmates who score high for either. The cautions of all inmates in the pod are required to be reviewed by the housing captain before assigning an inmate to housing area…When an inmate is coming into a facility, the inmate is placed into what we call orientation status for one week. The inmate is placed into a pod but is not allowed into general population or out with other inmates, until orientation status has been completed. They watch things like how the inmate is getting along with others in the pod…All departments are involved; security, medical/mental health, the inmate, case worker etc., sit in a meeting to determine housing changes, work assignments, programming etc."

The Auditor was provided with a listing of RCC offenders who had risk identifier of high risk of victimization and high risk for abusiveness 01/19/2019 through 10/21/2020. It is noted that no RCC inmates scored as high risk for victimization during this time period. The Auditor requested documentation regarding alerts placed for the two inmates with risk identifiers of high risk for abusiveness to confirm completion as required, but the documentation was not received.

The Auditor was informed by one (1) Unit Manager that a local tacking system is maintained for all risk assessments. All shift supervisors who can make bunk assignments and program / job assignments

review the document, which is color-coded as potential victims and potential predators so users can easily see who should not be placed together. The document is accessible in a “read only” status for applicable individuals, but only classification staff and the PCM have the ability to edit the document. Additionally, the Auditor was informed by another Unit Manager that if Classification Officers find an inmate is vulnerable, the information is shared with the Unit Managers to ensure it is taken into account in job and programming assignments. All classification staff interviewed remarked on the level of communication among this group, ensuring that relevant information is shared regarding RCC inmates.

The Auditor was provided with the Unit Manager’s tracking document which details the risk identifier of all RCC inmates, broken down by the year in which they were received. However, in discussions with the former PREA Coordinator and former PCM, it was learned that there is no documentation created or maintained of the review of this log prior to housing or job assignment. The Auditor was also informed in an applicable interview that the tracking document often is not reviewed prior to job assignments as instructed on a facility level. Additionally, there is no documentation of the review of cautions maintained in an inmate’s file by the Captain before assignment. As a result, there is no documentation available to confirm compliance with local procedures to ensure the safety of all at risk inmates.

During interviews, the interim and current PCM reported that those inmates with higher scores of related to victimization are not put with those with higher risk of predation, with attempts to ensure these individuals are not placed within the same unit whenever possible. Both PCM’s confirmed the tracing log noted above, confirming that the Captain and Lieutenants make assignments and review information from the spreadsheet along with information about inmates with cautions before making these assignments. Both also confirmed use of the tracking document when making job assignments noting that inmates with high aggression scores are not placed in jobs in outside areas such as maintenance or other identified high-risk areas. The Auditor also confirmed that inmates with high victim potential are not placed in the same job as inmates with high aggression potential. The interim PCM added that the information maintained in the tracking document is also used by transition / release planning multi-disciplinary teams, where programming recommendations are developed for inmates during their stay at the facility.

Based on the lack of documentation regarding the review of risk factors before housing and programming decisions are made, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/17/2020, the Auditor was provided with documentation of alerts placed on the records of two (2) inmates identified as at risk as requested during the initial documentation review. On 07/06/2021, the Auditor was provided with tracking log examples along with documentation of the use of the log in housing and job assignments. The Auditor was also provided with alerts / cautions placed for applicable inmates in the CMIS database. The Warden has also mandated that the log be used by all applicable staff in making noted decisions and assignments.

Based on the actions taken and documentation provided, RCC is assessed as compliant with the requirements of this provision.

115.42 (b)
Based on the documentation of information accessible, reviewed and shared as noted in provision “a” of this standard and the classification actions detailed in agency policy CD-080102, *Institutional Classification* (08/24/2016), the Auditor confirmed that classification and related decisions are made on a case-by-case basis, determined by the needs and risks of each individual inmate. This was also confirmed in interview with staff responsible for risk assessments.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.42 (c)
Agency policy CD-150800, *Transgender Inmates* (09/13/2018), section D. and E. (page 3) requires, "Classification staff shall use the information from the risk screening to determine housing, bed, work, education and program assignments with the goal of keeping separate LGBTI inmates at high risk of being sexually victimized from those at high risk of being sexually abusive…Classification staff shall make individual determinations on how to ensure the safety of each inmate."

Per information received from the former PCM, "The agency has formed a Gender Classification Committee, which consists of the PREA Coordinator, the Director of Adult Prisons, [the] Health Services Director and the Behavioral Health Director. The Gender Classification Committee will meet and discuss if the transgender inmate would function better in a male of female setting. Transgender inmates can request transfer and placement would be decided by the committee." In an interview, the former PCM reported that it has been many years since a transgender or intersex inmate has been housed at RCC, before the currently policy went into effect. She noted that if such an inmate were to be received, she would follow the requirements outlined in policy.

There had been no transgender or intersex inmates housed at RCC since the last DOJ PREA audit through the audit documentation period. Since that time, two (2) transgender inmates have been transferred to the facility. The Auditor was provided with documentation confirming review of risk factors and the inmate's own views with respect to personal safety were included.

An interview was conducted with a representative from the Transgender Resource Center of New Mexico (TRCNM) as this organization has been intricately involved in support services provided to these inmates across the state. The organization has also been instrumental in the training provided to NMCD staff. The individual noted that the support they are able to provide has been recently limited, primarily due to COVID19-related restrictions and the organization is looking forward to being able to engage with NMCD transgender inmates as soon in the future as it is safe. This interaction and engagement are encouraged in order to provide support to transgender individuals throughout the agency.

In interviews with the interim PCM, it was confirmed that the tracking log noted with provision (a) of this standard is also used to ensure that any transgender inmate housed at the facility is not placed in an area in which inmates assessed as highly sexually aggressive are housed. The current PCM added that all transgender inmates are asked where they feel sage and continually engage in conversations with these inmates to be able to address concerns and issues. This was confirmed during on-site interviews with transgender inmates.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.42 (d)
Per information received from the former PCM, "All transgender inmates housed within the facilities are assessed every six months. These assessments normally take place in June and December."

There had been no transgender or intersex inmates housed at RCC since the last DOJ PREA audit through the audit documentation period. Since that time, two (2) transgender inmates have been transferred to the facility. The Auditor was provided with documentation confirming review of risk factors, housing and programming assignments, and the inmate's own views with respect to personal safety at least every six (6) months.

In an interview, the former PCM reported that it has been many years since a transgender or intersex inmate has been housed at RCC, before the currently policy went into effect. She noted that if such an inmate were to be received, she would follow the requirements outlined in policy. Completion of reviews at least every six (6) months was confirmed in interviews with the interim and current PCM's.

Interviews with individuals responsible for risk screening were not aware of applicable procedures as there had been no transgender inmates housed at RCC at the time of interview. It is recommended that procedures and processes are reviewed with these individuals, so they are knowledgeable and prepared to respond to questions by these inmates.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.42 (e)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section L. (page 6) requires, "A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration."

Agency policy CD-150800, *Transgender Inmates* (09/13/2018), section D. (page 3) requires, "A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration."

There had been no transgender or intersex inmates housed at RCC since the last DOJ PREA audit through the audit documentation period. Since that time, two (2) transgender inmates have been transferred to the facility. The Auditor was provided with documentation confirming review of risk factors, housing and programming assignments, and the inmate's own views with respect to personal safety.

In an interview, the former PCM reported that it has been many years since a transgender or intersex inmate has been housed at RCC, before the currently policy went into effect. She noted that if such an inmate were to be received, she would follow the requirements outlined in policy. The interim PCM reported that safety with housing and job assignments was discussed with transgender inmates upon arrival at the facility. She added that she regularly checked in with these inmates and ensures open communication with them. The current PCM also confirmed the role of the inmate's view of safety during housing and programming assignments for transgender inmates. Questions from staff about personal safety was confirmed in on-site interviews with transgender inmates.

Interviews with individuals responsible for risk screening were not aware of applicable procedures as there had been no transgender inmates housed at RCC at the time of interview. It is recommended that procedures and processes are reviewed with these individuals, so they are knowledgeable and prepared to response to questions by these inmates.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.42 (f)
Agency policy CD-150800, *Transgender Inmates* (09/13/2018), section D. (page 3) requires, "A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration."

Per information from the former PREA Coordinator, all showers at RCC have multiple shower heads intended for use by more than one inmate. If a transgender or intersex inmate were to be received at RCC, the inmate could request to shower separately during count time. This was confirmed in interview with the interim and current PCM's. Interviews with individuals responsible for risk screening were not aware of applicable procedures as there had been no transgender inmates housed at RCC at the time of interview. It is recommended that procedures and processes are reviewed with these individuals, so they are knowledgeable and prepared to respond to questions by these inmates.

On-site interviews with transgender inmates confirmed the ability to shower privately via separate shower times. Questions regarding showers are generally brought to the Captain, who works with facility staff to resolve them and provide privacy for transgender inmate showers.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.42 (g)
Per information received from the former PREA Coordinator, NMCD is not currently under a consent decree, legal settlement, or legal judgement regarding the housing of LGBTI inmates.

The Auditor was provided with a report dated 11/04/2020 of all the RCC inmates who scored "yes" on a risk assessment for LCBGI status. Currently there are only two inmates on this list. Due to the minimal number of inmates who disclose such status or are perceived as other to be gay or bisexual, there have never been issues with these inmates grouping together within one area of the facility.

Per information received in an interview with the former PCM, there were only two individuals who scored "yes" on risk assessment questions regarding LGBTI status at the time of interview. This was confirmed in a report generated by NMCD IT. She also reported that the facility is not permitted to segregate or group together any classification of inmates when assigning housing, but with this small number, it has not been an issue historically. The interim and current PCM's confirmed that inmate housing assignments are made based on risk and need and not by the inmate's LGBTI status. Interviews with gay, bisexual and transgender inmates confirmed that they have never been placed in a housing area only for LGBTI inmates.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:
- Compliance memo dated 07/31/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-080100, *Institutional Classification, Inmate Risk Assessment and Central Office Classification* (08/24/2016)
- CD-080102, *Institutional Classification* (08/24/2016)
- Report of RCC inmates who scored as high risk for abusiveness 01/01/2019 through 10/21/2020
- Documentation of alerts placed for inmates identified as high risk for abusiveness

Interviews conducted:
- Gay / bisexual inmates
- PREA compliance managers
- PREA coordinators
- Staff responsible for risk screening
- Transgender inmates

Standard 115.43: Protective Custody

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

115.43 (a)

- Does the facility always refrain from placing inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers? ☒ Yes ☐ No

- If a facility cannot conduct such an assessment immediately, does the facility hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment? ☒ Yes ☐ No

115.43 (b)

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible? ☒ Yes ☐ No

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Privileges to the extent possible? ☒ Yes ☐ No

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Education to the extent possible? ☒ Yes ☐ No

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Work opportunities to the extent possible? ☒ Yes ☐ No

- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the opportunities that have been limited? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.) ☐ Yes ☐ No ☒ NA

- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the duration of the limitation? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.) ☐ Yes ☐ No ☒ NA

- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the reasons for such limitations? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.) ☐ Yes ☐ No ☒ NA

115.43 (c)

- Does the facility assign inmates at high risk of sexual victimization to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged? ☒ Yes ☐ No

- Does such an assignment not ordinarily exceed a period of 30 days? ☒ Yes ☐ No

115.43 (d)

- If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, does the facility clearly document the basis for the facility's concern for the inmate's safety? ☒ Yes ☐ No

- If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, does the facility clearly document the reason why no alternative means of separation can be arranged? ☒ Yes ☐ No

115.43 (e)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.43 (a)
Agency policy CD-141100, *Protective Custody Policy* (12/03/2015), section A. (page 1) indicates, "It is the policy of New Mexico Corrections Department that inmates will not be placed in any long-term segregation housing for protective custody reasons.

Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section K.D. (page 5) requires, "The placement of inmates determined to be at high risk of sexual victimization into Special Management shall cite the basis for the facility's concern for the inmate's safety and the reason why no alternative placements are appropriate consistent with NMCD Special Management policies."

Per information received from the Warden and former PCM, RCC does not have a segregation unit or any restrictive housing. The facility maintains a very short-term holding cell, in which inmates may be placed for less than 24 hours. As a result, there is no secondary documentation available for review.

In an interview, the Warden reported that if an allegation were to be received, facility staff would keep alleged victim at RCC and address the placement of the accused. He added that if the allegation were

highly serious and the victim is at increased risk, he would be transferred to another facility only as a last resort. The inmate could first be placed in an area where he is safe and can be monitored; all avenues to maintain the alleged victim at the facility would be employed and, if needed, the accused would be moved.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.43 (b)
Agency policy CD-141100, *Protective Custody Policy* (12/03/2015), section A. (page 1) indicates, "It is the policy of New Mexico Corrections Department that inmates will not be placed in any long-term segregation housing for protective custody reasons.

Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)*,* section K.D. (page 5) requires, "The placement of inmates determined to be at high risk of sexual victimization into Special Management shall cite the basis for the facility's concern for the inmate's safety and the reason why no alternative placements are appropriate consistent with NMCD Special Management policies."

Per information received from the Warden and former PCM, RCC does not have a segregation unit or any restrictive housing. The facility maintains a very short-term holding cell, in which inmates may be placed for less than 24 hours. As a result, there is no secondary documentation available for review.

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As RCC does not maintain segregated housing, interviews were not conducted with inmates in segregated housing for risk of sexual victimization or who allege to have suffered sexual abuse. Additionally, interviews were not conducted with staff who supervise inmates in segregated housing.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.43 (c)
Agency policy CD-141100, *Protective Custody Policy* (12/03/2015), section A. (page 1) indicates, "It is the policy of New Mexico Corrections Department that inmates will not be placed in any long-term segregation housing for protective custody reasons.

Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)*,* section K.D. (page 5) requires, "The placement of inmates determined to be at high risk of sexual victimization into Special Management shall cite the basis for the facility's concern for the inmate's safety and the reason why no alternative placements are appropriate consistent with NMCD Special Management policies."

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highly serious and the victim is at increased risk, he would be transferred to another facility only as a last resort. The inmate could first be placed in an area where he is safe and can be monitored; all avenues to maintain the alleged victim at the facility would be employed and, if needed, the accused would be moved.

As RCC does not maintain segregated housing, interviews were not conducted with inmates in segregated housing for risk of sexual victimization or who allege to have suffered sexual abuse. Additionally, interviews were not conducted with staff who supervise inmates in segregated housing.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.43 (d)
Agency policy CD-141100, *Protective Custody Policy* (12/03/2015), section A. (page 1) indicates, "It is the policy of New Mexico Corrections Department that inmates will not be placed in any long-term segregation housing for protective custody reasons.

Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section K.D. (page 5) requires, "The placement of inmates determined to be at high risk of sexual victimization into Special Management shall cite the basis for the facility's concern for the inmate's safety and the reason why no alternative placements are appropriate consistent with NMCD Special Management policies."

Per information received from the Warden and former PCM, RCC does not have a segregation unit or any restrictive housing. The facility maintains a very short-term holding cell, in which inmates may be placed for less than 24 hours. As a result, there is no secondary documentation available for review.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.43 (e)
Agency policy CD-141100, *Protective Custody Policy* (12/03/2015), section A. (page 1) indicates, "It is the policy of New Mexico Corrections Department that inmates will not be placed in any long-term segregation housing for protective custody reasons.

Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section K.D. (page 5) requires, "The placement of inmates determined to be at high risk of sexual victimization into Special Management shall cite the basis for the facility's concern for the inmate's safety and the reason why no alternative placements are appropriate consistent with NMCD Special Management policies."

Per information received from the Warden and former PCM, RCC does not have a segregation unit or any restrictive housing. The facility maintains a very short-term holding cell, in which inmates may be placed for less than 24 hours. As a result, there is no secondary documentation available for review.

As RCC does not maintain segregated housing, interviews were not conducted with inmates in segregated housing for risk of sexual victimization or who allege to have suffered sexual abuse. Additionally, interviews were not conducted with staff who supervise inmates in segregated housing.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:
- Policy CD-141100, *Protective Custody Policy* (12/03/2015)

- Policy CD-150100 *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)

Interviews conducted:

- Warden

REPORTING

Standard 115.51: Inmate reporting

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

115.51 (a)

- Does the agency provide multiple internal ways for inmates to privately report sexual abuse and sexual harassment? ☒ Yes ☐ No

- Does the agency provide multiple internal ways for inmates to privately report retaliation by other inmates or staff for reporting sexual abuse and sexual harassment? ☒ Yes ☐ No

- Does the agency provide multiple internal ways for inmates to privately report staff neglect or violation of responsibilities that may have contributed to such incidents? ☒ Yes ☐ No

115.51 (b)

- Does the agency also provide at least one way for inmates to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency? ☒ Yes ☐ No

- Is that private entity or office able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials? ☒ Yes ☐ No

- Does that private entity or office allow the inmate to remain anonymous upon request?
  ☒ Yes ☐ No

- Are inmates detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security? (N/A if the facility *never* houses inmates detained solely for civil immigration purposes)
  ☐ Yes ☐ No ☒ NA

115.51 (c)

- Does staff accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties? ☒ Yes ☐ No

- Does staff promptly document any verbal reports of sexual abuse and sexual harassment?
  ☒ Yes ☐ No

115.51 (d)

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

Auditor Overall Compliance Determination

☒ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.51 (a)
Agency policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section C. (page 2 - 3) requires, "Inmate(s) who are a witness to or the victim of abuse or sexual misconduct, humiliation, personal injury, disease, property damage, harassment or punitive interference with the daily functions are encouraged to immediately report the incident by:

- Reporting the incident to any staff member or employee, correctional officer, contract staff or volunteer.
- Filing a grievance.
- Placing a note or memo in any drop box located throughout the facility for classification, medical or mental health staff and/or even mailboxes (please be as specific as possible when submitting information in writing).
- Providing the information either verbally or in writing by any means and to any person with whom the inmate is comfortable making the report.
- Sending the information directly to the Secretary, the Office of Professional Standards, Wardens, Shift Commanders, or District Supervisors and /or Region Managers in the case of probation and parole."

On 03/12/2020, the Auditor received email confirmation from Just Detention International (JDI) that this organization had not received any allegations or reports related to offender sexual safety related to this facility.

The Auditor was provided with the PREA Inmate Handbook, both in English and Spanish, which is provided to all inmates in reception centers and on entry to RCC. The handbook Advising a third party (family, friend, attorney) and asking them to report. They may report directly to the facility that you are housed in or by emailing: NMCD-PREAReporting@state.nm.us.is also available in the inmate library. The handbook notes:

> *NMCD offers numerous ways to report PREA, both internally and externally. Inmate victims or witnesses can report by:*
>
> - *Advising any staff member, contractor or volunteers (verbally or in writing)*
> - *Advise Medical or Behavioral Health Staff*
> - *Writing an Inmate Request to any staff member*
> - *Filing a grievance*

- *Writing to the Statewide PREA Coordinator or any staff member at the agency level to include the secretary of Corrections, the office of Professional Standards, Office of the Director or any other staff member within whom you would feel comfortable. Label mail to identified staff as PREA/Confidential and this mail will be treated as Legal Mail in accordance with Mail Procedures.* [Note: The mailing address for the Inspector General is included on the back of the handbook. The address for the PREA Coordinator is included on the one-page handout provided to inmates. Per the PREA Coordinator, all PREA-related mail sent to the Inspector General would be forwarded to the PREA Coordinator for action as needed.]
- *Advising a third party (family, friend, attorney) and asking them to report. They may report directly to the facility that you are housed in or be emailing: NMCD-PREAReposting@state.nm.us.*
- *Call the Statewide PREA Reporting Line at 575-523-3303.*
- *Write to a Third Party Reporting Agency (not part of NMCD) at:*
  PREA Reporting Office
  1250 Academy Park Loop
  Colorado Springs, Colorado 80910

The Auditor was also provided with a PREA intake sheet, provided to inmates on intake to any facility. The sheet includes the following information regarding reporting options:

- *Tell any staff member, contractor or volunteer.*
- *Call the NMCD PREA hotline, 575-523-3303, (free call and is a recorded line.)*
- *File a grievance*
- *Write to the Statewide PREA Coordinator, P.O. Box 639, Las Cruces, NM 88004*
- *Tell a third part (family or friend) and ask them to make a report for you. They can call the facility directly or email NMCD-PREAReporting@state.nm.us*
- *Write to an external third party, PREA Reporting Office, 1250 Academy Park Loop, Colorado Springs, Colorado 80910.*
- *You can remain anonymous.*

The Auditor was provided with posters that indicate inmates can report by calling 575-523-3303 to report allegations. This information is also included in the one-page handout provided to inmates. Per information received from the former PREA Coordinator, this line rings directly to her office and she is the only individual who answers calls or listens to messages. It is noted that the former PREA Coordinator was on leave effective 12/01/2020 and then retired effective 03/01/2021. A PCM from another facility was identified to monitor the hotline until either the number is moved or there is a new PREA Coordinator. Additionally, the Inspector General had been added to the NMCD PREA reporting email to monitor any reports made to the email posted to the agency's public website. It is noted that the hotline number is not confidential as a PIN is required for use, but an inmate can request to remain anonymous. It is recommended that when materials provided to inmates are updated, the processes for reporting anonymously are clarified.

While on site, it was learned that the hotline to agency central office / PREA Coordinator was not functional. The Auditor was provided documentation of the posting of a notice provided to inmates informing them of the outage and reminding them of other ways to report allegations, to include telling a staff member, telling a third party, filing a grievance, writing to the PREA Coordinator, and submitting information to the Colorado Department of Corrections. The notice was posted in both English and Spanish. As of the writing of the interim report, the hotline was still down. Inmates were informed of the outage and notices posted in both English and Spanish. On 08/25/2021, the Auditor was provided with information that the line was tested and inmates can dial the hotline and are then prompted to dial *8888 to ensure the call goes through. It was noted that as of the issuing of the interim report, the line is functioning as an emergency number at this time. The Auditor will be provided with updates as they are available.

A review of the eight (8) investigations conducted in 2019 and 2020 revealed that various methods were used to report PREA allegations, to include verbal reports to a lieutenant, a case worker, and PCM. Additionally, one allegation was reported via an anonymous kite and another to the community-based victim advocate, which was reported to the former PCM following verbal authorization from the inmate to the advocate.

All random staff interviewed were able to clearly articulate multiple methods by which an inmate could privately report PREA-related information, to include verbal, written, anonymous, and third-party methods. The grievance coordinator and mailroom staff both confirmed the ability of inmates to confidentially use those methods to report by dropping documentation in the applicable restricted box for processing. A revised directive to mailroom staff was issued by the Captain issued 07/05/2021 regarding the handling of mail, requiring, "The following is a directive pertaining to the inmate mail system here at the Roswell Correctional Center that is still in [effect] and will remain in effect until further notice. The directive will be adhered to without fail and failure to follow will result in disciplinary actions. All Correctional Staff will review NMCD policy #151200. All Correctional Staff will ensure letters to or from the External Reporting Agency (Colorado Department of Corrections) or the PREA Coordinator are not opened when processed (even if anonymous) to include to and from and Colorado Department of Corrections and to any internal or external advocacy organizations pertaining to PREA." Also provided documentation of required policy review by identified staff. An informal interview with mailroom staff while on-site confirmed receipt and a thorough understanding of this directive.

All inmates interviewed while on-site were also able to clearly articulate multiple methods by which they could private report PREA-related information.

While on site, a Team member conducted a test of the ability to report allegations via kite / note dropped in the designated box in food services and a second test of the ability to report via grievance. On 07/28/2021, the Auditor received timelines of mock responses from PCM, to include receipt, offer of a mental health meeting, notification to the Warden and Captain, inmate transported to medical, notification to the PCM, interview of the inmate, and notification to New Mexico State Police.

While on site, Team members observed PREA information painted on walls in all housing units. The Team reviewed the postings with staff leading the tour, making recommendations for minor revisions to clarify the reporting line and the victim advocacy line. The Team also recommended the addition of information in other areas of the facility (e.g., recreation, food services, work and program areas, etc.) that were different in style and content to highlight and clarify services. During interviews conducted, multiple inmates expressed concerns with the ability to report allegations privately. They indicated they had to request grievance and kite / inmate report forms and then drop then in a box in food services where they could be viewed by staff and other inmates. They also indicated that the phone location inhibited private conversations and expressed concerns with the ability to inform families of issues as these calls are monitored and all mail is read. The Team recommended that the facility consider adding more grievance and kite drop boxes where inmates felt more comfortable depositing communications.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Updates:
On 08/30/2021, the Auditor was provided with notification from the PREA Coordinator that indicated that, "Due to issues with the Prison Rape Elimination Act Hotline (575)523-3303, it has become necessary to change the Prison Rape Elimination Act Hotline number to (505)827-8524. Please update posters, handbooks, etc., as well as inform the inmate population of the recent change." The Auditor was provided with revised documents to include Inmate Intake Sheet, and the Prison Rape Elimination Act (PREA) Resource Guide for Inmates (revised 09/15/2021 English and 09/20/2021 Spanish), the agency's PREA

Inmate Handbook in English and Spanish, the RCC inmate handbook in English and Spanish (revised 10/19/2021), and a notice posted throughout the facility regarding phone number changes. The Auditor was also provided with photographs of revisions made to PREA signage painted on walls throughout the facility. The facility should be commended on the variety of methods employed to ensure inmates had access to current and updated reporting information.

Following the on-site review, the Auditor was also provided with documentation of townhall meetings held with all facility inmates to ensure a sound knowledge of all reporting options and revisions to hotline numbers and provide an opportunity to ask questions of the facilitators. The PCM now meets with all incoming inmates personally to ensure a thorough knowledge of PREA, particularly reporting venues. The Auditor was also provided with documentation of presentations by inmates as a part of Project Echo, ECHO in which inmates share PREA-related information with other inmates. The facility also reinstituted the quarterly newsletter written by inmates and overseen by staff, in which inmates share information with other inmates. These newsletters also now include PREA-related information. Based on these comprehensive activities, RCC is now assessed as exceeding the requirements of this provision.

115.51 (b)
The agency maintains an intergovernmental agreement with the Colorado Department of Corrections (CDOC) for the handling of communications with the external reporting entity. This agreement went into effect on 05/01/2019 and is in effect through 05/01/2021. It is noted that this is a non-financial agreement, with neither party seeking compensation for work performed. The agreement notes, “NMCD will establish a means for NMCD offenders to report claims or allegations of sexual abuse or sexual harassment to CDOC…This Intergovernmental Agreement does not convey or include within its scope any authority for the receiving Party to investigate any reports received from NMCD offenders. The receiving Party’s sole function with regard to such reports shall be to immediately forward them to NMCD, which shall be responsible for investigating them. Allegations reported by NMCD offenders may be done anonymously in writing. CDOC will log all reports received, them immediately forward the reported claim or allegation by scanning and emailing it to the NMCD PREA Coordinator. NMCD shall utilize local procedures to contact the offender upon receipt of the report, to notify them the report has been received.” It is noted that a previous agreement was in place from 01/01/2016 through 01/01/2019. This agreement remained in effect until the new agreement noted had been issued.

The Auditor was provided with the New Mexico Corrections Department PREA Inmate Handbook (undated) that notifies inmates, “Inmate victims or witnesses can report by…Write to a Third Party Reporting Agency (not part of NMCD) at: PREA Reporting Office, 1250 Academy Park Loop, Colorado Springs, Colorado 80910.”

Agency policy CD-151200, *Correspondence Regulations* (10/07/2016) section D. (page 2) defines legal mail as, “Any letters, pleading or legal documents to or from an inmate’s attorney of record, a judge, a court of law, or an opposing attorney, to include the NMCD Office of General Counsel. Mail to any other NMCD employee is not considered legal mail.” The same policy, section E. (page 2) defines privileged communication as “Any correspondence to or from an attorney from whom the inmate is attempted to retain services; with recognized agencies that provide legal assistance; and law enforcement agents or agencies.” Agency policy CD-151201, *Correspondence Regulations* (10/07/2016), section C.1. thru 3. (page 2) requires, “Outgoing letters will be deposited in the designated boxes in each facility…Letters, except legal mail and privileged correspondence, will be deposited unsealed. Inmates shall not modify institutional stationary in any way and the sender’s name, number and living quarter’s assignment in English must appear on all outgoing mail.” The policy then provides direction for the handling and logging of all legal mail and privileged correspondence. Per information received from the former PREA Coordinator, “Currently there is a policy change being incorporated in the Correspondence Policy, which requires any letters going to the Colorado Corrections Department is to be considered ‘legal Mail’ shall not be opened by staff. In addition, it will state the staff is prohibited from revealing any information

regarding outgoing mail to this address, to a PREA Auditor or the PREA Coordinator. Not sure when this will be released, but we should be close."

Per information received from the former PREA Coordinator, "…letters to the auditor and Coordinator are treated like legal mail. This isn't included in the new policy. External reports are also treated like legal mail. Legal mail is inspected by the Unit Manager only for contraband, then sealed by the inmate in front of the Unit Manager, and then put in the mail. The mailroom doesn't open the envelope. Incoming legal mail is opened in front of the inmate by the Unit Manager and examined for contraband; then the envelope is then confiscated due to drugs coming in (seal, stamps, etc.)…The PREA inmate sheet for inmates will also be changed to require inclusion of 'PREA' in front of 'reporting office' in the address of outgoing mail to the external entity. If it doesn't say 'PREA' in the address, they still go and are treated like legal mail, but the requirement is being added to policy to meet the policy requirement of the standard. The new form will be formalized when the policy is signed. The form has English on the front and Spanish on the back."

Per information received from RCC mailroom staff, all mail going to the Colorado Department of Corrections (CDOC) is treated as legal mail. It was noted that letters to Colorado do not necessarily go to the case worker; the inmate can drop them in the general outgoing mailbox, and they would still be handled as legal mail. Regarding the ability to submit letters to Colorado anonymously, the interviewee reported that any letter addressed to CDOC that does not include an inmate's name and DOC number in the return address would be taken to the PCM for evaluation. The PCM would open the letter, confirm it is a PREA report to CDOC, reseal the envelope, and then return it to the mailroom for processing out as legal mail. This was contradicted by the former PCM, who noted that the mail would not be opened, but adding that if she could tell what the mail was, it would go out. Based on the possibility of staff opening anonymous / unidentified letters to CDOC and the contradictory information regarding the handing of this mail, this provision is assessed as non-compliant.

It is noted that letters submitted to CDOC may be slightly delayed in forwarding due to COVID-related restrictions regarding applicable personnel in Colorado's access to headquarters to retrieve and forward mail. However, the former PREA Coordinator reported that a total of six (6) inmates have used the reporting venue since inception, so the impact of any unavoidable delays would be minimal. The Auditor determined that this would not impact compliance as the delay is minimal and all other reporting options are still available for inmates.

While on-site, Team members observed information regarding reporting to the designated external report entity included in some of the postings provided.

During interviews conducted while on-site, only three (3) of thirty-one (31) inmates who responded understood their ability to report through Colorado

Per information from the former PREA Coordinator, NMCD does not house any inmate solely for civil immigration purposes. As a result, this portion of the provision is not applicable.

Based on the possibility of staff opening anonymous / unidentified letters to CDOC RCC was initially assessed as non-compliant with the requirements of this provision. On 03/23/2021, the Auditor was provided with a directive from the Captain directed to all Shift Supervisors dated 03/09/2021, which reads:

> *The following is a directive to the inmate Mail system here at RCC that is effective immediately and will remain in effect until further notice. This directive will be adhered to without fail and failure to follow will result in disciplinary actions.*
>
> - *All Correctional Staff will review NMCD policy #CD-151200.*

- *All Corrections Staff will ensure letters to the External Reporting agency (Colorado Department of Corrections) or the PREA Coordinator are not opened when processed (even if anonymous)*

A revised directive to mailroom staff was issued by the Captain 07/05/2021 regarding the handling of mail, requiring, "The following is a directive pertaining to the inmate mail system here at the Roswell Correctional Center that is still in [effect] and will remain in effect until further notice. The directive will be adhered to without fail and failure to follow will result in disciplinary actions. All Correctional Staff will review NMCD policy #151200. All Correctional Staff will ensure letters to or from the External Reporting Agency (Colorado Department of Corrections) or the PREA Coordinator are not opened when processed (even if anonymous) to include to and from and Colorado Department of Corrections and to any internal or external advocacy organizations pertaining to PREA." Also provided documentation of required policy review by identified staff. An informal interview with mailroom staff while on-site confirmed receipt and a thorough understanding of this directive.

The above noted actions resolved the issue of handling of correspondence to Colorado Department of Corrections as the external report entity, allowing inmates to send correspondence confidentially and anonymously. However, the inmate's reported lack of knowledge regarding this reporting venue has resulted in additional non-compliance issues. This was addressed in a facility-wide townhall meeting held by the PCM and Chief of Security in which all inmates were provided refresher information regarding this reporting venue. Based on these actions, RCC is now assessed as compliant with the requirements of this provision.

115.51 (c)

Agency policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA (05/29/2020),* section B.1. (page 2) requires, "Any employee who witnesses or received information regarding physical abuse, mental abuse or any sexual misconduct directed towards an offender shall immediately report the abuse to his or her immediate supervisor, who shall forward the report to the applicable disciplinary authority (e.g., Warden, Region Manager, Bureau Chief, or Division Director) and the Office of Professional Standards (OPS)."

The Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 33) requires, "Staff members will complete a staff report memo and forward to the Shift Supervisor to generate a SIR [serious incident report]."

The Auditor was provided with the curriculum from Prison Rape Elimination Act Staff Training as revised 03/2020 (page 35 and 36), which reinforces policy requirements and adds, "All staff shall immediately report any knowledge, suspicion or information regarding sexual abuse, whether the information was learned by a third party source, anonymous, verbally, or in writing…Any employee who witnesses or received information regarding the physical mental abuse or any sexual misconduct directed towards an offender shall immediately report the abuse to his or her immediate supervisor, who shall forward the report to the applicable disciplinary authority." The same curriculum (page 35) states, "It is mandatory that staff, vendors, volunteers, contractors…immediately report such conduct to one or more of the following persons: The Secretary of Corrections, the Office of Special Investigations and Internal Affairs, the Warden, the Shift Supervisor, PREA Compliance Manager or the PREA Coordinator."

The PREA Facts document for staff also provides the telephone number for the PREA Coordinator (which is also the hotline number inmates can use to make PREA reports) along with the name of the facility PCM.

There is some discrepancy between the policy and training materials regarding who staff are to report allegations to. It is recommended that on the next policy revision, language is updated to allow reporting via the venues provided in other materials provided to staff.

A review of the eight (8) investigations conducted in 2019 and 2020 revealed that various methods were used to report PREA allegations, to include verbal reports to a lieutenant, a case worker, and former PCM. Additionally, one allegation was reported via an anonymous kite and another to the community-based victim advocate, which was reported to the former PCM following verbal authorization from the inmate to the advocate. A representative from the community-based advocacy organization reported in an interview that any inmate who reports an allegation is informed of reporting options and encouraged to report to the facility; however, the advocate will not disclose any reports of abuse or harassment without the verbal authorization from the reporting inmate. The authorization is documented in a log maintained by the advocate.

All random staff interviewed acknowledged the documentation of verbal reports received, with most noting that this would occur immediately. All but one staff were able to articulate a method by which an inmate could report anonymously. All confirmed the ability of inmates to report verbally, in writing and via a third party.

A majority of inmates interviewed also confirmed knowledge of the ability to report verbally, in writing, and through a third party.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.51 (d)
Agency policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA (05/29/2020),* section B.6. (page 2) requires, "Employees are encouraged to report misconduct to a higher authority if their direct supervisor may be involved or if the report has not been given the appropriate attention at the reported level. Multiple channels will be made available for reporting including, but not limited to, other disciplinary authorities (e.g., Warden, Region Managers, etc.)."

The Auditor was also provided with a one-page information sheet for staff entitled "PREA Facts" that indicates, "You can privately report by calling the NMCD PREA Coordinator, send an email to NMCD-PREAReporting@state.nm.us." Per the former PREA Coordinator, this document is posted in control centers, staff bathrooms and breakrooms. It is also discussed during annual in-service training.

All random staff interviewed were able to clearly articulate multiple methods by which they could privately report the sexual abuse and sexual harassment of inmates. Many involved reporting to someone up the chain of command and/or reporting to the former PCM. All staff seemed very comfortable accessing identified venues to report PREA-related information.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Based on the overall communication venues established to ensure all facility inmates and staff are aware of and have a thorough understanding of PREA, particularly reporting avenues, RCC is now assessed as exceeding the requirements of this standard.

Documentation provided for this standard:
- Compliance memo dated 07/29/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- New Mexico Corrections Department PREA Inmate Handbook (in English and Spanish) (undated)

- Posters detailing hotline information
- Reporting handout for inmates
- New Mexico Corrections Department Prison Rape Elimination Act (PREA) Resource Guide for Inmates (revised 01/01/2015)
- Prison Rape Elimination Act Staff Training curriculum as revised 03/2020
- Intergovernmental agreement with the Colorado Department of Corrections in effect 05/01/2019 through 05/01/2021 and 01/01/2016 through 01/01/2019
- Policy CD-151200, *Correspondence* Regulations (10/07/2016)
- Policy CD-151201, *Correspondence* Regulations (10/07/2016)
- PREA Inmate Intake Sheet
- Reports for investigations conducted in 2019 and 2020
- RCC PREA Facts Sheet
- Captain directives regarding the handling of PREA-related mail
- Echo speaking agenda
- Chickasaw Chronicles newsletter

Interviews conducted:

- Grievance coordinator
- Mailroom supervisor
- PREA compliance managers
- Random sample of inmates
- Random sample of staff
- Representative from community-based victim advocacy organization

Standard 115.52: Exhaustion of administrative remedies

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

115.52 (a)

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

115.52 (b)

- Does the agency permit inmates to submit a grievance regarding an allegation of sexual abuse without any type of time limits? (The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.) (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- Does the agency always refrain from requiring an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

115.52 (c)

- Does the agency ensure that: An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- Does the agency ensure that: Such grievance is not referred to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

115.52 (d)

- Does the agency issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance? (Computation of the 90-day time period does not include time consumed by inmates in preparing any administrative appeal.) (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- If the agency claims the maximum allowable extension of time to respond of up to 70 days per 115.52(d)(3) when the normal time period for response is insufficient to make an appropriate decision, does the agency notify the inmate in writing of any such extension and provide a date by which a decision will be made? (N/A if agency is exempt from this standard.)
  ☒ Yes ☐ No ☐ NA

- At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, may an inmate consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

115.52 (e)

- Are third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- Are those third parties also permitted to file such requests on behalf of inmates? (If a third-party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.) (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- If the inmate declines to have the request processed on his or her behalf, does the agency document the inmate's decision? (N/A if agency is exempt from this standard.)
  ☒ Yes ☐ No ☐ NA

115.52 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, does the agency immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken? (N/A if agency is exempt from this standard.).
  ☒ Yes ☐ No ☐ NA

- After receiving an emergency grievance described above, does the agency provide an initial response within 48 hours? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)
  ☒ Yes ☐ No ☐ NA

- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

115.52 (g)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.52 (a)
NMCD has a formal grievance process as laid out in agency policy CD-150500, *Inmate Grievances* (06/14/2018). Therefore, NMCD is not exempt from the requirements of this standard.

115.52 (b)
Agency policy CD-150500, *Inmate Grievances* (06/14/2018) outlines the agency's grievance system. Section F. (page 6) states, "It is the policy of the Department to resolve grievances at the lowest possible. Level. Informal resolution is used and required in the grievance process. The exception is any PREA grievances. This will not be subject to this standard and must be treated as emergency formal grievances." The same policy, section I.4. (page 7 – 8) states, "Inmates filing grievances for Department personnel sexual misconduct must mark the grievance form as 'Emergency'. All grievances for Department personnel sexual misconduct will be completed in an expedited manner with fairness and consistency. The Grievance Officer will notify the Warden or his or her designee within one (1) working day of the verifiable emergency grievance. The Warden shall complete a referral for an OPS investigation on all PREA related grievances. The grievance officer will immediately respond to the inmate with 'this grievance has been referred for investigation to Office of Professional Standards. The investigation will be handled by an investigator that has completed special training for sexual assault cases."

Per information received from the Grievance Coordinator, inmates are not required to follow the information complaint process but submit an allegation directly through the grievance system. All PREA-related grievances are handled as emergency grievances, with actions required within three (3) days to resolve the immediate situation, and the entire investigatory process completed within 90 days. Any grievances containing PREA allegations are immediately provided to the Warden or PCM as a "top priority" and are investigated as any other PREA allegation. Per information from the former PCM, "At NMCD and the facility, all PREA related grievances (sexual abuse, sexual assault, sexual activity and sexual harassment) are immediately forwarded to the Office of Professional Standards by the Warden, as a referral. The grievance is removed from the formal grievance process therefore removing the time limits required for a grievance. This will begin a formal investigation."

The ability to report PREA allegations via the grievance system is included in the PREA Inmate Handbook. The grievance policy is also available to inmates in both English and Spanish in the inmate library. It is recommended that on its next revision additional information regarding how grievances alleging PREA prohibited behaviors is added to the handbook, including the removal of the grievance from the grievance system and the ability to report allegations regardless of timeframes.

During the audit documentation period and the period between initial documentation and on-site review, no PREA allegations were filed using the grievance system. As a result, no secondary documentation is available for review. However, many of the random interviews interviewed confirmed knowledge of the ability to report allegations via the grievance system.

During the on-site review, a Team member conducted a test of the ability to report allegations via grievance. The Auditor received timeline of a mock response from the current PCM, to include PCM notification of grievance receipt by the Grievance Coordinator, provision of grievance to Shift Commander, notification to Warden and Captain, offer of a meeting with mental health, inmate transported to medical, and notification to New Mexico State Police as applicable.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.52 (c)
Agency policy CD-150500, *Inmate* Grievances (06/14/2018), section I.4. (page 8) states, “The Warden shall complete a referral for an OPS investigation on all PREA related grievances. The grievance officer will immediately respond to the inmate with ‘this grievance has been referred for investigation to Office of Professional Standards.” Per information from the former PCM, “At NMCD and the facility, all PREA related grievances (sexual abuse, sexual assault, sexual activity and sexual harassment) are immediately forwarded to the Office of Professional Standards by the Warden, as a referral. The grievance is removed from the formal grievance process therefore removing the time limits required for a grievance. This will begin a formal investigation.”

During the audit documentation period and the period between initial documentation and on-site review, no PREA allegations were filed using the grievance system. As a result, no secondary documentation is available for review.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.52 (d)
Agency policy CD-150500, *Inmate Grievances* (06/14/2018), section H.1. (page 7), states, “Grievances shall be processed in a timely manner. No more than 90 days will pass from the filing of a grievance by an inmate to the appeal decision. The exception to this is a PREA grievance. A PREA grievance must be completed within ninety (90) days of submission. An extension of time may be requested to respond, of up to seventy (70) days, with documentation showing the need if the normal period is insufficient to make an appropriate decision. Computation of the 90-day time period shall not include time consumed by inmates in preparing any administrative appeal.” The same policy, section I.4. (page 8) states, “The Warden shall complete a referral for an OPS investigation on all PREA related grievances. The grievance officer will immediately respond to the inmate with ‘this grievance has been referred for investigation to Office of Professional Standards.” Per information from the former PCM, “At NMCD and the facility, all PREA related grievances (sexual abuse, sexual assault, sexual activity and sexual harassment) are immediately forwarded to the Office of Professional Standards by the Warden, as a referral. The grievance is removed from the formal grievance process therefore removing the time limits required for a grievance. This will begin a formal investigation.”

During the audit documentation period and the period between initial documentation and on-site review, no PREA allegations were filed using the grievance system. As a result, no secondary documentation is available for review. Additionally, the interview template questions for inmates who reported sexual abuse were not used to determine compliance with this provision as no allegations were filed using the grievance system.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.52 (e)
Agency policy CD-150500, *Inmate Grievances* (06/14/2018), section E.e. and f. (page 5) sates, "Third parties, including fellow inmates, staff members, family members, attorneys and outside advocates, shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse or sexual harassment, and shall also be permitted to file such requests on behalf of the inmates. If a third party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process. PREA Grievances may be filed on behalf of a third party in regards to an alleged victim. If the inmate declines to have the request processed on his or her behalf, the agency shall document the inmate's decision."

During the audit documentation period and the period between initial documentation and on-site review, no PREA allegations were filed using the grievance system. As a result, no secondary documentation is available for review.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.52 (f)
Agency policy CD-150500, *Inmate Grievances* (06/14/2018), section I. outlines agency processes for the handling of emergency grievances. Section I.4. (page 7) states, "Emergency grievances shall receive an expedited response at every level as appropriate to the needs of the emergency situation, but in no event will the time for response exceed three (3) working days from the time the grievance is received by the Grievance Officer. The exceptions are PREA grievances responses which will be completed within forty-eight (48) hours of receipt of the grievance."

During the audit documentation period and the period between initial documentation and on-site review, no PREA allegations were filed using the grievance system. As a result, no secondary documentation is available for review.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.52 (g)
Agency policy CD-150100, *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA* (05/29/2020), section C. (page 3) states, "Failure to report or knowingly submitting a false report may result in disciplinary action and will be handled in accordance with Policy CD-150600 Allegations from Inmates against Corrections Department Staff of Other Inmates."

Agency policy CD-150600, *Allegations from Inmates against Corrections Department Staff of Other Inmates* (07/31/2015), section B. (page 2) states, "If the information furnished by the inmate is proven by investigation to be knowingly false, the inmate may be charged with a major offense before the Disciplinary Hearing Officer, under the general principles of inmate discipline which impart that any act, although not specifically listed, is a felony under the Criminal Code of the State of New Mexico and will constitute a major violation of policy."

During the audit documentation period and the period between initial documentation and on-site review, no PREA allegations were filed using the grievance system. As a result, no secondary documentation is available for review.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 07/29/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150500, *Inmate Grievances* (06/14/2018)
- Policy CD-150100, *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA* (05/29/2020)
- Policy CD-150600, *Allegations from Inmates against Corrections Department Staff of Other Inmates* (07/31/2015)
- New Mexico Corrections Department PREA Inmate Handbook (undated)

Interviews conducted:

- Grievance coordinator

Standard 115.53: Inmate access to outside confidential support services

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

115.53 (a)

- Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations? ☒ Yes ☐ No

- Does the facility provide persons detained solely for civil immigration purposes mailing addresses and telephone numbers, including toll-free hotline numbers where available of local, State, or national immigrant services agencies? (N/A if the facility *never* has persons detained solely for civil immigration purposes.) ☐ Yes ☐ No ☒ NA

- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible? ☒ Yes ☐ No

115.53 (b)

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

115.53 (c)

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

- Does the agency maintain copies of agreements or documentation showing attempts to enter into such agreements? ☒ Yes ☐ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.53 (a)
RCC maintains a Memorandum of Understanding with La Piñon, Sexual Assault Recovery Services of Southern New Mexico. This MOU went into effect 08/05/2019 and "remains in effect for a period of one year from the effective date for the first calendar year. Upon review, revision as agreed upon by all parties as needed, and signing of all parties after one year, the MOU remains in effect unless terminated by either party…" Per information obtained from the former PREA Coordinator, the MOU is currently under review and revision following discussions with advocates regarding their responsibilities (advocates were making calls for inmates in other facilities). Currently, quarterly discussions are held between the PREA Office and advocates and services detailed in the expired MOU remain in place until an amendment or new MOU is issued. The MOU requires that La Piñon:

1) *Provide access to an advocate via phone, mail, or e-mail to victims of sexual violence who are incarcerated at ROSWELL CORRECTIONAL FACILITY.*
2) *Provide in-person advocacy when resources and staff availability permit.*

NMCD offenders coming through intake are provided with a business card that includes the information for contacting La Piñon, Sexual Assault Recovery Services of Southern New Mexico. The card includes information regarding the ability to dial *9999 from an offender phone, call the organization toll free, or write to the organization, with the physical address included. Information regarding advocacy support services is also provided to inmates in the PREA Inmate Handbook, which states:

> *If you would like advocacy or to talk to someone from your local Rape Crisis Center, you may dial *9999 from any inmate phone. This call is free, unmonitored and unrecorded and will not require you to enter your PIN number. These calls and all advocacy calls will be free of charge. Advocacy may be used for previous incidents of sexual assault or abuse even when not related to your incarceration with NMCD. Each inmate Library has a PREA RESOURCE GUIDE which has additional reporting addresses, phone numbers and resources as well as advocacy groups that are available to the inmate population.*

The Prison Rape Elimination Act (PREA) Resource Guide for Inmates as revised 08/23/2019, notes, "You may call the 24/7 rape crisis hotline, *9999 for emotional support a crisis intervention. These calls are free, confidential and not recorded." The guide also provides agency descriptions and addresses for Just Detention International, 1 in 6, Inc., the Project on Addressing Prison Rape, and the Rape, Abuse and Incest National Network (RAINN).

Playing cards containing PREA information are accessible to inmates in their housing units or when requested by inmates. One of these cards notes, "In New Mexico, the Rape Crisis Center who works with your facility will provide advocacy for assaults that may have occurred prior to incarceration." Additional playing cards note:

> "You can seek assistance from behavioral health staff and rape crisis advocates for incidents whether they occurred inside or outside of custody."
> "To receive unrecorded and unmonitored advocacy, dial *9999 from any inmate phone."
> "If you would like help or advocacy, a Rape Crisis Center Volunteer may meet with you in person, contact you by phone, or correspond with you by mail."

The New Mexico Corrections Department one page handout regarding PREA also indicates, "You can access victim advocacy, by dialing *9999 from any inmate phone. This call is free, unrecorded, and unmonitored. Everything you say to the person on the other line is confidential. You may also send a letter to the Sexual Assault Recovery Services of New Mexico at 859 Motel Blvd., Suite B, Las Cruces, New Mexico 88007. Letters sent to the address are treated as legal mail, and are confidential."

Agency policy CD-151200, *Correspondence Regulations* (10/07/2016) section D. (page 2) defines legal mail as, "Any letters, pleading or legal documents to or from an inmate's attorney of record, a judge, a

court of law, or an opposing attorney, to include the NMCD Office of General Counsel. Mail to any other NMCD employee is not considered legal mail." The same policy, section E. (page 2) defines privileged communication as "Any correspondence to or from an attorney from whom the inmate is attempted to retain services; with recognized agencies that provide legal assistance; and law enforcement agents or agencies." Agency policy CD-151201, *Correspondence Regulations* (10/07/2016), section C.1. thru 3. (page 2) requires, "Outgoing letters will be deposited in the designated boxes in each facility…Letters, except legal mail and privileged correspondence, will be deposited unsealed. Inmates shall not modify institutional stationary in any way and the sender's name, number and living quarter's assignment in English must appear on all outgoing mail." The policy then provides direction for the handling and logging of all legal mail and privileged correspondence. Per information from the former PREA Coordinator, this policy is in the process of being revised to address confidentiality of mail associated with PREA information.

Despite the lack of policy direction, the practice of handling of mail to and from advocacy support organizations as legal mail was confirmed in an interview with mailroom staff. It is noted however that if the outgoing mail did not include an inmate's name and number, the mail would be taken to the PCM, opened to confirm it is advocacy-related, resealed, and then mailed. It is recommended that this information also be shared with inmates to ensure they are aware that letters to the advocate cannot be sent out anonymously. The Auditor was provided with a directive to mailroom staff from the Captain issued 07/05/2021 regarding handling of mail (which requires, "The following is a directive pertaining to the inmate mail system here at the Roswell Correctional Center that is still in [effect] and will remain in effect until further notice. The directive will be adhered to without fail and failure to follow will result in disciplinary actions. All Correctional Staff will review NMCD policy #151200. All Correctional Staff will ensure letters to or from the External Reporting Agency (Colorado Department of Corrections) or the PREA Coordinator are not opened when processed (even if anonymous) to include to and from and Colorado Department of Corrections and to any internal or external advocacy organizations pertaining to PREA." Also provided was documentation of required policy review by identified staff.

The Auditor was provided with a report of the number of calls placed to *9999, which also include the facility from which the call originated (July 2019 through June 2020). Although no calls were noted as originating from RCC, the report verifies that NMCD inmates make regular use of advocacy support services.

The Auditor spoke with a representative from La Piñon and confirmed the availability of advocacy support services via telephone and mail. The advocate also noted the ability to meet with the inmate in person at the facility if needed, noting that this has been temporarily discontinued due to COVID-related restrictions. The advocate indicated she receives the calls to *9999 from facilities throughout the state, noting she has received a total of three (3) calls from RCC between 01/2019 and 10/2020. She noted that inmates can call about abuse at any time, during incarceration or in the community before they were incarcerated or about family or friends who were abused; that advocates discuss counseling and triggers with inmates. Inmates who are limited English proficient are also provided services either with a bilingual crisis team member or by the advocate use of a language line. She reported no concerns expressed by RCC inmates, noting very open communication and cooperation from the facility and the PCM.

The Auditor was provided with examples of signage posted throughout the facility regarding PREA reporting to NMCD and "For unrecorded, unmonitored and free of charge advocacy, please dial *9999". The signage was provided in both English and Spanish. While on site, Team members observed information regarding accessing victim advocacy support services via a dedicated line (*9999) painted on walls in all housing units. The Team made recommendation for minor revisions to existing wall postings / paintings to better separate the advocacy access line from the agency reporting line. The Auditor was provided with photographic documentation of the completion of these modifications in many areas. The Auditor also recommended the addition of new / different postings in additional areas of the

facility, such as work and program areas, to reinforce the information with inmates. Facility staff immediately began brainstorming ideas to bring more PREA-related information to inmates, particularly in the areas of reports to Colorado and victim advocacy. This included the relaunching of an inmate-initiated newsletter that was authored by inmates overseen by staff, addition of posters and announcements, administrative staff meetings with inmates throughout the facility, and the incorporation of PREA information sharing in venues such as Pod Walkers (inmates specially trained in Christian counseling who provide mentoring for other inmates) and other peer education venues. Additionally, the PCM and Chief of Security are scheduling townhall meetings / seminars to review PREA-related processes with all facility inmates and provide a forum for inmates to ask questions. Finally, as a follow up with newly admitted inmates, the PCM and/or Unit Managers are scheduling walk throughs in the intake dorm to survey inmates to assess understanding of available services.

During on-site interviews, twelve (12) of the thirty-one (31) inmates who provided a response indicated a knowledge of services outside the facility; however, none of the inmates interviewed understood the type of support and confidentiality associated with this organization.

The Auditor reviewed all investigations conducted between 01/2019 and 09/2020 as provided with initial documentation along with investigations completed between initial documentation and on-site review. None of the inmates who were identified as alleged victims in any abuse investigation remained housed at RCC. As a result, there were no inmates who reported sexual abuse available for interview.

Per information received from the former PREA Coordinator, NMCD does not house inmates solely for civil immigration purposes. As a result, the related section of this provision is not applicable.

Based on the lack of policy direction regarding the handling of written correspondence with advocacy organizations as legal mail or privileged correspondence, RCC was initially assessed as non-compliant with the requirements of this provision. Although it appears that local processes are in place, these appear to conflict with agency policy. This was addressed locally via the noted Captain's directive, knowledge of which was confirmed in an informal interview with mailroom staff while on-site. However, the inmate's reported lack of understanding of advocacy support services available resulted in additional non-compliance issues. This was addressed in a facility-wide townhall meeting held by the PCM and Chief of Security in which all inmates were provided refresher information regarding advocacy support services, means to access, times of availability, and confidentiality parameters. Based on these actions, RCC is now assessed as compliant with the requirements of this provision.

115.53 (b)
Per the Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 14) requires, "Any services offered to inmate victims from an outside agency shall not be connected to a law enforcement agency and a comparable level of confidentiality as a nongovernmental entity that provides similar victim services."

The New Mexico Corrections Department one page handout regarding PREA also indicates, "You can access victim advocacy, by dialing *9999 from any inmate phone. This call is free, unrecorded, and unmonitored. Everything you say to the person on the other line is confidential. You may also send a letter to the Sexual Assault Recovery Services of New Mexico at 850 Motel Blvd., Suite B, Las Cruces, New Mexico 88007. Letters sent to the address are treated as legal mail, and are confidential."

The agency clearly provides inmates with information in advance of system access that interactions with community advocates will not be monitored. However, the Auditor was informed that the information regarding any limits to confidentiality e.g., threats of harm to self or others, escape, etc.) is provided to the inmate by the advocate when a call is placed. A query was submitted to the PREA Resource for clarification regarding when the confidentiality notification had to be provided to the inmate. The Auditor

was informed that, “The facility must be specific about providing that information to inmates, including the extent to which reports of abuse will be forwarded to authorities, prior to them contacting the advocate. The information should be clear and available to the inmate before they place the call, possibly in the handbook and posters around the facility.” (10/28/2020 PREA Resource Center email)

In an interview with a representative from La Piñon, the Auditor was informed that at the beginning of each call received from an inmate, she informs them that al information shared with her is confidential with the exception of self-harm ideation or communication that they are going to harm someone else. She secures and logs a verbal release to report any PREA-related information disclosed by the inmate to the facility. The Auditor confirmed that one allegation investigated in 2020 was reported to the advocate, who then verified logged verbal authorization from the inmate before she reported the allegation to the RCC PCM.

During on-site interviews, only three (3) of the thirty-one (31) inmates who responded to the question indicated an understanding of the confidentiality associated with advocacy support services.

The Auditor reviewed all investigations conducted between 01/2019 and 09/2020 as provided with initial documentation along with investigations completed between initial documentation and on-site review. None of the inmates who were identified as alleged victims in any abuse investigation remained housed at RCC. As a result, there were no inmates who reported sexual abuse available for interview.

As a result of the provision of advocate confidentiality limitations being provided to inmates after accessing the system rather than in advance of contact, RCC was initially assessed as non-compliant with the requirements of this provision. To address this deficiency, on 10/30/2020, the former PREA Coordinator distributed an updated intake sheet to all agency PCM’s for distribution to all newly arriving inmates. The revised intake sheet reads, “You can access victim advocacy, by dialing *9999 from any inmate phone. This call is free, unrecorded, and unmonitored. Everything you say to the person on the other line is confidential. However, victim advocates are mandatory reporters under State Law and must file a report if you disclose to them you are going to hurt yourself or others.” All PCM’s were also instructed to have control officers make an announcement in the housing units and document the announcement in the control log. The Auditor received documentation of this announcement. Additionally, the Auditor was provided with a revised PREA Orientation Brochure in both English and Spanish (11/02/2020) that now states, “You can confidentially speak to a victim advocate by dialing *9999 from any inmate phone. All calls using *9999 are unmonitored and unrecorded. One thing to remember, all conversations with the victim advocate [are] confidential, however a victim [advocate] is required by law to report to authorities if you are going to hurt yourself or someone else.” The same information was added to the PREA Inmate Handbook as revised 11/02/2020. The Auditor was provided with an email from the former PREA Coordinator to all agency PCM’s directing the distribution of the updated materials to all applicable staff and provision to all inmates during orientation.

However, the level of understanding of confidentiality parameters associated with advocacy support services, resulted in additional non-compliance issues. This was addressed in a facility-wide townhall meeting held by the PCM and Chief of Security in which all inmates were provided refresher information regarding advocacy support services, means to access, times of availability, and confidentiality parameters. Based on these actions, RCC is now assessed as compliant with the requirements of this provision.

115.53 (c)
RCC maintains a Memorandum of Understanding with La Piñon, Sexual Assault Recovery Services of Southern New Mexico. This MOU went into effect 08/05/2019 and “remains in effect for a period of one year from the effective date for the first calendar year. Upon review, revision as agreed upon by all parties as needed, and signing of all parties after one year, the MOU remains in effect unless terminated

by either party…" Per information obtained from the former PREA Coordinator, the MOU is currently under review and revision following discussions with advocates regarding their responsibilities. Prior to COVID-related restrictions, quarterly discussions were being held between the PREA Office. Services detailed in the expired MOU remain in place until an amendment or new MOU is issued.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 07/29/2020 from the former PCM addressed to the DOJ Auditor
- PREA playing cards
- New Mexico Corrections Department PREA Inmate Handbook (undated)
- Advocacy and reporting business card
- New Mexico Corrections Department one-page inmate information sheet
- Policy CD-151200, *Correspondence Regulations* (10/07/2016)
- Policy CD-151201, *Correspondence Regulations* (10/07/2016)
- Prints of signage and posters regarding reporting and advocacy
- Report of the number of calls placed via the advocacy line and facility location (07/2019 through 06/2020)
- New Mexico Corrections Department Prison Rape Elimination Act (PREA) Resource Guide for Inmates (08/23/2019)
- Memorandum of Understanding with La Piñon, Sexual Assault Recovery Services of Southern New Mexico, effective 08/05/2019
- Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated)
- PREA Orientation Brochure in both English and Spanish (11/02/2020)
- PREA Inmate Handbook in both English and Spanish (11/02/2020)
- Documentation of provision of updated advocate information to PCM's and inmates

Interviews conducted:

- Random sample of inmates
- Representative from community-based victim advocacy organization

Standard 115.54: Third-party reporting

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

115.54 (a)

- Has the agency established a method to receive third-party reports of sexual abuse and sexual harassment? ☒ Yes ☐ No

- Has the agency distributed publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate? ☒ Yes ☐ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.54
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), attachment 115.101, section B.4. (page 2) requires, "The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators."

The Auditor was provided with the New Mexico Corrections Department PREA Inmate Handbook (revised 06/2019) that informs offenders that "…victims or witnesses can report by…advising a third party (family, friend, attorney) and asking them to report. They may report directly to the facility that you are housed in or by emailing NMCD-PREAReporting@state.nm.us." The same information is also included in the Prison Rape Elimination Act (PREA) Resource Guide for Inmates (revised 08/23/2019). Both documents are provided to inmates on intake at a reception center and are also available in the inmate library.

During intake, inmates are also provided with an intake PREA sheet (undated), a one-page document (English on one side and Spanish on the other) that contains the same information as noted above.

The Auditor was also provided with "A family and friends guide to sexual abuse and sexual assault awareness Summary and Overview, for family and friends of incarcerated persons" (no revision date) that includes information about reporting related information to "…any staff member, contractor or volunteer; Tell the Warden; Send email to PREAReporting@state.nm.us." The one-page document also includes information about the PREA act, how offenders can report, what happens after a report is

received, and how the family / friend can help. During the on-site review, the Auditor confirmed that information for inmate family and friends is painted in both English and Spanish in the facility's visiting room. It is recommended that once visiting resumes, hardcopy brochures are also made available to allow the visitor to take the information with them when leaving the facility.

The Auditor located information regarding PREA reporting on the agency's public website:
https://cd.nm.gov/office-of-the-secretary/office-of-inspector-general/prison-rape-elimination-act/
The site includes information specifically about how to report, that indicates:

How can I make a report? New Mexico Corrections Department provides several ways to make a report of an allegation of sexual abuse or sexual harassment. If you have a family member or friend incarcerated in one of the department facilities, that you believe has suffered from sexual abuse or sexual harassment, you can make a report in the following ways.

- *Call the facility, where the inmate is being housed*
- *Call the NMCD PREA Hotline, 575-523-3303*
- *Write a letter to the NMCD PREA Coordinator at P.O. Box 639, Las Cruces, New Mexico 88004*
- *Make a report via email at nmcd-preareporting@state.nm.us*

Please provide as much detail as possible

- *Inmate's name and NMCD number*
- *Perpetrator's name (if known)*
- *Facility where the incident occurred (date, time, location –i.e. cell, showers, chow hall)*
- *Description of the incident*
- *Your name, contact number and relationship to the inmate (the report will be investigated, even if you do not provide your name)*

The Auditor conducted tests of the reporting venues available as noted on the NMCD public website.

- On 04/16/2020 an email was sent to the email address noted, with a response received from the former PREA Coordinator on the same day, noting, "In the event that this had been an actual allegation, I would have forwarded the email to the facility warden and PCM, where the allegation occurred with instructions to submit a referral to OPS (Office of Professional Standards). Once the referral has been completed, a review of the allegation would be done. If the allegation, is determined to be a PREA allegation, the facility would receive notification of a case number and case assignment (investigator assigned). An investigation will begin. These steps are done immediately. This is the same process for all calls made to the PREA Hotline 575-523-3303. This is my office direct line." Due to COVID-related delays and a change in PREA Coordinator assignment, a second test was conducted 03/07/2021. On 03/08/2021 it was learned that the interim PREA Coordinator did not have the access needed to retrieve these messages. Access was granted internally, and a second test was sent 03/08/2021. Confirmation of the receipt of this second test was received 03/09/2021.
- On 04/16/2020, a member of the audit team called the telephone number posted and spoke with the former PREA Coordinator. She confirmed the information provided above on the call and in a confirmation email of the same date. Due to COVID-related delays and a change in PREA Coordinator assignment, a second test was conducted 03/07/2021 with a message left on the designated phone line. Email confirmation of receipt of the message was received 03/08/2021 along with confirmation that, had this been an actual PREA allegation, an investigation would be initiated by a trained investigator along with formal retaliation monitoring and a case opening letter send to the alleged victim.
- On 09/03/2020, the Auditor sent a letter to the agency PREA Coordinator at the address posted to the public website. On 09/09/2020 the Auditor received email verification of receipt. The former PREA Coordinator noted, "I have received your letter dated September 3, 2020. If this had been an actual PREA Allegation, I would have taken the following steps.

1) Look up the inmate to determine his/her location
2) An email/phone call would have been sent to the PREA Compliance Manager, Facility Warden and the Deputy Director, with instructions to ensure the safety of the inmate, initiate all protocols based on the allegation such as contact State Police (if needed) and file a referral for investigation.
3) The PREA Coordinator is cc'd on all referrals for investigations and is included on all steps taken moving forward to include referral, case assignment, retaliation monitoring, investigation and final report.
4) If the letter was received via email, I would respond to the writer that the information has been received.
5) This process is utilized regardless if the inmate is at a public facility or a private facility in the State of New Mexico.

It is noted that the option to submit information via mail was deleted from the agency's public website when it was updated in late 2020.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 07/29/2020 from the former PCM addressed to the DOJ Auditor
- New Mexico Corrections Department PREA Inmate Handbook (revised 06/2019) in both English and Spanish
- Prison Rape Elimination Act (PREA) Resource Guide for Inmates (revised 08/23/2019)
- Intake PREA sheet (undated)

Interviews conducted:

- None were indicated in the DOJ Auditor Compliance Tool or interview templates

OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

Standard 115.61: Staff and agency reporting duties

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

115.61 (a)

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency? ☒ Yes ☐ No

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding retaliation against inmates or staff who reported an incident of sexual abuse or sexual harassment? ☒ Yes ☐ No

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment or retaliation? ☒ Yes ☐ No

115.61 (b)

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

115.61 (c)

- Unless otherwise precluded by Federal, State, or local law, are medical and mental health practitioners required to report sexual abuse pursuant to paragraph (a) of this section? ☒ Yes ☐ No

- Are medical and mental health practitioners required to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services? ☒ Yes ☐ No

115.61 (d)

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

115.61 (e)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.61 (a)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section E. (page 4) requires, "All staff, vendors, contractors and volunteers are required to immediately report: (1) any knowledge, suspicion or information regarding an incident of sexual abuse of sexual harassment that occurred in a facility, whether or not it is part of the agency; (2) retaliation against inmates or staff who reported such an incident; and (3) staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. These must immediately be reported to one or more of the following persons: The Secretary of Corrections, the Office of Professional Standards, the Inspector General, the Warden, the Shift Supervisor, the Institutional Investigator, District Supervisor or any other employee of the NMCD."

Agency policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section B.1. (page 2) requires, "Any employee who witnesses or receives information regarding the physical abuse, mental abuse or any sexual misconduct directed towards an offender shall immediately report the abuse to his or her immediate supervisor, who shall forward the report to the applicable disciplinary authority (e.g., Warden, Region Manager, Bureau Chief, or Division Director) and the Office of Professional Standards (OPS)." The same policy, section B.2. (page 2) requires, "All employees are required to report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. All reports shall be forwarded to applicable disciplinary authority (e.g., Warden, Region Manager, Bureau Chief, or Division Director) and the Office of Professional Standards (OPS)." The same policy, section B.5. (page 2) requires, "Failure to report or knowingly submitting a false report may result in disciplinary action, up to and including dismissal."

The Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 20) requires:

> *The standard of conduct for employees of the New Mexico Corrections Department (NMCD) is outlined in CD 032200, Code of Conduct. The policy states in part*
> - *Applicable personnel are expected to perform their assignments in a manner that reflects professional judgement, honesty, prudence and sincere interest in the State and the NMCD.*
>
> *Any Department employee who becomes aware of any alleged act of misconduct by another Department employee is required to immediately report the information to his or her supervisor.*

It will then be forwarded, by the Wardens office to the Office of the Inspector General and the Office of Professional Standards.
All Department staff have the affirmative duty to immediately report any retaliation against inmates or staff who reported any knowledge, suspicion, or information regarding an incident of inmate on inmate or staff/contractor/volunteer on inmate sexual abuse or inmate on inmate or staff/contractor/volunteer on inmate sexual harassment.
All Department staff have the affirmative duty to immediately report any staff neglect or violation of responsibilities that may have contributed to any incident of incident of inmate on inmate or staff/contractor/volunteer on inmate sexual abuse or inmate on inmate or staff/contractor/volunteer on inmate sexual harassment or retaliation for reporting of an allegation by other staff or inmates.

The requirements for reporting any PREA-related allegation and information is included in training provided to all staff and contract staff:

It is mandatory that staff, vendors, volunteers, contractors or any offenders who witness or are the subject of abuse or sexual misconduct must immediately report such conduct to one or more of the following persons: The Secretary of Corrections, the Office of Special Investigations and Internal Affairs, the Warden, the Shift Supervisor, PREA Compliance Manager or the PREA Coordinator. All staff shall immediately report any knowledge, suspicion or information regarding sexual abuse…

A review of investigation report 19-0366 indicated that the initial allegation was received 09/12/2019 but the inmate indicated he did not want to make a PREA statement, so the allegation never moved beyond the initial report to the case worker followed by notification to the classification supervisor and unit manager. On 09/16/2019, the inmate alleged retaliation for the initial allegation when he was terminated from his job in food services. There was no indication that additional comments were made or there was more to the original harassment allegation, only an allegation of retaliation associated with the termination and the inmate's indication that he now wanted to file a PREA report. The Auditor requested clarification to what appears to be a failure to report an allegation as required, but this was not received.

It is recommended that on its next revision, the agency's PREA policy is revised to correct what appears to be an inconsistency between policies 150100 and 150101 as one allows reporting only to the individual's direct supervisor while the other allows for reporting to any NMCD employee. It is also recommended that the information included in staff training materials is revised to match the final policy language and include the requirement to report retaliation and staff neglect or violation of responsibilities.

All random staff interviewed confirmed a solid knowledge of the agency's reporting requirements, indicting reports to immediate supervisors and/or the PCM.

Based on the lack of information associated with what appears to be a failure to report an allegation as required, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/17/2020, the Auditor was provided with confirmation that the noted allegation had not been reported when initial discovered as required by policy and standard. The former PCM noted that the delay was due in part to her absence from the facility on extended leave, that plans are being developed to have a backup PREA staff member at the facility. The presence or absence of the PCM should not be a factor in staff reporting and responding to allegations as required. On 04/07/2021, the Auditor was provided with an email that was distributed to all facility staff by the Warden which reads, in part, "Attention to all staff members and contract staff. As per standard 115.61 Staff and agency reporting duties anyone can report a PREA allegation. If an inmate reports any type of PREA allegation the person the inmate reported the allegation to will notify the Shift Supervisor, immediately." The language of standard provisions was also included in the email.

Based on the above actions in conjunction with the restructuring of PREA-related responsibilities noted with standard 115.11 and confirmation of staff knowledge via informal interviews conducted while on-site, RCC is now assessed as compliant with the requirements of this provision.

115.61 (b)
Agency policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section B.3. (page 2) requires, "Apart from reporting to designated supervisors or officials, staff shall not reveal information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions."

The Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 33) requires, "Staff are prohibited from revealing, disseminating, or discussing any information related to a sexual abuse report to anyone, unless and except as necessary in conjunction with official Department duties in support of the sexual abuse allegation and/or report." The same manual (page 38) also requires, "All case records with claims of sexual assault, sexual activity, sexual misconduct or any attempt thereof, including written reports, investigation reports, evidence, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and/or counseling are confidential. Violations of confidentiality regulations and procedures may result in disciplinary actions."

All random staff interviewed confirmed a solid knowledge of the agency's reporting requirements, including reports to immediate supervisors and/or the PCM, and the retention of confidentiality associated with all PREA-related information received.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.61 (c)
Agency policy CD-180201, *Behavioral Health Reception and Diagnosis Center (RDC)* (02/16/2015), section A.1. (page 1) requires, "The following protocols are completed for each inmate on the date of arrival at the respective male or female Reception and Diagnostic Unit. (a) Rights to Confidentiality and Availability of Services form (CD-1800201.1)…" This form states, "Generally, statements made by inmates to Behavioral Health Staff are confidential, and will not be disclosed without the inmate's consent, except as follows…(E) Allegations that you have been abused by a staff member or by another inmate…" This form appears to only be applicable to mental health providers and does not include sexual harassment. However, per information received in interviews with medical and mental health providers, inmates are informed of their duty to report any PREA-related information during the intake process. The Auditor was provided with the Inmate Acknowledgment of Behavior Health Orientation form, which is provided to all inmates on intake to the facility. The form includes an intake section about "What I can expect in the way of confidentiality". The Auditor was informed by mental health providers that this is the portion of intake where the inmate is notified of their requirement to report any PREA-related allegations. All inmates are required to sign the form on the completion of mental health orientation. Upon review of the available forms and processes, it was determined that inmates were not adequately informed of the limits to confidentiality of medical and mental health providers prior to the initiation of services.

Several medical providers were not aware of the requirement to report all PREA-related information, believing that it was covered under HIIPA confidentiality. Clarification was provided during the interview process and it is recommended that refresher information be provided to all medical staff to ensure a thorough understanding of reporting responsibilities. No provider interviewed reported ever having received PREA-related allegation information from any inmate while working at RCC.

Based on the lack of provision of information regarding the reporting requirements of medical and mental health providers prior to the initiation of services, RCC was initially assessed as non-compliant with the requirements of this provision. To address the non-compliant issue, the PREA Inmate Handbook was revised 11/02/2020 to include the following information: "Inmate victims or witnesses can report by…advise Medical or Behavioral Health Staff (keep in mind medical and behavioral Health Staff are mandatory reporters and are required to report any knowledge, suspicion or information regarding sexual abuse." The Auditor received documentation of an announcement to all current inmates regarding policy revisions. The Auditor was also provided with an email from the former PREA Coordinator to all agency PCM's directing the distribution of the updated materials to all applicable staff and provision to all inmates during orientation. As a result of these actions, this provision is now assessed as compliant.

115.61 (d)
Per standard 115.12, any youthful offender received by NMCD would be housed at Youthful Offenders Management Unit at the Central New Mexico Correctional Facility. As a result, no inmate under the age of 18 has been housed at RCC. The Warden confirmed that if any information were to be received by an adult inmate that involved an allegation while the inmate was a juvenile, a referral would be made to the State Police and the Child/Youth/Family Division. No such allegations were received during the audit documentation period.

Per information received from the former PCM, "New Mexico law uses the term 'incapacitated adult' to identify vulnerable adults. An incapacitated adult is one with a mental, physical or developmental condition that subsequently impairs their ability to provide adequately for their own care or protections. These individuals would be housed at the Long term Care Unit at Central New Mexico Correctional Facility in Los Lunas, New Mexico."

Per information received from the Warden, RCC does not maintain 24-hour medical services and therefore no inmate classified as a vulnerable adult would be housed at RCC. As a result, there is no secondary documentation available for review.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.61 (e)
Agency policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section B.4. (page 2) requires, "The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators."

Agency policy CD-031801, *Office of Professional Standards (OPS), Personnel Investigations and Staff Misconduct Reporting* (06/03/2019), section A. (page 1), requires, "All supervisors are responsible for reporting all allegations of staff misconduct or suspected staff misconduct to the applicable Disciplinary Authority. All Disciplinary Authorities are in turn responsible for reporting all Level-1 suspected or alleged misbehavior to the applicable Chief Administrative Officer(s) (CAO) and to the Office of Professional Standards (OPS) immediately. OPS will notify the appropriate NMCD Administrative Staff." The policy further defines Level-1 allegations to include all sexual misconduct.

In an interview, the Warden confirmed the requirement to refer all allegations to OPS, where it is reviewed and assigned for investigation."

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 07/28/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-180201, *Behavioral Health Reception and Diagnosis Center (RDC) (02/16/2015)*
- Rights to Confidentiality and Availability of Services form (CD-1800201.1)
- Prison Rape Elimination Act Staff Training curriculum (revised March 2020)
- Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated)
- PREA Inmate Handbook in both English and Spanish as revised 11/02/2020
- Documentation of distribution of health services provider reporting requirements to inmates and PCM's

Interviews conducted:

- Medical and mental health staff
- PREA coordinators
- Random sample of staff
- Warden

Standard 115.62: Agency protection duties

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

115.62 (a)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.62
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section D. (page 4) requires, "When staff or the agency believes that an inmate is at substantial risk of imminent sexual abuse or sexual harassment, it shall take immediate action to protect the inmate."

Agency policy CD-141100, *Protective Custody* (12/03/2015), section A. through C. (page 1) states, "It is the policy of New Mexico Corrections Department that inmates will not be placed in any long-term segregation housing for protective custody reasons. Inmates with protective custody issues will only be placed in restrictive housing if all other viable alternatives have been exhausted. Protective custody issues will be thoroughly and properly investigated." Agency policy CD-141101, *Protective Custody Procedure* (12/03/2015), section F. (page 2) requires, "As a result of these investigations, predatory inmates will be held accountable."

During an interview, the Secretary's designee, it was reported that addressing the needs of an inmate who has been determined to be at imminent risk of sexual abuse starts with a risk assessment in which specially trained staff conduct detailed interviews. He also reported that NMCD does not prescribe to protective custody but with protection cases, points are used to assess classification and identify risks, with the goal of placing the inmate with other like inmates instead of separating or segregating them.

During an interview, the Warden reported that any identified allegation / issue would be investigated, starting with an interview of the inmate by the PCM. He added that the inmate would be placed in a location where he would be within camera view and checked on by the lieutenant or sergeant every 15 minutes as needed until the imminent risk was addressed. Interviews with random staff, regardless of

position within the facility, confirmed that staff would take immediate actions if they learned that an inmate was at imminent risk of sexual abuse. Due to limitations of private meeting / office space within the secure perimeter of the facility, this may require placement of the alleged victim in a holding cell in the control center until such time as an assessment of the situation and a plan of action completed.

The initial documentation provided indicated that no RCC inmate had been determined to be at substantial risk of imminent abuse. Appropriate actions were taken per investigation reports and interviews conducted with first responders to separate the alleged victim from the accused. During the period between initial documentation and on-site review, two (2) inmates reported allegations of sexual abuse. Response actions taken were appropriate to the situation and the expressed needs / risks of the alleged victims.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 07/28/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-141100, *Protective Custody Status* (12/03/2015)
- Policy CD-141101, *Protective Custody Procedure* (12/03/2015)

Interviews conducted:

- Agency head designee
- Random sample of staff
- Warden

Standard 115.63: Reporting to other confinement facilities

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

115.63 (a)

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

115.63 (b)

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

115.63 (c)

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

115.63 (d)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.63 (a)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section I. (page 5) requires, "If an inmate reports or staff become aware of any knowledge, suspicion or information regarding an incident of sexual abuse or sexual harassment that occurred in another facility, the Warden of the facility that received the information must immediately (no later than 72 hours) report it to the Warden of the facility where it is alleged to have occurred. If the incident is alleged to have occurred at an agency other than NMCD, that report should be forwarded to the Agency PREA Coordinator, who will immediately (no later than 72 hours) notify the outside agency."

The Auditor was provided with PREA Standard 115.63 Reporting to Other Confinement Agencies handbook for Wardens (undated), which was developed in response to non-compliance findings in previous DOJ PREA audits. Included in the handbook is a 03/12/2015 memo from a previous acting PREA Coordinator stating, "Effective immediately, upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where he alleged abuse occurred." The handbook also contains contact information for each NMCD facility, internal affairs teams, and the PREA Coordinators for each adult correctional agency in the country, as well as the New Mexico Association of Counties Membership Directory 2017. This was developed as a resource manual for Wardens who needed to make cross facility / organization notifications. It is recommended that this handbook be updated as much of the contact information is from 2017 and is likely outdated.

RCC reported that during the audit documentation period, no allegations regarding another facility or organization had been received. However, during a review of investigation reports the Auditor found one investigation report indicating that while reporting the harassment allegation that was the subject of the investigation, the inmate also reported that he had previously been raped at another NMCD facility. The Auditor requested documentation of the required notification by the RCC Warden to that facility's Warden. The Auditor received no response to this request.

Based on the lack of response / documentation regarding the report of sexual abuse at another facility, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/17/2020, the Auditor was informed that the allegation reported was referring to an incident that occurred in 2016 and had been fully investigated by the applicable facility. The Auditor was provided with the OPS referral and final audit report from 2016. However, there is no provision in the standards or agency policy allowing for not reporting allegations to other facilities / jurisdictions if the allegation has already been investigated. Additionally, it appears that the confirmation of the previous investigation may have been obtained after the fact, not at the time the allegation information was reported. Based on the case tracking system access provisions in place, the PCM at RCC would not have access to previous investigations at another facility. The notification to applicable administrators by the RCC warden should occur whenever an applicable allegation is received regardless of the status of that allegation.

During the time period between initial documentation and on-site review, the Auditor was provided with documentation of all allegations reported. None of the information provided included allegations received by RCC regarding another facility or jurisdiction. As a result, there is no additional secondary documentation available for review. However, the Warden is very knowledgeable of standard requirements and the PCM has established tracking systems to ensure all required actions are taken whenever any allegation is received. Based on these actions, RCC is now assessed as compliant with the requirements of this provision.

115.63 (b)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section I. (page 5) requires, "If an inmate reports or staff become aware of any knowledge, suspicion or information regarding an incident of sexual abuse or sexual harassment that occurred in another facility, the Warden of the facility that received the information must immediately (no later than 72 hours) report it to the Warden of the facility where it is alleged to have occurred. If the incident is alleged to have occurred at an agency other than NMCD, that report should be forwarded to the Agency PREA Coordinator, who will immediately (no later than 72 hours) notify the outside agency."

The PREA Standard 115.63 Reporting to Other Confinement Agencies handbook for Wardens (undated) includes instruction that all "…notifications are to be provided as soon as possible, but not longer than seventy-two (72) hours after receiving the allegation."

Per comments included with provision (a), the Auditor located an allegation of sexual abuse included in an investigation report. The Auditor requested documentation of the required notification by the RCC Warden to that facility's Warden but received no response to this request.

Based on the lack of response / documentation regarding the report of sexual abuse at another facility, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/17/2020, the Auditor was informed that the allegation reported was referring to an incident that occurred in 2016 and had been fully investigated by the applicable facility. The Auditor was provided with the OPS referral and final audit report from 2016. However, there is no provision in the standards or agency policy allowing for not reporting allegations to other facilities / jurisdictions if the allegation has already been investigated. Additionally, it appears that the confirmation of the previous investigation may have been obtained after the fact, not at the time the allegation information was reported. Based on the case tracking system access provisions in place, the PCM at RCC would not have access to previous investigations at another facility. The notification to applicable administrators by the RCC warden should occur whenever an applicable allegation is received regardless of the status of that allegation.

During the time period between initial documentation and on-site review, the Auditor was provided with documentation of all allegations reported. None of the information provided included allegations received by RCC regarding another facility or jurisdiction. As a result, there is no additional secondary documentation available for review. However, the Warden is very knowledgeable of standard requirements and the PCM has established tracking systems to ensure all required actions are taken whenever any allegation is received. Based on these actions, RCC is now assessed as compliant with the requirements of this provision.

115.63 (c)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)*,* section I. (page 5) requires, "If an inmate reports or staff become aware of any knowledge, suspicion or information regarding an incident of sexual abuse or sexual harassment that occurred in another facility, the Warden of the facility that received the information must immediately (no later than 72 hours) report it to the Warden of the facility where it is alleged to have occurred. If the incident is alleged to have occurred at an agency other than NMCD, that report should be forwarded to the Agency PREA Coordinator, who will immediately (no later than 72 hours) notify the outside agency. The facility must maintain documentation of all notifications to other facilities; the PREA Coordinator will maintain documentation of all external notifications."

The PREA Standard 115.63 Reporting to Other Confinement Agencies handbook for Wardens (undated) includes instruction that all "The agency head shall document that it has provided such notification."

Per comments included with provision (a), the Auditor located an allegation of sexual abuse included in an investigation report. The Auditor requested documentation of the required notification by the RCC Warden to that facility's Warden but received no response to this request.

Based on the lack of response / documentation regarding the report of sexual abuse at another facility, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/17/2020, the Auditor was informed that the allegation reported was referring to an incident that occurred in 2016 and had been fully investigated by the applicable facility. The Auditor was provided with the OPS referral and final audit report from 2016. However, there is no provision in the standards or agency policy allowing for not reporting allegations to other facilities / jurisdictions if the allegation has already been investigated. Additionally, it appears that the confirmation of the previous investigation may have been obtained after the fact, not at the time the allegation information was reported. Based on the case tracking system access provisions in place, the PCM at RCC would not have access to previous investigations at another

facility. The notification to applicable administrators by the RCC warden should occur whenever an applicable allegation is received regardless of the status of that allegation.

During the time period between initial documentation and on-site review, the Auditor was provided with documentation of all allegations reported. None of the information provided included allegations received by RCC regarding another facility or jurisdiction. As a result, there is no additional secondary documentation available for review. However, the Warden is very knowledgeable of standard requirements and the PCM has established tracking systems to ensure all required actions are taken whenever any allegation is received. Based on these actions, RCC is now assessed as compliant with the requirements of this provision.

115.63 (d)
Agency policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section A.2. (page 1) requires, "An investigation shall be conducted and documented whenever a criminal sexual behavior, sexual misconduct or threat is reported." The same policy, section A.5. (page 1) requires, "The Agency shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment."

The PREA Standard 115.63 Reporting to Other Confinement Agencies handbook for Wardens (undated) includes instruction that all "The facility head or agency that receives such notification shall ensure that the allegation is investigated in accordance with PREA standards."

During the audit documentation period, RCC did not receive any allegations that had been reported to another facility or agency. As a result, no secondary documentation is available for review.

The requirement to conduct formal investigations for each allegation received, regardless of the method or source of the report, was confirmed in interviews with the Secretary's designee and Warden. It was also reported that the agency PREA Coordinator is informally designed as the point of contact for the reporting of allegations from facilities outside NMCD.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:
- Compliance memo dated 07/28/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- PREA Standard 115.63 Reporting to Other Confinement Agencies handbook for Wardens (undated)

Interviews conducted:
- Agency head designee
- Warden

Standard 115.64: Staff first responder duties

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

115.64 (a)

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Separate the alleged victim and abuser?
  ☒ Yes ☐ No

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence? ☒ Yes ☐ No

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence? ☒ Yes ☐ No

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence? ☒ Yes ☐ No

115.64 (b)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.64 (a)

Agency policy CD-150102, *Offender Protection Against Sexual Abuse and Sexual Misconduct PREA* (05/29/2020), section A.7. (page 2) requires, "The Shift Supervisor shall complete section I of the Facility Response to Sexual Assault Checklist form (*CD-150102.1*) and submit to the Warden's office. The Warden should complete sections II and III of the checklist and submit it to the Director of Adult Prisons or designee within seven (7) calendar days after the incident." The Facility Response to Sexual Assault Checklist details the following steps to be performed / overseen by the Shift Supervisor:

> *Place unit on Type-I lockdown and suspend programming…*
> *Shift Supervisor separate victim from assailant…*
> *Request victim not to shower, brush teeth, wash clothes, relieve themselves; ensure the perpetrator does not do any activity to destroy any evidence such as shower, brush teeth, wash clothes, relieve themselves…*
> *Escort victim to medical for acute injury evaluation and treatment…*
> *Shift Supervisor report incident immediately to Warden and Facility PREA Compliance Manager…*
> *If requested by the victim, the Shift Commander will call a Victim Advocate…*
> *If the victim is transported for a SANE Exam, the Shift Commander will call a Victim Advocate…*

These actions are to be taken in response to an allegation of sexual assault that occurred within 120 hours of the report.

Although not specifically articulated in policy or the response checklist, all security staff interviewed expressed an understanding of the need to secure the crime scene in the even an allegation of sexual assault were reported. It is recommended that this requirement be added to the checklist on its next revision. It is also recommended that the requirement to ensure the alleged abuser not take any actions that might destroy evidence is added to the checklist.

Regarding inmate-on-inmate sexual abuse incidents that have allegedly occurred within 120 hours, the Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 30 - 31) requires,

> *When custody staff is made aware that a sexual assault or any attempt has occurred, the following steps shall be taken: (A.)…If the staff member is a security staff member, they shall request that the alleged victim not take any actions that could destroy physical evidence and ensure the alleged perpetrator not take any actions that could destroy physical evidence. (B.) Ensure the victim is safe and kept separated from the aggressor. (C.) Notify supervisor. (D.) Begin crime scene identification and protection measures until released by investigating body. (E.) Escort the victim to the nearest department medical unit, collect clothing and provide an orange jumpsuit to the inmate. Ensure each item of clothing is bagged separately in brown paper bags and booked into evidence. (F.) Temporarily place the suspect in a cell and immediately collect the suspect's clothing prior to being left alone, we do not want evidence destroyed, whether or not there is a wash basin. After clothing is collected, issue an orange jumpsuit to the suspect. Ensure each clothing item is bagged separately in brown paper bags and booked into evidence. (G.) Escort suspect to infirmary after victim has been assessed. The suspect should not be placed/housed, even temporarily, in the same area as the victim and they will have no contact at any time. (H.) Collect any other evidence and log it with the appropriate chain of evidence form.*

Regarding inmate-on-inmate sexual abuse incidents that occurred outside of the 120-hour timeframe, the same manual requires (page 34):

> *When custody staff is made aware that a sexual assault or any attempt thereof has occurred or is reported as occurred, the following steps shall be taken: (A.) Ensure the victim is safe and kept separate from the aggressor. (B.) Notify supervisor. (C.) Escort the victim to the nearest department medical unit. (D.) Collect evidence (if any) and book it with the appropriate chain of evidence form. (E.) Please suspect in administrative segregation pending investigation.*

It is noted that the Prison Rape Elimination Act Sexual Assault Response Team PREA Manual lays out first responder duties in the event of inmate-on-inmate sexual abuse, both within and beyond 120 hours. For both situations, the instruction provided is to escort the alleged victim to the nearest department medical unit. Per information from the former PCM, "Our medical unit is not 24 hour but Wexford [contract medical staff] always has someone on call...Our nurses are here within the hour but immediately start advising the Security staff of things that they can be doing until they arrive…[Most] all inmates are taken to Control Center to the temporary holding cells that are there. We have an extra office that Medical uses to treat inmates for most things, if needed, they are walked across the compound to the Medical area. Worst case scenarios (PREA sexual abuse cases with injuries that cannot wait, a terrible fight with injuries, overdoses, etc.) if the inmate needs immediate attention faster and we cannot wait for the on-call nurse to get here, emergency services would be called and an ambulance would come out to RCC within 15 minutes."

All staff have been issued a Sexual Abuse First Responder Duties reminder card that can be carried on their person or attached to their identification card. The card reads as follows:

- *Separate the alleged Victim and Abuser.*
- *Immediately notify the On Duty Supervisor and remain at the scene until relieved by responding personnel.*
- *Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence.*
- *Request the alleged victim not to destroy physical evidence including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecting, smoking, drinking or eating.*
- *Ensure the alleged abuser does not [take any action] to destroy physical evidence including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.*
- *If the first responder is not Security Staff, remain with the victim until Security Staff arrives.*
- *Apart from reporting to designated supervisors, the staff shall not reveal any information related to the incident to anyone other than to staff involved with the investigation of the incident.*

Prison Rape Elimination Act Staff Training (revised 03/2020) includes information regarding first responder duties, to include:

> *Call for back up, separate the inmates, seek medical attention, preserve and protect the crime scene then document…*
>
> *In the case of sexual assault, request the victim and ensure the abuser are instructed not to shower brush their teeth, relieve themselves or wash their clothes in order to preserve latent evidence.*

This information is included in the annual training provided to all employees and contract staff.

The Auditor reviewed all investigations conducted between 01/2019 and 09/2020 as provided with initial documentation along with investigations completed between initial documentation and on-site review. None of the inmates who were identified as alleged victims in any abuse investigation remained housed at RCC. As a result, there were no inmates who reported sexual abuse available for interview.

Interviews with first responders to both of these incidents confirmed knowledge of associated responsibilities. Neither of the allegations were situations that allowed collection of evidence, nor did they necessitate requesting the alleged victim take any actions that might destroy evidence. It is noted that one of the first responders was a security staff member and one was not.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.64 (b)
With regard to inmate-on-inmate sexual abuse allegations that occurred within 120 hours, the Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 30) requires, “If the first staff responder is not a custody staff member, the first responder shall request the alleged victim not to take any actions that could destroy physical evidence, and then immediately notify the first custody staff member available.”

The Sexual Abuse First Responder Duties reminder card includes the requirement to make immediate notification to the Shift Supervisor and request the alleged victim and ensure the alleged abuser not take any actions that might destroy evidence. This is followed by, “If the first responder is not Security Staff, remain with the alleged victim until Security Staff arrives.”

The Auditor reviewed all investigations conducted between 01/2019 and 09/2020 as provided with initial documentation along with investigations completed between initial documentation and on-site review. None of the inmates who were identified as alleged victims in any abuse investigation remained housed at RCC. As a result, there were no inmates who reported sexual abuse available for interview.

Interviews with first responders to both incidents confirmed knowledge of associated responsibilities. Neither of the allegations were situations that allowed collection of evidence, nor did they necessitate requesting the alleged victim take any actions that might destroy evidence. It is noted that one of the first responders was a security staff member and one was not.

Random staff interviewed, both security and non-security staff, confirmed knowledge of first responder responsibilities as detailed in this standard.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:
- Compliance memo dated 07/28/2020 from the former PCM addressed to the DOJ Auditor
- Agency policy CD-150102, *Offender Protection Against Sexual Abuse and Sexual Misconduct PREA* (05/29/2020)
- Sexual Abuse First Responder Duties reminder card
- Prison Rape Elimination Act Staff Training (revised 03/2020)
- Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated)

Interviews conducted:
- Random sample of staff
- Security and non-security staff first responders
- Volunteer / contractor coordinators

Standard 115.65: Coordinated response

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

115.65 (a)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.65
Agency policy CD-150102, *Offender Protection Against Sexual Abuse and Sexual Misconduct PREA* (05/29/2020), section A. (page 1 - 2) requires, "Within the first 120 hours of a sexual assault incident in the prison population, the following actions will be taken: (1) The affected unit shall be placed on a Type I lock-down and suspension of program services for an appropriate time, (*CD-070701.K.b*). (2) Upon identification of the victim and assailant(s), the facility or program administrator will assure the separation of the victim from his or her assailant(s) (*CD- 170100.S.7.*). The victim will be asked not to shower, wash their clothes, brush their teeth, or relieve him or herself in order to preserve evidence. (3) A facility health care professional will take a history and conduct an examination to document the extent of physical injury and to determine if there are injuries that merit transfer to another medical facility (*CD-170100.MM*). The purpose of the examination is to determine the patient's stability for transfer to a site that provides forensic examinations. The facility examiner is to be mindful of the need to preserve any objective forensic evidence during the examination. (4) The shift supervisor shall make an immediate verbal report to the Warden, and the Warden shall in turn make an immediate report to the PREA Coordinator, the Director of Adult Prisons and the Director of Health Services (*CD-070701.A.1, CD-070701.E*). The Warden will also complete the Referral for Investigation form to Office of Professional Standards (OPS) as a Level I investigation (*CD-031801.A*). (5) The shift supervisor will use the Serious Incident Checklist (*CD-070701.5)* form to ensure that all pertinent documentation of a major incident is completed. (6) The shift supervisor will contact the designated victim advocate in accordance with the *National Protocol for Sexual Assault Medical Forensic Examinations Adult/Adolescent*. (7) The shift supervisor shall complete section I of the Facility Response to Sexual Assault Checklist form (*CD-150102.1*) and submit to the Warden's office. The Warden should complete sections II and III of the checklist and submit it to the Director of Adult Prisons or designee within seven (7) calendar days after

the incident."

The Auditor was provided with the RCC Policy *Coordinated Response to Sexual Assaults* (10/01/2017) that details response protocols to be followed in the event that the initial assault disclosure was within 120 hours of the incident, which includes response requirements, investigation, forensic examinations, court referrals and prosecutions, and after-action review. This duplicates the requirements outlined in agency policy. Employees and contract staff are training in response requirements during annual in-service training.

During an interview, the Warden confirmed the publication of and training on the response plan. He added that facility administrators, to include mental health, medical, unit managers, the captain, and the PCM, meet weekly to review trends and responses.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 07/28/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150102, *Offender Protection Against Sexual Abuse and Sexual Misconduct, PREA* (05/29/2020)
- RCC Policy *Coordinated Response to Sexual Assaults* (10/01/2017)

Interviews conducted:

- Warden

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

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

115.66 (a)

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

115.66 (b)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.66 (a)
The NMCD currently has a collective bargaining agreement with the American Federation of State, County and Municipal Employees (AFSCME). The Auditor was provided a copy of the collective bargaining agreement that went into effect 12/23/2009 and expired 12/31/2011. Per information received from the former PREA Coordinator, no new agreement has been established, but the current agreement has an "evergreen clause" which allows it to remain the "operative version until new terms are negotiated and approved by all parties." Page 106 of the current agreement (included in the Miscellaneous Provisions Applicable to all Post/Post Packages Posts section, provision 1) states, "The Employer has the right to remove an employee from his/her post of choice or assigned post, or to assign an employee to a post not of his/her choice if there is a substantial need to do so. The Employer will verbally notify the employee of the reason for such a removal or assignment; and if requested in writing by the employee, the Employer shall provide the reason in writing to the employee." Additionally, Appendix D, Section 2 Temporary Assignment (page 124) that applies to all health care staff states, "The Employer retains the right to temporarily reassign employees under investigation to alternate units, shifts, or other work assignments, unrelated to seniority rights when the Employer determines there is a need to do so pending the conclusion of internal investigation. Temporary reassignment shall not exceed forty-five (45) calendar

days unless the internal investigation is not concluded in which case the reassignment shall extend until the conclusion of the investigation."

The above information was confirmed in an interview with the Agency Secretary designee.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.66 (b)
No additional review is required. The 2009 – 2011 Collective Bargaining Agreements between the State Of New Mexico and the American Federation of State, County, and Municipal Employees, Council 18 is consistent with standards 115.72 and 115.76. Per information received from the former PREA Coordinator, no new agreement has been established, but the current agreement has an "evergreen clause" which allows it to remain the "operative version until new terms are negotiated and approved by all parties."

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:
- Compliance memo dated 07/28/2020 from the former PCM addressed to the DOJ Auditor
- Collective Bargaining Agreement between the State of New Mexico and the American Federation of State, County and Municipal Employees, Council 18, effective 12/23/2009 through 12/31/2011

Interviews conducted:
- Agency head designee

Standard 115.67: Agency protection against retaliation

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

115.67 (a)

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

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

115.67 (b)

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

115.67 (c)

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of inmates or staff who reported the sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff? ☒ Yes ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff? ☒ Yes ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Act promptly to remedy any such retaliation? ☒ Yes ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor any inmate disciplinary reports? ☒ Yes ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate housing changes? ☒ Yes ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate program changes? ☒ Yes ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff? ☒ Yes ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff? ☒ Yes ☐ No

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

115.67 (d)

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

115.67 (e)

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

115.67 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.67 (a)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section D. (page 4) requires, "Any employee, inmate or other person who in good faith reports abuse or sexual misconduct will not be subject to retaliation by staff or inmates. Information will be kept confidential."

Agency policy CD-150102, *Offender Protection Against Sexual Abuse and Sexual Misconduct, PREA* (05/29/2020), section A.9. (page 2) requires, "The facility PREA Compliance Manager must immediately

begin victim retaliation monitoring to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigation from retaliation by other inmates or staff. Retaliation Monitoring will be completed utilizing the Staff Retaliation Monitoring form (*CD-150102.2*) and once completed at the end of 90 days (or longer when necessary) be sent to the Agency PREA Coordinator. This will also include periodic status checks for the inmates who are being monitored."

Agency policy 031800, *Office of Professional Standards (OPS), Personnel investigations and Staff Misconduct Reporting* (06/03/2019), section C. (page 3) requires, "There is a zero tolerance policy prohibiting any retaliatory acts against anyone who has reported allegations of staff misconduct or criminal acts. Any employee who engages in substantiated retaliatory behavior is subject to dismissal."

Per the central office Compliance Officer, she oversees statewide retaliation monitoring, reviewing file information every 15, 45 and 90 days. At the 45-day mark, she sends the facility an email, requesting the PCM meet personally with the inmate and provide her with a follow up confirmation email, which is added to the master case file. She noted that formal monitoring begins the day the case assignment is made out of central office / OPS.

Per information from interviews with the central office Compliance Officer and facility staff charged with retaliation monitoring, only the alleged victim would be formally monitored for possible retaliation. It was indicated that the reporter, if different from the alleged victim, would not be monitored, with some individuals reporting a hope that these inmates know to report any retaliation if it is occurring, but since reporters are not a part of the investigation, they would not be monitored. The Human Resources staff member who would be charged with monitoring of any staff reporter indicated that she was not aware of this requirement or her related responsibilities, but when questioned, was able to articulate standard requirements based on what she believed was common sense.

The Auditor received a listing of all investigations from 2019 and 2020, noting that only one investigation involved an allegation of abuse and required formal retaliation monitoring. The reporter for this allegation remained anonymous, so only the alleged victim was identified as requiring formal monitoring. However, NMCD also requires the formal monitoring in all investigations, including sexual harassment. The Auditor then received formal retaliation monitoring documentation consisting of file review conducted by the central office Compliance Officer for all eight investigations conducted in 2019 and 2020. Additionally, documentation of an in-person meeting with the alleged victim was included at the 45-day mark in all but three (3) investigations due to inmates no longer being in NMCD custody or the case being closed as unfounded.

Based on the failure to incorporate the monitoring of inmate and staff reporters into current practices, RCC was initially assessed as non-compliant with the requirements of this provision. To address this non-compliant finding, the former PREA Coordinator distributed direction to all agency PCM's and the central office Compliance Officer, directing, "…we must monitor the reporter as well. Example: if you received an allegation from Inmate A that Inmate B is being sexually abused, you must provide retaliation monitoring for both Inmate A (reporter) and Inmate B (victim). We must provide retaliation monitoring for staff who report an allegation. Monitoring should include, have they received a letter of counseling or other discipline, have they been removed from their post or other adverse actions that may have occurred. HR staff should be trained in monitoring staff for these types of actions. An example when to monitor: if an officer reports to you, that he believes he saw a supervisor kissing an inmate, we must monitor that officer for a period of 90 days, monitoring can stop if there is an unfounded finding. (this does not include monitoring staff that report an allegation, because an inmate reported to them…)"

During review of investigations conducted between initial documentation review and the on-site review, a discrepancy regarding the timeframe for an investigation to be officially closed was discovered. The

agency PREA unit considered the investigation to be closed once the Warden had signed off on the report and submitted to the Office of General Council for review. At this point in the process, formal retaliation monitoring ceased if the allegation was determined to be unfounded. However, the facility did not consider the investigation to be closed until a representative from the Office of General Council had signed off on the report, therefore, expecting retaliation monitoring to continue to this point. Clarification was provided in a 03/04/2021 memo from the Inspector General, which reads in part, "The investigation will be considered complete once the Warden has read, reviewed and signed off on the investigator's finding." During discussions with the Inspector General, it was also learned that the expectations relative to retaliation monitoring as well as the provision of closure notification to applicable inmates is to occur at this point in the process. It was also learned that the General Council review is a formality relative to agency procedures and not a part of the formal investigatory process. The Auditor will continue to monitor investigations through the corrective action period to ensure compliance with this directive.

Between initial documentation and on-site review, four (4) investigations were opened that required retaliation monitoring per agency policy. Monitoring was compliant in all noted investigations with the exception of the 15-day for one investigation as it was not entered in the tracking system until after the timeline for the first review due to the absence of the PCM. The Warden immediately named a backup for the PCM to ensure these types of functions were not overlooked. Additionally, the current PCM has created tracking systems to ensure all required actions are completed with regard to allegation reports / investigations.

Based on the above, RCC is now assessed as compliant with the requirements of this provision.

115.67 (b)
The Auditor reviewed documentation of formal retaliation monitoring for the eight (8) investigations conducted in 2019 and 2020 and between initial documentation and on-site review. In only one instance was an issue regarding perceived retaliation was reported in an in-person meeting with the alleged victim. A review of this was conducted and it was determined that the reported concern was unsupported based on documentation and disciplinary information.

During an interview, the Warden reported the facility tracks inmates who reported and/or are alleged victims for 60 and 90 days, adding that the former PCM is frequently out in the facility and available for inmates to discuss concerns with. He noted that inmates can also write to the PCM, the Warden, or the Unit Managers and town hall meetings are also held to discuss issues with and educate inmates. The Secretary's designee confirmed the review of investigation initiation to address any reports or suspicions of retaliation, adding that addressing allegations and retaliation issues begins with open communication and the inmate's ability to report.

Interviews with individuals charged with retaliation monitoring confirmed an immediate addressing of any reports or indicators of retaliation, ensuring separation of the alleged victim from the abuser and communicating as needed concerns and instructions with applicable staff. Additionally, they noted a continuous stream of open communication with inmates and employees.

It is noted that the interview template for inmates in segregated housing for those who allege to have suffered sexual abuse was not used during this audit as the facility does not have segregated housing / unit; only a very short-term holding cell.

The Auditor reviewed all investigations conducted between 01/2019 and 09/2020 as provided with initial documentation along with investigations completed between initial documentation and on-site review. None of the inmates who were identified as alleged victims in any abuse investigation remained housed at RCC. As a result, there were no inmates who reported sexual abuse available for interview.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.67 (c)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)*,* section D.4. (page 4) requires, "Wardens or their designee's will monitor those who report sexual abuse or cooperate with investigations for ninety (90) days and take appropriate steps to protect individuals from retaliation, including periodic status checks on inmates." It is noted that this requirement in policy does not address the monitoring of alleged victims. This process is in place, but it is recommended that the language be added on the next policy revision.

Per information received from the former PCM, effective July 2018, "the PREA Office [central office] took lead on all retaliation monitoring. When an allegation is referred for investigation, the case is placed on a task list for 15 days, 45 days and 90 days. At the 15 day [mark], the PREA Office will look at the inmate's disciplinary, programming and movement in the facility. If there are changes in any of the above areas, an email or phone call will be made to the facility to inquiry the circumstances of the change. If it is determined that change is due to retaliation, the PREA Office will take steps to rectify the situation, whether it be a dismissal of a report, reinstating a job or programming or adjustments to the [inmate's] housing. The same will be done at 45 days and at 90 days if the case has not been completed."

The Auditor reviewed documentation of formal retaliation monitoring for the eight (8) investigations conducted in 2019 and 2020. In only one instance was an issue regarding perceived retaliation was reported in an in-person meeting with the alleged victim. A review of this was conducted and it was determined that the reported concern (a transfer in retaliation for reporting) was unsupported based on documentation and disciplinary information.

Per information received from the central office Compliance Officer, monitoring continues until the investigation is closed as complete, unless the investigation was closed as substantiated. In the event that investigation was closed as unfounded or unsubstantiated, all monitoring would stop even if the 90-day timeframe had not expired.

Per information received from the former PCM, "When an allegation is referred for investigation, the case is placed on a task list for 15 days, 45 days and 90 days. At the 15 day, the PREA Office will look at the [inmate's] disciplinary, programming and movement in the facility…The same will be done at 45 days and at 90 days if the case has not been completed."

During an interview, the Warden reported that if any reports were received or indicators identified that could point to possible retaliation, a formal investigation would be conducted, and applicable discipline imposed. Interviews conducted with those individuals charged with retaliation monitoring confirmed a review of the identified elements by the PREA Office Compliance Officer. However, these individuals also reported that retaliation monitoring would stop once the investigation was closed as complete. The PREA Office Compliance Officer indicated that if an investigation is closed as substantiated, she will continue file reviews for another 30 days, adding that if any indicators were identified, she would again continue monitoring for another 30 days. She also reported that if inmates expressed retaliation-related issues with unsubstantiated or unfounded investigations, she would add on to the 90-day timeframe.

Based on the ending of retaliation monitoring at the closure of the investigation, even if the 90-day timeframe had not yet expired, RCC was initially assessed as non-compliant with the requirements of this provision. To address this non-compliant finding, the former PREA Coordinator distributed direction to all agency PCM's and the HQ Compliance Officer, directing, "Victims must be monitored for a period of 90 days or when there is an unfounded final report. If the case is substantiated or unsubstantiated, we must monitor the victim for a period of 90 days. If there are circumstances that warrant monitoring beyond the 90 days, we will go beyond the 90 days. I think there is some confusion and belief that we

only monitor the substantiated, after the conclusion of the investigation. This is not the case." As noted with provision (a), the former PREA Coordinator also directed the monitoring of staff and inmate reporters for 90 days unless the investigation is closed as unfounded.

During review of investigations conducted between initial documentation review and the on-site review, a discrepancy regarding the timeframe for an investigation to be officially closed was discovered. The agency PREA unit considered the investigation to be closed once the Warden had signed off on the report and submitted to the Office of General Council for review. At this point in the process, formal retaliation monitoring ceased if the allegation was determined to be unfounded. However, the facility did not consider the investigation to be closed until a representative from the Office of General Council had signed off on the report, therefore, expecting retaliation monitoring to continue to this point. Clarification was provided in a 03/04/2021 memo from the Inspector General, which reads in part, "The investigation will be considered complete once the Warden has read, reviewed and signed off on the investigator's finding." During discussions with the Inspector General, it was also learned that the expectations relative to retaliation monitoring as well as the provision of closure notification to applicable inmates is to occur at this point in the process. It was also learned that the General Council review is a formality relative to agency procedures and not a part of the formal investigatory process. The Auditor will continue to monitor investigations through the corrective action period to ensure compliance with this directive.

Between initial documentation and on-site review, four (4) investigations were opened that required retaliation monitoring per agency policy. Monitoring was continued to at least the 90-day mark in all cases unless the investigation was closed as unfounded before that time. The current PCM has also created tracking systems to ensure all required actions are completed with regard to allegation reports / investigations.

Based on the above, RCC is now assessed as compliant with the requirements of this provision.

115.67 (d)
Agency policy addressing PREA-related retaliation monitoring does not include the provision that formal monitoring includes a periodic meeting with inmates to conduct a status check. It is recommended that this language be added to the applicable policy(ies) during any future revision.

Per the HQ Compliance Officer, she oversees statewide retaliation monitoring, reviewing file information every 15, 45 and 90 days. At the 45-day mark, she sends the facility an email, requesting the PCM meet personally with the inmate and provide her with a follow up confirmation email, which is added to the master case file. She noted that formal monitoring begins the day the case assignment is made from HQ.

In interviews conducted, those responsible for retaliation monitoring reported meeting with inmates as directed by the PREA Office Compliance Manager, also looking for changes in inmate behavior patterns. The individual who would be responsible for the monitoring of any staff reporter also indicated she would conduct regular wellness checks with applicable employees.

It is noted that NMCD requires formal retaliation monitoring, to include periodic meetings with applicable individuals, for all investigations, including harassment, which exceeds the requirements of the standard. Following a review of the eight (8) investigations completed in 2019 and 2020, the Auditor found documentation of an in-person meeting with the reporter / alleged victim in all investigations that were open more than 45 days and in which the inmate was still housed in an NMCD facility. This was also true for the additional four (4) investigations that were initiated between initial documentation and on-site review.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.67 (e)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section D.4. (page 4) requires, "Wardens or their designee's will monitor those who report sexual abuse or cooperate with investigations for ninety (90) days and take appropriate steps to protect individuals from retaliation, including periodic status checks on inmates."

During the audit documentation period and the timeframe between initial documentation and on-site review, there were no reports of possible retaliation from individuals who participated in investigations. As a result, there is no secondary documentation available for review.

During an interview, the Secretary's designee reported that all allegations and indications of possible retaliation are taken seriously. He added that the facility would first reassign the accused to another housing area while it is being investigated, assuring the inmate alleging retaliation that they are being heard and are protected. The Warden added that a formal investigation would be conducted whenever retaliation was suspected, keeping all involved separated until the investigation would be completed followed by any applicable discipline, up to and including termination for employees.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.67 (f)
This standard provision is currently not included in agency PREA policies. It is recommended that this provision be added to applicable policies on any future revision.

Per information received from the central office Compliance Officer, monitoring continues until the investigation is closed as complete, unless the investigation was closed as substantiated. In the even that investigation was closed as unfounded or unsubstantiated, all monitoring would stop even if the 90-day timeframe had not expired.

Per information received from the former PCM, "When an allegation is referred for investigation, the case is placed on a task list for 15 days, 45 days and 90 days. At the 15 day, the PREA Office will look at the [inmate's] disciplinary, programming and movement in the facility…The same will be done at 45 days and at 90 days if the case has not been completed."

Based on the ceasing of monitoring when an investigation is complete, RCC was initially assessed as non-compliant with the requirements of this provision. As noted in provisions (a) and (c), to address this non-compliant finding, the former PREA Coordinator distributed direction to all agency PCM's and the central office Compliance Officer, directing monitoring of all alleged victims and staff and inmate reporters for a period of 90 days unless the investigation is closed as unfounded. The former PREA Coordinator also directed, "If an inmate witness or staff member (witness), expresses fear of retaliation for cooperating with an ongoing investigation, we must monitor that inmate or staff for [a] period of 90 days or an unfounded finding." The issue of when an investigation is officially closed as complete is also addressed in these provisions.

Between initial documentation and on-site review, four (4) investigations were opened that required retaliation monitoring per agency policy. Monitoring was continued to at least the 90-day mark in all cases unless the investigation was closed as unfounded before that time. The current PCM has also created tracking systems to ensure all required actions are completed with regard to allegation reports / investigations.

Based on the above, RCC is now assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 07/28/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-031800, *Office of Professional Standards (OPS) Personnel investigations and Staff Misconduct Reporting* (06/03/2019)
- Documentation of formal retaliation monitoring associated with applicable investigations
- 10/26/2020 email from PREA Coordinator to all PCM's and HQ Compliance Officer providing direction regarding retaliation monitoring
- 03/04/2021 Inspector General memo regarding investigations

Interviews conducted:

- Agency head designee
- Designated staff member charged with monitoring retaliation
- Warden

Standard 115.68: Post-allegation protective custody

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

115.68 (a)

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

Auditor Overall Compliance Determination

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115.68
Agency policy CD-141100, *Protective Custody Policy* (12/03/2015), section A. (page 1) indicates, "It is the policy of New Mexico Corrections Department that inmates will not be placed in any long-term segregation housing for protective custody reasons.

Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section K.D. (page 5) requires, "The placement of inmates determined to be at high risk of sexual victimization into Special Management shall cite the basis for the facility's concern for the inmate's safety and the reason why no alternative placements are appropriate consistent with NMCD Special Management policies."

Per information received from the Warden and former PCM, RCC does not have a segregation unit or any restrictive housing. The facility maintains a very short-term holding cell, in which inmates may be placed for less than 24 hours. As a result, there is no secondary documentation available for review.

In an interview, the Warden reported that if an allegation were to be received, facility staff would keep the alleged victim at RCC and address the placement of the accused. He added that if the allegation were highly serious and the victim is at increased risk, he would be transferred to another facility only as a last resort. The inmate could first be placed in an area where he is safe and can be monitored; all avenues to maintain the alleged victim at the facility would be employed and, if needed, the accused would be moved.

As RCC does not maintain segregated housing, interviews were not conducted with inmates in segregated housing for risk of sexual victimization or who allege to have suffered sexual abuse. Additionally, interviews were not conducted with staff who supervise inmates in segregated housing.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 07/28/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-141100, *Protective Custody Policy* (12/03/2015)
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)

Interviews conducted:

- Warden

INVESTIGATIONS

Standard 115.71: Criminal and administrative agency investigations

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

115.71 (a)

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

- Does the agency conduct such investigations for all allegations, including third party and anonymous reports? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA

115.71 (b)

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

115.71 (c)

- Do investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data? ☒ Yes ☐ No

- Do investigators interview alleged victims, suspected perpetrators, and witnesses? ☒ Yes ☐ No

- Do investigators review prior reports and complaints of sexual abuse involving the suspected perpetrator? ☒ Yes ☐ No

115.71 (d)

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

115.71 (e)

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

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

115.71 (f)

- Do administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse? ☒ Yes ☐ No

- Are administrative investigations documented in written reports that include a description of the physical evidence and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings? ☒ Yes ☐ No

115.71 (g)

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

115.71 (h)

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

115.71 (i)

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

115.71 (j)

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

115.71 (k)

- Auditor is not required to audit this provision.

115.71 (l)

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

Auditor Overall Compliance Determination

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115.71 (a)
Agency policy CD-150102, *Offender Protection Against Sexual Abuse and Sexual Misconduct, PREA* (05/29/2020)*,* section B.1. (page 2) requires, "A prompt, thorough and objective investigation of an incident involving sexual misconduct shall be completed by an assigned investigator." The same policy, section B.7. (page 3) requires, "The assigned investigator will complete the investigation report, form *(CD-031801.2*) within twenty-three (23) calendar days…" This requirement is echoed in the Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 32).

Investigative staff interviewed confirmed the initiation of administrative investigations very promptly. Allegations are reported to the Office of Professional Standards (OPS) and reviewed by the Compliance Officer to determine if the allegation falls within established definitions of prohibited acts. Once that review is completed, an investigation is opened for each allegation that fall within these definitions and the assignment is returned to the Disciplinary Authority, which in the case of RCC, would be the Warden. The Auditor was informed that this process generally takes approximately one (1) business day. This was confirmed in a review of the reports for RCC investigations completed between 01/2019 and 09/2020.

However, a review of these reports also disclosed investigations that did not appear to be thorough or objective. Specific details of the review of each report were provided to the Warden, former PREA Coordinator and former PCM. A summary of that review is as follows:

- One of eight reports - An allegation of abuse was investigated as harassment.
- One of eight reports – No referral to law enforcement was made, even though the alleged behavior was clearly criminal on its face.
- Three of eight reports – Noted / possible witnesses were not interviewed.
- Three of eight reports – Findings were inconsistent with the information provided in the report.

During the time period between initial documentation and on-stie review four (4) additional investigations were completed. Identified issues were addressed in the final two (2) reports following a review process implemented by the interim and current PCM's.

Based on a review of the investigation reports as noted above, RCC was initially assessed as non-compliant with the requirements of this provision. To address identified gaps, the PCM conducted training regarding investigation responsibilities and expectations with all facility investigators. The PCM is also establishing tracking systems to ensure all standard and policy required elements are included in investigations conducted and subsequent reports. The Auditor will continue to monitor investigation reports through the corrective action period to ensure that any completed continue to be compliant with standard requirements.

Updates:
During the corrective action period, continued informal training was provided to investigators regarding standard requirements. The Auditor was also provided with three (3) investigations closed during this period. The investigation reports provided demonstrated a clear understanding of standard requirements and incorporation of same into the narrative of the investigation report (pending formal revision to the

official report template). Based on the documentation provided, the Auditor is now assessing RCC as compliant with the provisions of this standard.

115.71 (b)
Agency policy CD-150100, *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA*, (05/29/2020) section FF. (page 9) requires, "Medical, Mental Health, and Investigative Staff must take the training class for their respective specialized areas concerning PREA." Agency policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section A.6. (page 1) requires, "In addition to the general training provided to all employees, the agency shall ensure that to the extent the agency itself conducts sexual abuse investigations, that its investigators have received training in conducting such investigations in confinement settings."

Agency policy 031801, *Office of Professional Standards (OPS), Personnel investigations and Staff Misconduct Reporting* (06/03/2019), section C.2. (page 9) requires, "Within the Adult Prisons Division, no uniformed personnel below the rank of Correctional Officer Captain at public/non-contracted NMCD facilities may be utilized as Investigations Officers where staff involvement is known or suspected."

The Auditor was provided with certificates of completion of the identified training (Investigating Sexual Assaults in a Correctional Setting) for the three (3) RCC and one (1) OPS investigators. The Auditor also review all investigations conducted in from 2019 through the on-site review, confirming completion of the required training for all investigators.

Interviews with current investigative staff confirmed completion of the required specialty training and a comprehensive knowledge of that training.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.71 (c)
Agency policy CD-150102, *Offender Protection Against Sexual Abuse and Sexual Misconduct, PREA* (05/29/2020), section B. 2 and 3. (page 2) requires, "The assigned investigator shall gather and examine all physical and documentary evidence including reports, records, photographs, equipment, or any other pertinent information. The assigned investigator will contact all witnesses and schedule an interview with them. The interviews shall be conducted in a thorough, predetermined, and systematic manner regarding all of the allegations."

Agency policy 031800, *Office of Professional Standards (OPS), Personnel investigations and Staff Misconduct Reporting* (06/03/2019) section E.1. and 9. (page 10 - 11) requires, "Upon determination that an investigation is to be conducted, all witnesses, victims, and others who may have information related to the incident or allegations are to be interviewed…The Investigator shall gather and examine all physical and documentary evidence including reports, records, photographs, equipment, or any other pertinent information."

Agency policy 031801, *Office of Professional Standards (OPS), Personnel investigations and Staff Misconduct Reporting* (06/03/2019) section E.14.a. (page 13) requires, "OPS Investigators shall gather and preserve(or cause to be gathered and preserved) direct and circumstantial, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator."

The Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 32) "All investigations will include collection, preservation and documentation of any direct and/or circumstantial

evidence. All sources of available electronic or other type of information and/or intelligence will be reviewed for applicability to the investigation, including review of previous complaints and reports of sexual harassment involving the suspected perpetrator or accuser. All alleged victims, suspected perpetrators and witnesses will be interviewed and the results of the interview documented." It is noted that this manual only addresses prior reports of sexual harassment, not abuse as required in the standard. It is recommended that this is revised on the next manual revision.

Per information received from the former PREA Coordinator, "OPS Investigators have access to I-APRO [electronic system for tracking all investigations and serving as document retention, to include all PREA investigations]. Facilities investigators do not have access. Any investigations alleging sexual abuse, the investigator is required to staff the case with me, as a SME (Subject Matter Expert) and we will discuss previous allegations. Anytime it a sexual abuse allegation and there has been more than one allegation against the officer/inmate, I request the case not be handled by the facility investigator and it is assigned to an OPS Investigator… A PCM can only see cases that he/she is entered as the PCM. If a PCM leaves our IT Department on the backend of the program will add the new PCM to all open cases, for their facility."

Investigators interviewed all clearly articulated the investigation process and evidence they might collect and/or review as part of the investigation.

The Auditor was provided with reports from RCC investigations completed between 01/2019 and 09/2020. A review of these reports indicated that seven (7) of eight (8) contained no information regarding witness credibility assessments or a review of prior complaints and reports of sexual abuse involving the suspected perpetrator. Between initial documentation and on-site review, four (4) additional investigations were completed, and reports received. Two (2) of these reports included information in the summary of the report to address credibility, prior reports / allegations, and staff actions / failures to act. It is recommended that these elements continue to be reviewed as staff actions / failures to act are May need to be strengthened as it is marginally addressed / inferred in the summary of one of these reports

Based on a review of the investigation reports as noted above, RCC was initially assessed as non-compliant with the requirements of this provision. To address identified gaps, the PCM conducted training regarding investigation responsibilities and expectations with all facility investigators. Included in the training were the following:

1. *Standard 115.71 (a) investigations are [to] be done promptly, thoroughly, and objectively.*
2. *(c); and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator (how to incorporate / written into summary of investigation)*
3. *(e) The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as inmate or staff. (how to incorporate / written into summary of investigation, and tell how evidence, witness interviews or mannerisms led to your decision)*
   (f) (2) shall be documented in written reports that include a description of the physical and testimonial evidence, the reason behind credibility assessments. (facts and findings).
   (f) (1) Shall include an effort to determine whether staff actions or failure to act contributed [to] the abuse.

Also included in the training was a review of the applicable language from the PREA policy (CD-031801).

The PCM is also establishing tracking systems to ensure all standard and policy required elements are included in investigations conducted and subsequent reports. The Auditor will continue to monitor investigation reports through the corrective action period to ensure that any completed continue to be compliant with standard requirements.

Updates:
During the corrective action period, continued informal training was provided to investigators regarding standard requirements. The Auditor was also provided with three (3) investigations closed during this period. The investigation reports provided demonstrated a clear understanding of standard requirements and incorporation of same into the narrative of the investigation report (pending formal revision to the official report template). Based on the documentation provided, the Auditor is now assessing RCC as compliant with the provisions of this standard.

115.71 (d)
Agency policy CD-150102, *Offender Protection Against Sexual Abuse and Sexual Misconduct, PREA* (05/29/2020), section E. (page 5) requires, "When, during the course of an investigation, the Investigations Officer becomes aware that the facts discovered indicate a violation of criminal law, the Investigations Officer shall immediately report the violations to the Bureau Chief of OPS, and the appropriate disciplinary authority and Deputy Secretary of Operations, (*CD- 031801.G.1*). Upon a belief that probable cause for criminal prosecution exists, the Bureau Chief of OPS shall conduct a review to determine the admissibility of compelled statements (CD-031801). If, upon completion of review for probable cause and the admissibility of compelled statements, the investigator believes a referral can be made for prosecution, the Bureau Chief of OPS shall consult with the NMCD General Counsel to determine."

Agency policy 031801, *Office of Professional Standards (OPS), Personnel investigations and Staff Misconduct Reporting* (06/03/2019) section E.14.d. (page 13) requires, "When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution."

Specifications regarding NMCD investigations is posted to the agency's public website and includes the requirement that, "Law enforcement agencies will refer all applicable investigations to the Prosecutor's Office for review."

All investigative staff interviewed indicated the need to make a referral to law enforcement if, during the course of an investigation, information was received that indicated a possible crime. They all reported that the administrative investigation would be placed on hold pending the outcome of that referral as the criminal investigation would take precedence. Interviewees also indicated that consultation with prosecutors would fall within the responsibilities of law enforcement officials.

None of the investigation reports reviewed indicated the discovery of potentially criminal behavior during the course of the investigation. The one investigation that addressed possibly criminal behavior did not include compelled interviews and therefore does not demonstrate non-compliance with the requirements of this provision. The lack of a law enforcement referral is addressed in compliance assessment regarding standard 115.22.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.71 (e)
Agency policy CD-150102, *Offender Protection Against Sexual Abuse and Sexual Misconduct, PREA* (05/29/2020), section B.11. (page 3) requires, "The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as inmate or staff. NMCD will not require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation."

Agency policy 031801, *Office of Professional Standards (OPS), Personnel investigations and Staff Misconduct Reporting* (06/03/2019) section E.14.b. (page 13) requires, "The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as inmate or staff."

Agency policy 031800, *Office of Professional Standards (OPS), Personnel investigations and Staff Misconduct Reporting* (06/03/2019) section E. (page 4) states, "The use of polygraph examinations shall occur only after witness interviews and all other investigative techniques have been used. The use of this investigative tool shall remain at the sole discretion of NMCD for seeking resolution in any matters involving any allegations of misconduct." Agency policy 031801, *Office of Professional Standards (OPS), Personnel investigations and Staff Misconduct Reporting* (06/03/2019) section G.5. (page 16) states, "After all other reasonable investigative techniques have been exhausted the complainant may, in the Department's discretion, be required to submit to a polygraph examination to verify the allegations raised against the employee. If the complainant refuses to submit to a polygraph examination, the administrative action will be terminated unless the Officer of OPS determine that other sufficient, credible evidence exists to pursue the administrative action further. (This section does not apply to complainants who are inmates/offenders that have made a PREA complaint against a staff member." The same policy, section E.14.b. (page 13) requires, "No agency shall require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an allegation." Although the policy language does prohibit the use of polygraphs as required in the standard, the three differing references to polygraphs in this policy are confusing. It is recommended that this is clarified on the next policy revision.

The Auditor was provided with reports from RCC investigations completed between 01/2019 and 09/2020. A review of these reports indicated that seven (7) of eight (8) contained no information regarding witness credibility assessments or a review of prior complaints and reports of sexual abuse involving the suspected perpetrator. An additional four (4) investigation reports were received from the period between initial documentation and the on-site review, two (2) of which addressed credibility and a review of prior complaints involving the accused. There were no investigations in which any individual was subject to a polygraph examination.

Interviews with investigative staff confirmed a solid knowledge regarding prohibitions associated with policy graph examinations. Two (2) of the four (4) interviewees reported the ability to ask an inmate to submit to a polygraph, noting an inability to require such an examination and the need to seek approval from administrators. Interviewees also reported multiple factors taken into account when assessing the credibility of a witness, to include testimony consistence across time and in comparison with evidence, history of providing truthful information, body language, deflecting, change in behavior, and work history.

The Auditor reviewed all investigations conducted between 01/2019 and 09/2020 as provided with initial documentation along with investigations completed between initial documentation and on-site review. None of the inmates who were identified as alleged victims in any abuse investigation remained housed at RCC. As a result, there were no inmates who reported sexual abuse available for interview. During the time period between initial documentation and on-stie review four (4) additional investigations were completed. Identified issues were addressed in the final two (2) reports following a review process implemented by the interim and current PCM's.

Based on a review of the investigation reports as noted above, RCC was initially assessed as non-compliant with the requirements of this provision. To address identified gaps, the PCM conducted training regarding investigation responsibilities and expectations with all facility investigators. The PCM is also establishing tracking systems to ensure all standard and policy required elements are included in investigations conducted and subsequent reports. The Auditor will continue to monitor investigation

reports through the corrective action period to ensure that any completed continue to be compliant with standard requirements.

Updates:
During the corrective action period, continued informal training was provided to investigators regarding standard requirements. The Auditor was also provided with three (3) investigations closed during this period. The investigation reports provided demonstrated a clear understanding of standard requirements and incorporation of same into the narrative of the investigation report (pending formal revision to the official report template). Based on the documentation provided, the Auditor is now assessing RCC as compliant with the provisions of this standard.

115.71 (f)
Agency policy CD-150102, *Offender Protection Against Sexual Abuse and Sexual Misconduct, PREA* (05/29/2020), section B.7. (page 3) requires, "The assigned investigator will complete the investigation report, form *(CD-031801.2*) within twenty-three (23) calendar days…"

Agency policy 031801, *Office of Professional Standards (OPS), Personnel investigations and Staff Misconduct Reporting* (06/03/2019) section E.14.c. (page 13) requires, "Investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse." The same policy, section K.5. (page 20) requires, "During the investigation, if an investigations Officer determines that an employee violated an NMCD Policy not alleged in the initial allegations, said misconduct shall be documented as 'Misconduct noted' and a finding shall be made for such misconduct." The policy then provides an example for clarification.

Policy 031801 also requires (section E.13.; page 12 – 13) requires, "Upon completion of the investigation, a written report shall be prepared by the Investigator using the format set out in Attachment C [investigation report template]. The Report shall detail the allegations made, the facts revealed during the investigation and state any policies and procedures, rules and regulations, or laws that were violated by the employee, if any."

Per information received from the former PREA Coordinator, "Investigators can only investigate the issue / allegation in the original referral. If they find other issues / contributing issues (e.g., the officer left the door open), the report for the original allegation will state 'misconduct noted' and there will be a separate investigation addressing that contributing behavior." The Auditor reviewed reports from the investigations conducted in 2019 and 2020 and found such a review. This was also confirmed in interviews with investigators.

Investigators are required to follow a prescribed template in the completion of investigation reports. This template is used for all investigations completed by OPS investigators, to include PREA investigations, and includes the following elements:

- Allegation(s),
- Date, time and location of incident,
- Type of incident,
- Reporting party / complainant,
- Identification of employee, inmate, contract staff and other witnesses,
- Summary,
- Interviews,
- Investigative actions (e.g., photographs / video take, evidence collected, intelligence gathered, etc.),
- Investigator's impressions,
- Findings, and

- Misconduct noted.

It is noted that this template was updated when policy 031801 was updated 06/03/2019 and is not the template used for any of the investigation reports reviewed. It is recommended that direction be provided to all RCC investigators to ensure the current template is used for all future investigation reports.

All investigators interviewed confirmed the required completion of a report and articulated many of the elements included in the report template.

The Auditor was provided with reports from RCC investigations completed between 01/2019 and 09/2020. A review of these reports indicated that seven (7) of eight (8) contained no information regarding witness credibility assessments. During the time period between initial documentation and on-stie review four (4) additional investigations were completed. Identified issues were addressed in the final two (2) reports following a review process implemented by the interim and current PCM's.

Based on a review of the investigation reports as noted above, RCC was initially assessed as non-compliant with the requirements of this provision. To address identified gaps, the PCM conducted training regarding investigation responsibilities and expectations with all facility investigators. The PCM is also establishing tracking systems to ensure all standard and policy required elements are included in investigations conducted and subsequent reports. The Auditor will continue to monitor investigation reports through the corrective action period to ensure that any completed continue to be compliant with standard requirements.

Updates:
During the corrective action period, continued informal training was provided to investigators regarding standard requirements. The Auditor was also provided with three (3) investigations closed during this period. The investigation reports provided demonstrated a clear understanding of standard requirements and incorporation of same into the narrative of the investigation report (pending formal revision to the official report template). Based on the documentation provided, the Auditor is now assessing RCC as compliant with the provisions of this standard.

115.71 (g)
Specifications regarding NMCD investigations is posted to the agency's public website and includes the requirement that, "Law enforcement agencies will document their findings in a written report that contains a thorough description of physical, testimonial, and documentary evidence."

The requirement to receive a report for all criminal investigations conducted by law enforcement was confirmed in interviews with investigators. Interviewees also reported that the elements of these reports would be very similar to those of an administrative investigation, noting that the criminal investigation report would be included with the administrative investigation report.

One of the allegations received between initial documentation and on-site review involved a potentially criminal act. The Auditor was provided with a copy of the criminal investigation report, which was also referenced in the administrative investigation.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.71 (h)
Agency policy CD-150102, *Offender Protection Against Sexual Abuse and Sexual Misconduct, PREA* (05/29/2020), section E. (page 5) requires, "When, during the course of an investigation, the Investigations Officer becomes aware that the facts discovered indicate a violation of criminal law, the Investigations Officer shall immediately report the violations to the Bureau Chief of OPS, and the

appropriate disciplinary authority and Deputy Secretary of Operations, (*CD- 031801.G.1*). Upon a belief that probable cause for criminal prosecution exists, the Bureau Chief of OPS shall conduct a review to determine the admissibility of compelled statements (*CD-031801*). If, upon completion of review for probable cause and the admissibility of compelled statements, the investigator believes a referral can be made for prosecution, the Bureau Chief of OPS shall consult with the NMCD General Counsel to determine."

Agency policy 031800, *Office of Professional Standards (OPS), Personnel investigations and Staff Misconduct Reporting* (06/03/2019) section D. (page 3) requires, "Employee conduct involving allegations of sexual misconduct, sexual assault or any other alleged violations of criminal law shall be referred to local law enforcement for consideration for prosecution."

Agency policy 031801, *Office of Professional Standards (OPS) Personnel investigations and Staff Misconduct Reporting* (06/03/2019) section D.1., 2., and 4. (page 17) requires, "When, during the course of an investigation, the Investigations Officer becomes aware that the facts discovered indicate a violation of criminal law, the Investigations Officer shall immediately report the violation to the Bureau Chief of OPS, and the appropriate Disciplinary Authority and CAO [Chief Administrative Officer]. The Bureau Chief of OPS shall consult with the NMCD General Counsel to determine whether reasonable cause exists to believe that a violation of state or federal criminal law has occurred and, if so, shall immediately notify the law enforcement agency with the appropriate jurisdiction…The Bureau Chief of OPS, the NMCD General Counsel, or the CAO may determine that the Investigative Report be submitted to the appropriate law enforcement agency for possible prosecution."

Specifications regarding NMCD investigations is posted to the agency's public website and includes the requirement that, "Law enforcement agencies will refer all applicable investigations to the Prosecutor's Office for review."

None of the investigation reports reviewed substantiated criminal behavior. As a result, there are prosecutorial referrals available for review. However, all investigators interviewed were very knowledgeable about law enforcement and prosecutorial referrals.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.71 (i)
Agency policy CD-150102, *Offender Protection Against Sexual Abuse and Sexual Misconduct, PREA* (05/29/2020), section B.9. (page 3) requires, "All written reports pertaining to the administrative or criminal investigation of alleged sexual abuse or sexual harassment are to be retained for as long as the alleged abuser is incarcerated or employed by the agency, plus 5 years, at a minimum."

The Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 33) "All completed investigations and their applicable reports, documentation and written information will be retained by the IG PMT [Inspector General PREA Management Team] division of the Department as long as the alleged abuser is under the control of the Department plus (10) years." The manual appears to only address inmates and not employees. Additionally, the ten (10) year retention requirement exceeds standard requirements but is contradictory with policy specifications. As a result, it is recommended that the manual be corrected on its next revision and update information provided to all stakeholders.

Per information from the former PREA Coordinator, "I-Apro is the official Internal Affairs computer system. This system is not ever purged. The system has been active since I believe 2013...This system stores all the videos and recordings of interviews and all other evidence." The Auditor was able to review the information and documentation retained in this system, confirming compliance with standard requirements. The Auditor was also provided with a 03/03/2017 memo from the OPS Management

Analyst attesting "…that our database is never purged. All cases are maintained electronically, and hard copies are also available."

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.71 (j)
Agency policy CD-150102, *Offender Protection Against Sexual Abuse and Sexual Misconduct, PREA* (05/29/2020), section B.10. (page 3) requires, "The departure of the alleged abuser or victim from the employment or control of the facility shall not provide a basis for terminating an investigation."

Agency policy 031800, *Office of Professional Standards (OPS), Personnel investigations and Staff Misconduct Reporting* (06/03/2019) section D (page 3 – 4) requires, "Employee conduct involving allegations of sexual misconduct, sexual assault or any other alleged violation of the criminal law shall be referred to local law enforcement for consideration for prosecution. These referrals shall be made even if the employee resigns or retires during or prior to the NMCD's investigation."

The requirement to complete investigations to their fullest regardless of the status of the employee, contract staff or volunteer or the location of the alleged victim was confirmed in interviews with investigators.

Reports for investigations conducted between 01/2019 and 09/2020 and during the period between initial documentation and on-site review did not include any instances of staff resignation prior to completion. However, several investigations involved alleged victims who were transferred to another facility due to reasons other than the allegation report. These investigations were completed, regardless of the location of the inmate.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.71 (k)
The New Mexico State Police is responsible for the conduct of any criminal investigations referred by RCC. The Auditor inquired if there was a written agreement with the New Mexico State Police for the conduct of criminal investigations or if there was a statutory provision that authorized the same. The Auditor also requested contact information for a representative from the New Mexico State Police. No response was received.

Per information from the former PCM, "If the facility receives an allegation that appears to be criminal in nature, the scene would be secured and the Department of Public Safety (New Mexico State Police) would be called to the facility to conduct an investigation and obtain evidence…If the NMSP determines a SANE exam is needed the inmate will be transferred to an appropriate agency (rape crisis center or local hospital)…"

No Department of Justice component is responsible for conducting investigations at RCC or within NMCD.

Based on the lack of documentation authorizing the conduct of criminal investigation by the New Mexico State Police, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/18/2020, the Auditor was provided with contact information for a New Mexico State Police lieutenant who oversees detective operations. The Auditor conducted an interview with the identified individual confirming NMSP response to reports received from RCC based on the level and immediacy of the allegation. The interviewee also confirmed the provision of reports associated with these investigations along with NMSP coordination with local District Attorneys for approval to move forward with criminal charges. On 12/22/2020, the Auditor was informed that there currently is no memorandum of

understanding or interagency agreement between the facility and/or NMCD and the New Mexico State Police regarding the conduct of criminal investigations. However, the Auditor was provided with New Mexico statute 29-11-5, *Sexual crimes prosecution and treatment program* that requires, "The administrator shall develop, with the cooperation of the criminal justice department [corrections department], the New Mexico state police, the New Mexico law enforcement academy, other authorized law enforcement agencies and existing community-based victim treatment programs, a statewide comprehensive plan to train law enforcement officers and criminal justice and medical personnel in the ability to deal with sexual crimes, to develop strategies for the prevention of such crimes, to provide assistance in the assembly of evidence for the facilitation of prosecution of such crimes, and to provide medical and psychological treatment to victims of such crimes…The comprehensive plan shall be implemented throughout the state." Based on the provision of this information, RCC is now assessed as compliant with the requirements of this provision.

115.71 (l)
Agency policy CD-150102, *Offender Protection Against Sexual Abuse and Sexual Misconduct, PREA* (05/29/2020), section B.5. (page 2) requires, "The investigations officer will serve as the liaison between the New Mexico Corrections Department (NMCD) and the appropriate law enforcement agency during the course of any continuing investigation."

Agency policy 031801, *Office of Professional Standards (OPS), Personnel investigations and Staff Misconduct Reporting* (06/03/2019) section C.5. (page 9) requires, "Any and all inquiries into open and active cases of external law enforcement agencies, with the exception of the Secretary Corrections and his or her Deputy Secretaries shall be made only by authorized OPS or STIU [Security Threat Intelligence Unit] personnel."

Serving in a liaison role regarding law enforcement investigations was confirmed in interviews with investigative staff. This role was also confirmed in interviews with the Warden, PREA Coordinators, and PCM's.

During the period between initial documentation and on-site review, the Auditor requested documents associated with the current criminal investigation. The former PCM provided information regarding contact made with investigating law enforcement officials and the final criminal investigation report. The facility is encouraged to continue to build communication with law enforcement officials to be able to receive timely and continuous investigatory status information.

Based on the above RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:
- Compliance memo dated 07/27/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy 031800, *Office of Professional Standards (OPS), Personnel investigations and Staff Misconduct Reporting* (06/03/2019)
- Certificates of investigator training completion
- Investigating Sexual Assaults in a Correctional Setting training curriculum and PowerPoint (revised 01/2015)
- Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated)

- Specified investigation reports
- Screen shots from NMCD public website
- New Mexico statute 29-11-5, *Sexual crimes prosecution and treatment program*
- Criminal investigation report as noted in narrative

Interviews conducted:

- Investigative staff
- PREA compliance managers
- PREA coordinators
- Warden

Standard 115.72: Evidentiary standard for administrative investigations

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report
115.72 (a)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.72
Per information from the former PREA Coordinator, the language regarding level of proof had been included in agency policy CD-031800, *Office of Professional Standards (OPS), Personnel Investigations and Staff Misconduct Reporting* but this language had been deleted on the most recent policy revision (06/03/2019). The current policy has no language regarding inmate-on-inmate investigations and only addresses investigations of alleged staff misconduct. The only reference to any level of proof is currently included in the definition section of the policy, which contains definitions of probable cause and reasonable suspicion. Additionally, this policy includes the following as finding options for each allegation (section G.4., page 19):

a. *Sustained: The administrative investigation determined that the employee violated NMCD Policy as alleged…*
b. *Inconclusive: The administrative investigation produced insufficient information to clearly prove or disprove the allegation;*
c. *Exonerated: The administrative investigation clearly established that the actions of the employee did not violate any NMCD policy; or*
d. *Unfounded: The administrative investigation clearly established that the allegation is not true.*

Although investigative staff interviewed were able to clearly articulate the level of proof needed to substantiated allegations, there is no clear policy direction regarding this requirement and finding options are not consistent with standard required options and definitions. A review of the investigator training PowerPoint (slide 17) states:

Standards of Evidence:
a. Preponderance of evidence is used in civil trials.
b. Evidence beyond a reasonable doubt is used in criminal trials.

c. Meeting this standard of evidence not only establishes the crime, but also established criminal intent.

The training materials do not clearly articulate expectations for administrative investigations regarding the level of proof required to substantiate an allegation. Additionally, nowhere in the training is there a listing of finding options, nor are there definitions of the same.

The Auditor was provided with twelve (12) reports from investigations completed between 2019 and the on-site review, reviewing all for finding decisions. Per information from the former PREA Coordinator, since OPS finding options are different from those detailed in the PREA standards, investigators of PREA allegations are to note under the OPS finding what the comparable PREA finding would be. A review of these investigation reports revealed that three (3) of these investigations did not include the "PREA findings" as required.

Based on the lack of direction regarding levels of proof and findings, to include definitions, RCC is assessed as non-compliant with the requirements of this provision. Corrective action should include a revision to the applicable policy and investigation report template along with distribution of applicable information to investigative staff. The noted language needs to address both staff-on-inmate and inmate-on-inmate investigations. The Auditor will also review investigations completed during the corrective action period to ensure compliance with standard requirements regarding level of proof and findings. It is also recommended that PREA finding options are added to the OPS report template to ensure the standard-required findings are documented for every PREA investigation.

Updates:
During the corrective action period, formal and informal training was provided to investigators regarding standard requirements. The Auditor was also provided with three (3) investigations closed during this period. The investigation reports provided demonstrated a clear understanding of levels of proof and finding options. Based on the documentation provided, the Auditor is now assessing RCC as compliant with the provisions of this standard.

Documentation provided for this standard:
- Compliance memo dated 07/27/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-031800, *Office of Professional Standards (OPS), Personnel Investigations and Staff Misconduct Reporting* (06/03/2019)
- Investigation reports

Interviews conducted:
- Investigative staff

Standard 115.73: Reporting to inmates

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

115.73 (a)

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

115.73 (b)

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

115.73 (c)

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

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

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

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

115.73 (d)

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

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

115.73 (e)

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

115.73 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.73 (a)
Per information received from the former PCM, "When an allegation is referred to OPS for an investigation, the PREA office sends the alleged victim a letter, notifying them of the investigation…The opening letter informs the inmate he/she may seek counseling from behavioral health staff at no cost, provides the address for Just Detention International and advocacy services available through *9999 from any inmate phone. The letter advises the inmate what to do if they feel they are suffering from retaliation due to reporting this allegation. At the conclusion of the investigation, the PREA Office will send the inmate a closing letter to inform him/her of the results of the investigation…If the investigation is substantiated or unsubstantiated, the letter will inform the inmate about seeking behavior health, how to obtain advocacy through letters or the inmate phones. NMCD will insert a business card with NMCD PREA Coordinator and Rape Crisis information in the event that they desire follow up with an advocate or to report further information, such as retaliation…[If the inmate is released] NMCD will send a closing letter to the inmate's last known address." All letters are signed by the PREA Coordinator.

Based on the letters informing alleged victims of the opening as well as closing of any investigation and the inclusion of allegations of harassment in all notifications, NMCD and RCC exceed the requirements of this standard. It is noted that one case closure notification was sent to the alleged victim 282 days after the investigation was closed (closed 04/01/2019, notification 01/08/2020). Per information from the former PREA Coordinator, there is no information in the investigation file regarding the reason for such

a delayed notification. However, the standard does not specific a timeframe for notifications and all other notifications were made in a very timely manner.

Agency policy CD-151200, *Correspondence Regulations* (10/07/2016) section D. (page 2) defines legal mail as, "Any letters, pleading or legal documents to or from an inmate's attorney of record, a judge, a court of law, or an opposing attorney, to include the NMCD Office of General Counsel. Mail to any other NMCD employee is not considered legal mail." The same policy, section E. (page 2) defines privileged communication as "Any correspondence to or from an attorney from whom the inmate is attempted to retain services; with recognized agencies that provide legal assistance; and law enforcement agents or agencies." Despite of conflicting policy language, the Auditor confirmed that all notifications provided to inmates by the PREA Coordinator are sent via legal mail and, therefore, handled in a confidential manner. Per information from the former PREA Coordinator, the inmate mail policy is current in the revision process. It is strongly recommended that language be added to ensure all mail from the PREA Coordinator is included in provisions for legal mail or privileged communication.

The Auditor reviewed all investigations conducted between 01/2019 and 09/2020 as provided with initial documentation along with investigations completed between initial documentation and on-site review. None of the inmates who were identified as alleged victims in any abuse investigation remained housed at RCC. As a result, there were no inmates who reported sexual abuse available for interview.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.73 (b)
Per information received from the former PREA Coordinator, if a criminal investigation is conducted, once complete, NMCD will also complete an administrative investigation. NMCD would receive a copy of the criminal investigation report for inclusion in the administrative investigation as applicable. The alleged victim would be notified of the outcome once the administrative investigation is complete.

During the audit documentation period, no criminal investigations were conducted. Between the initial documentation and on-site review, one criminal investigation was conducted, the report for which was included with the administrative investigation report and the applicable inmate notified of outcome results.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.73 (c)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section M. (page 6) requires, "An investigation shall be conducted and documented whenever a sexual assault or threat is reported. At the conclusion of an investigation into an inmate's allegations against a staff member, the inmate will be informed in writing (unless the investigation determines that the allegation is unfounded) whether:

- The staff member continues to be posted in the inmate's unit;
- The staff member continues to be employed;
- The staff member has been indicted; and,
- The staff member has been convicted."

During 2019 and 2020, there were no inmates who were victims in substantiated investigations of staff-on-inmate sexual abuse. As a result, no inmates who reported allegations were applicable for inclusion in interviews for this provision.

Per information received from Department of Justice / PREA Resource Center and PREA Management Office, the requirement to notify the alleged victim is ongoing, and is not applicable only to the current

documentation period or since the last DOJ PREA audit. Per information received from the former PREA Coordinator, there is no tracking system applicable to ongoing notification requirements and all notifications cease once the investigation is closed.

Based on the lack of an ongoing notification tracking system and the ceasing of all notifications on the closure of the investigation, RCC is assessed as non-compliant with the requirements of this provision. Corrective action should include the development of an effective tracking system that meets standard requirements. It is noted that a system has been in development by the agency PREA Coordinator but has not been completed or fully implemented. The facility PCM is working on a system to track all applicable investigations and associated on-going notifications. He is also developing associated processes, to include how know when someone is indicated / convicted, how to know when to make other notifications (e.g., no longer assigned to unit, no longer employed), and how to know when an inmate is no longer under agency jurisdiction. The final spreadsheet should include a historical review of all applicable cases to ensure those with possible on-going notification requirements are included.

Updates:
The PCM developed and implemented a comprehensive tracking system, to include a spreadsheet of all applicable investigations, accused staff, and alleged victims. He reviewed all historical cases for the facility to ensure all available information was included. The PCM also established a process whereby he receives applicable staff assignment and inmate release information along with a system to review any indictments and/or convictions applicable to this standard. The tracking system also incorporates investigation tracking information to ensure the process is comprehensive and complete. During the corrective action period, no applicable cases were closed that indicated inclusion in this tracking system. Based on the comprehensive system established and the PCM's in-depth understanding of the requirements of this standard, RCC is now assessed as compliant with the requirements of this provision.

115.73 (d)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)*,* section M. (page 6) requires, "At the conclusion of an investigation into an inmate's allegation against another inmate, the alleged victim will be informed in writing:

- Whether the alleged abuser has been indicted on a charge related to the sexual abuse in the facility; and
- Upon the agency learning that the abuser has been convicted on a charge related to sexual abuse within the facility."

During 2019 and 2020, there were no inmates who were victims in substantiated investigations of inmate-on-inmate sexual abuse. As a result, no inmates who reported allegations were applicable for inclusion in interviews for this provision.

Per information received from Department of Justice / PREA Resource Center and PREA Management Office, the requirement to notify the alleged victim is ongoing, and is not applicable only to the current documentation period or since the last DOJ PREA audit. Per information received from the former PREA Coordinator, there is no tracking system applicable to ongoing notification requirements and all notifications cease once the investigation is closed.

Based on the lack of an ongoing notification tracking system and the ceasing of all notifications on the closure of the investigation, RCC is assessed as non-compliant with the requirements of this provision. Corrective action should include the development of an effective tracking system that meets standard requirements. It is noted that a system has been in development by the agency PREA Coordinator but has not been completed or fully implemented. The facility PCM is working on a system to track all applicable investigations and associated on-going notifications.

Updates:
The PCM developed and implemented a comprehensive tracking system, to include a spreadsheet of all applicable investigations, accused staff, and alleged victims. He reviewed all historical cases for the facility to ensure all available information was included. The PCM also established a process whereby he receives applicable staff assignment and inmate release information along with a system to review any indictments and/or convictions applicable to this standard. The tracking system also incorporates investigation tracking information to ensure the process is comprehensive and complete. During the corrective action period, no applicable cases were closed that indicated inclusion in this tracking system. Based on the comprehensive system established and the PCM's in-depth understanding of the requirements of this standard, RCC is now assessed as compliant with the requirements of this provision.

115.73 (e)
Agency PREA-policies do not include language applicable to this provision. However, per the former PREA Coordinator, all notifications provided to inmates are done in writing and are maintained with the investigation case file.

Although case closure notifications are provided to alleged victims, as noted previously, the agency and RCC have no tracking systems in place regarding on-going notifications.

Based on the lack of an ongoing notification tracking system and the ceasing of all notifications on the closure of the investigation, RCC is assessed as non-compliant with the requirements of this provision. Corrective action should include the development of an effective tracking system that meets standard requirements.

Updates:
The PCM developed and implemented a comprehensive tracking system, to include a spreadsheet of all applicable investigations, accused staff, and alleged victims. He reviewed all historical cases for the facility to ensure all available information was included. The PCM also established a process whereby he receives applicable staff assignment and inmate release information along with a system to review any indictments and/or convictions applicable to this standard. The tracking system also incorporates investigation tracking information to ensure the process is comprehensive and complete. During the corrective action period, no applicable cases were closed that indicated inclusion in this tracking system. Based on the comprehensive system established and the PCM's in-depth understanding of the requirements of this standard, RCC is now assessed as compliant with the requirements of this provision.

115.73 (f)
The Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 33) Specifies, "Departure of the inmate victim from the control of the Department terminate NMCD's obligation to report under this section."

As noted previously, the agency and RCC have no tracking systems in place regarding on-going notifications.

Based on the lack of an ongoing notification tracking system and the ceasing of all notifications on the closure of the investigation, RCC is assessed as non-compliant with the requirements of this provision. Corrective action should include the development of an effective tracking system that meets standard requirements.

Updates:
The PCM developed and implemented a comprehensive tracking system, to include a spreadsheet of all applicable investigations, accused staff, and alleged victims. He reviewed all historical cases for the

facility to ensure all available information was included. The PCM also established a process whereby he receives applicable staff assignment and inmate release information along with a system to review any indictments and/or convictions applicable to this standard. The tracking system also incorporates investigation tracking information to ensure the process is comprehensive and complete. During the corrective action period, no applicable cases were closed that indicated inclusion in this tracking system. Based on the comprehensive system established and the PCM's in-depth understanding of the requirements of this standard, RCC is now assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 07/27/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-151200, *Correspondence Regulations* (10/07/2016)
- Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated)
- RCC investigation reports
- Documentation of established tracking system for on-going notifications

Interviews conducted:

- Investigative staff
- Warden

DISCIPLINE

Standard 115.76: Disciplinary sanctions for staff

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

115.76 (a)

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

115.76 (b)

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

115.76 (c)

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

115.76 (d)

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

- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Relevant licensing bodies? ☒ Yes ☐ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not

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

115.76 (a)
Agency policy CD-032201, *Code of Ethics* (08/13/2015) section B.10. (page 5 – 6) states, "Personnel will not become unduly familiar with any probationer, parolee, inmate or detainee or their immediate families, agents or close friends, excepting interactions incidental to, and necessary for, the operation of the Returning Citizen Program…Undue familiarity also includes any behavior or act of a sexual nature towards an offender by a NMCD employee, contractor, volunteer, visitor, or NMCD representative. This includes but is not limited to:

- Sexual assault.
- Sexual abuse.
- Sexual contact.
- Conduct of a sexual nature.
- Kissing or hugging.
- Sexual gratification of any party.
- Obscenity or unreasonable invasion of privacy.

Sexual misconduct also includes conversations or correspondence of a romantic, intimate, or sexual nature between an offender and any NMCD employee, contractor, volunteer, visitor, or NMCD representative. Such conduct compromises the professional relationship personnel have with people under their care, custody, supervision or control that can interfere with proper supervision or compromise security."

Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section P. (page 6) states, "Sexual conduct between staff and inmates, volunteers, or contract personnel and inmates, regardless of consensual status, is prohibited and subject to administrative discipline, up to and including termination, and criminal sanctions and referred to local law enforcement authorities for possible criminal prosecution. For matters of sexual abuse, termination should be the presumptive disciplinary sanction for staff who engaged in sexual abuse."

Agency policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section B.7. (page 2) requires," Where abuse is found to have occurred, appropriate administrative action against the offending party will be initiated, up to and including dismissal."

Additionally, the agency's public website states, "NMCD has zero tolerance for sexual misconduct of any kind and will impose discipline for all substantiated allegations, which can include up to dismissal of staff and a serious infraction for offenders who victimize other inmates."

Per the information obtained from the former PREA Coordinator and confirmed by data included in the agency's annual PREA reports, there has not been a substantiated allegation of staff sexual misconduct or staff sexual harassment at RCC since at least 2014. As a result, no secondary documentation is available for review.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.76 (b)
Agency policy CD-037800, *Disciplinary Action for Classified Employees* (03/04/2015), section A. (page 3) states, "The Corrections Department promotes the concept of progressive discipline and corrective action whenever appropriate. Individuals shall normally be dismissed only after efforts have been made to help that person correct any deficiencies in work performance or behavior. However, some misconduct

is so severe as to not warrant progressive discipline and immediate dismissal is the only appropriate action. Furthermore, misconduct may justify the dismissal of a probationary employee."

Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section P. (page 6) states, "Sexual conduct between staff and inmates, volunteers, or contract personnel and inmates, regardless of consensual status, is prohibited and subject to administrative discipline, up to and including termination, and criminal sanctions and referred to local law enforcement authorities for possible criminal prosecution. For matters of sexual abuse, termination should be the presumptive disciplinary sanction for staff who engaged in sexual abuse."

Per the information obtained from the former PREA Coordinator and confirmed by data included in the agency's annual PREA reports, there has not been a substantiated allegation of staff sexual misconduct or staff sexual harassment at RCC since at least 2014. As a result, no secondary documentation is available for review.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.76 (c)
Agency policy CD-037800, *Disciplinary Action for Classified Employees* (03/04/2015), section A. (page 3) states, "The Corrections Department promotes the concept of progressive discipline and corrective action whenever appropriate. Individuals shall normally be dismissed only after efforts have been made to help that person correct any deficiencies in work performance or behavior. However, some misconduct is so severe as to not warrant progressive discipline and immediate dismissal is the only appropriate action. Furthermore, misconduct may justify the dismissal of a probationary employee."

Per the information obtained from the former PREA Coordinator and confirmed by data included in the agency's annual PREA reports, there has not been a substantiated allegation of staff sexual misconduct or staff sexual harassment at RCC since at least 2014. As a result, no secondary documentation is available for review.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.76 (d)
Agency policy CD-031800 *Office of Professional Standards (OPS), Personnel Investigations and Staff Misconduct Reporting* (06/03/2019) section D. (page 3 – 4) states, "Employee conduct involving allegations of sexual misconduct or any other alleged violations of the criminal law shall be referred to local law enforcement for consideration for prosecution. These referrals shall be made even if the employee resigns or retires during or prior to the NMCD's investigation."

Agency policy 031801, *Office of Professional Standards (OPS), Personnel investigations and Staff Misconduct Reporting* (06/03/2019) section E.14.e. (page 13) requires, "Investigators shall ensure that any employee, contractor or volunteer who engaged in sexual abuse is prohibited from contact with inmates and is reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies as appropriate. Any complaint made to a licensing body shall be noted in the investigative report and the documentation of the complaint shall be included with the investigative case file."

Per the information obtained from the former PREA Coordinator and confirmed by data included in the agency's annual PREA reports, there has not been a substantiated allegation of staff sexual misconduct or staff sexual harassment at RCC since at least 2014. As a result, no secondary documentation is available for review.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 07/27/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-032201, *Code of Ethics* (08/13/2015)
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-031800, *Office of Professional Standards (OPS), Personnel Investigations and Staff Misconduct Reporting* (06/03/2019)
- Policy CD-037800, *Disciplinary Action for Classified Employee*s (03/04/2015)

Interviews conducted:

- None were indicated in the DOJ Auditor Compliance Tool or interview templates

Standard 115.77: Corrective action for contractors and volunteers

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

115.77 (a)

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with inmates? ☒ Yes ☐ No

- Is any contractor or volunteer who engages in sexual abuse reported to: Law enforcement agencies (unless the activity was clearly not criminal)? ☒ Yes ☐ No

- Is any contractor or volunteer who engages in sexual abuse reported to: Relevant licensing bodies? ☒ Yes ☐ No

115.77 (b)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.77 (a)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section P. (page 6) states, "Sexual conduct between staff and inmates, volunteers, or contract personnel and inmates, regardless of consensual status, is prohibited and subject to administrative discipline, up to and including termination, and criminal sanctions and referred to local law enforcement authorities for possible criminal prosecution."

Agency policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section B.7. (page 2) requires," Where abuse is found to have occurred, appropriate administrative action against the offending party will be initiated, up to and including dismissal."

Agency policy CD-060201, *Citizen Involvement and Volunteers*, (06/07/2017), section E.3. (page 3) states, "Any volunteer who has or develops a relationship with an inmate other than required for the specific program for which approval was granted as a volunteer will be denied or removed from volunteer status.:

The ability to restrict contract access to inmates is not currently included in agency policy. However, the following language is included in all applicable contracts:

> *Agency reserves the right to escort any employee, subcontractor or other agent of the Contractor off the Agency property for any inappropriate conduct or actions that jeopardizes the safety, security, or well being of the facility. If such conduct or action should occur, then, this agreement may be terminated immediately.*

Per the Procurement Administrator, the language has been approved by the New Mexico Department of Finance and Administration for inclusion in the blanket template for all NMCD contracts. The auditor confirmed inclusion in an example of a personal services contract. It is recommended that applicable language be included in the next PREA policy revision.

Included on the agency's public website is the form "Prison Rape Elimination Act Volunteer/Limited Service Contractor Training Acknowledgment" which includes the following:

> *Training previously received and materials given on:*
> 1. *The Prison Rape Elimination Act,*
> 2. *NMCD's Policy on Zero Tolerance,*
> 3. *Reporting incidents of sexual abuse,*
> 4. *State law 30-9-11.*
>
> *I understand that if I engage in sexual abuse with inmates, I shall be prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and will be reported to relevant licensing bodies.*

It is noted that New Mexico State Law 30-9-11 details the definition of Criminal Sexual Penetration and includes the following:

> *Criminal sexual penetration in the second degree consists of all criminal sexual penetration perpetrated…on an inmate confined in a correctional facility or jail when the perpetrator is in a position of authority over the inmate…"*

Per the information obtained from the former PREA Coordinator and confirmed by data included in the agency's annual PREA reports, there has not been an allegation of sexual misconduct or sexual harassment involving a contractor or volunteer at RCC since at least 2014. As a result, no secondary documentation is available for review.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.77 (b)

The policy language regarding the management of contractors and volunteers is outlined with provision (a) above.

Per the information obtained from the former PREA Coordinator and confirmed by data included in the agency's annual PREA reports, there has not been an allegation of sexual misconduct or sexual harassment involving a contractor or volunteer at RCC since at least 2014. As a result, no secondary documentation is available for review.

It was confirmed in an interview with the Warden that immediate facility restriction would occur if a contractor or volunteer were accused in a PREA investigation. The Warden added that he has the ability to tag out keys so they can't be drawn and would also inform public access and the control center to

ensure the individual would not have access to the facility; adding that this would remain in place until the allegation was resolved.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 09/09/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-060201, *Citizen Involvement and Volunteers*, (06/07/2017)
- Example of a personal services contract

Interviews conducted:

- Warden

Standard 115.78: Disciplinary sanctions for inmates

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

115.78 (a)

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

115.78 (b)

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

115.78 (c)

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

115.78 (d)

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

115.78 (e)

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

115.78 (f)

- For the purpose of disciplinary action does a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred NOT constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation? ☒ Yes ☐ No

115.78 (g)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.78 (a)
Agency policy CD-150101, *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures, PREA* (05/29/2020), section A.7., (page 1) requires, "Inmates shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or sexual harassment or following a criminal finding of guilt for inmate-on-inmate sexual abuse."

Agency policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section B.7. (page 2) requires," Where abuse is found to have occurred, appropriate administrative action against the offending party will be initiated, up to and including dismissal."

These policies are available to all inmates in the library in both English and Spanish.

The agency's public website states, "NMCD has zero tolerance for sexual misconduct of any kind and will impose discipline for all substantiated allegations, which can include up to dismissal of staff and a serious infraction for offenders who victimize other inmates."

Agency policy CD-090100 and CD-090101, *Inmate Discipline*, (05/28/2019) details the disciplinary process for inmates, to include investigation and review, conduct of hearings, range of sanctions, and appeals.

A facility handbook outlining the disciplinary process is also provided to each inmate. The handbook is also available in Spanish.

Per the information obtained from the former PREA Coordinator and former PCM and confirmed by data included in the agency's annual PREA reports, there has not been a substantiated allegation of sexual assault, abuse or harassment perpetrated by an inmate at RCC since at least 2014. As a result, no secondary documentation is available for review. However, applicable procedures were confirmed in an interview with the Disciplinary Hearing Officer, who reported all related procedures are guided by policy. The individual reported that the process begins with the writing of an infraction, which is then submitted to the author's supervisor, who has 24 hours to conduct an investigation. The infraction is the processed through to the Disciplinary Hearing Officer who conducts the hearing. All documentation is then reviewed by a Unit Manager and once approved, the inmate is notified of the hearing outcome by the Hearing

Officer. The individual added that the inmate is able to make statements and call witnesses during the hearing and also has the ability to appeal any hearing decisions.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.78 (b)
Agency policy CD-090101, *Inmate Discipline* includes division of all offenses inmates can be disciplined for into category "a" and category "b". "Category 'A' offenses are considered the most serious and, in some instances may be violations of state or federal criminal law…A Category 'B' offense is considered less serious than a Category 'A' offense." (page 2). The policy includes a sanctioning chart detailing maximum sanctions for all listed offenses in each category.

It is noted that a Category "B" offense can be elevated if one of the identified factors is found to be present during the related investigation. It is noted that sexual misconduct related to PREA, rape, and sexual harassment are classified as Category "A" offenses with maximum sanctions of:

- 365 days loss of privileges,
- 30 days disciplinary housing restriction, and
- Loss of all good time.

Use of the established disciplinary sanction grid was confirmed in interviews with the Warden and Disciplinary Hearing Officer.

Per the information obtained from the former PREA Coordinator and former PCM and confirmed by data included in the agency's annual PREA reports, there has not been a substantiated allegation of sexual assault, abuse or harassment perpetrated by an inmate at RCC since at least 2014. As a result, no secondary documentation is available for review.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.78 (c)
Agency policy CD-090101, *Inmate Discipline*, (05/28/2019), section D.4. (page 6) requires, "For inmates in Special Management, APA [Alternative Placement Area] and MHTC [Mental Health Treatment Center located at the Central New Mexico Correctional Facility], the Disciplinary Officer will submit the Inmate Misconduct Mental Health Review for (*CD-090101.9*) and a copy of the misconduct reports to the Facility Mental Health Manager. The Facility Mental Health Manager will determine: (a) Whether there are or are no mental health issues; and, (b) Recommend how the mental health issues should be considered during the disciplinary hearing. The Facility Mental Health Manager will then advise the Disciplinary Officer in writing in the Inmate Misconduct Mental Health Review form (*CD-090101.9*) within one (1) working day." The former PREA Coordinator noted that APA is a designated living area for inmates who have a special management housing designation and who meet specified mental health criteria. The Auditor was informed that RCC does not house inmates with significant mental health issues due to their status as a minimum-security facility and the lack of any psychotropic medications within the facility. Additionally, inmates with this classification are only housed at the Penitentiary of New Mexico.

To ensure an understanding of the requirement to include an assessment of mental health status / factors in all PREA-related disciplinary procedures, the following reminder information was sent out to all agency PCM's and Disciplinary Hearing Officers by the Internal Audits and Standards Compliance Bureau Chief (12/09/2020):

> *Please see the attached policy, in particular page 6 of 090101 (highlighted portions). The policy has four offenses which require Disciplinary Officers to forward the* ***Inmate Misconduct Mental***

Health Review *form (CD-090101.9) and a copy of the misconduct reports to the Facility Mental Health Manager:*

- *A (21) Sexual Misconduct / Sexual Activity (PREA)*
- *A (22) Rape*
- *A (40) Sexual Harassment*
- *A (44) False PREA Allegation / Statement*
- *B (34) Self-mutilation.*

This process will ensure NMCD remains compliant with PREA Standard 115.78…Due to ongoing COVID restrictions preventing in-person training, please read policy CD-090100 Inmate Discipline thoroughly. Upon completion, sign the attached acknowledgement form. Please ensure that a copy of this acknowledgement is returned to me, and also placed into your training file.

Per the information obtained from the former PREA Coordinator and former PCM and confirmed by data included in the agency's annual PREA reports, there has not been a substantiated allegation of sexual assault, abuse or harassment perpetrated by an inmate at RCC since at least 2014. As a result, no secondary documentation is available for review.

Interview with the Warden and Disciplinary Hearing Officer confirmed the consideration of the inmate's mental health status both at the time of the infraction behavior and the hearing. The Disciplinary Hearing Officer reported that the process is generally informal unless the infraction involved behavior such as self-mutilation. It was also reported that, due to the nature of the facility, RCC does not house inmates with significant mental health issues.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.78 (d)
Per information received from the former PCM, RCC does not offer sex offender or related programming. Inmates requiring this programming would not be placed at RCC or would be transferred if such a need was identified. Mental health providers at RCC provide therapy and counseling for all inmates, which can be adapted to meet the needs of the inmate. However, there is no formal group programming for sexual abusers. This was confirmed in interviews with mental health providers and the Disciplinary Hearing Officer.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.78 (e)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section C. (page 3) states, "Failure to report or knowingly submitting a false report may result in disciplinary action and will be handled in accordance with Policy CD-150600 Allegations from Inmates against Corrections Department Staff of Other Inmates."

Agency policy CD-150600, *Allegations from Inmates against Corrections Department Staff of Other Inmates* (07/31/2015), section B. (page 2) states, "If the information furnished by the inmate is proven by investigation to be knowingly false, the inmate may be charged with a major offense before the Disciplinary Hearing Officer, under the general principles of inmate discipline which impart that any act, although not specifically listed, is a felony under the Criminal Code of the State of New Mexico and will constitute a major violation of policy."

There is a category A rule violation "attempt or engaging in a personal relationship with a member of staff, etc.". The definition of the violation reads, "An inmate commits this when he or she attempts to engage in or engages in any personal or romantic relationship with a staff member, contract employee, volunteer, etc. whether it be verbally, physically, or in writing." Per information from the former PREA

Coordinator, there is currently nothing in policy that this infraction is only when the staff member, contractor, or volunteer did not consent to the relationship; "...however the disciplinary hearing officers have been trained on it. In [addition] there are safeguards in place, such as retaliation monitoring, the inmate is monitored at 15, 45 and 90 days. All disciplinary reports are reviewed, if determined that the victim was written up, the monitor or myself will call the disciplinary officer to have the report dismissed. If there has already been a hearing, the report is dismissed on appeal. I do not believe that this has ever happened at RCC." It is recommended that this issue be reviewed for clarification the next time agency infraction categories are reviewed / revised.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.78 (f)
Agency policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section C. (page 3) requires, "Failure to report or knowingly submitting a false report may result in disciplinary action and will be handled in accordance with Policy CD-150600 Allegations from Inmates against Corrections Department Staff or Other Inmates."

Agency policy CD-090101, *Inmate Discipline*, (05/28/2019), attachment A "Category 'A' Offenses" identifies a violation of "False PREA Allegation/Statement". The attachment further defines the violation as "(1) making a false PREA allegation or (2) Making a false statement during a PREA investigation."

Agency policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section B.8. (page 3) requires, "If it is found that an allegation of sexual misconduct was false, the case may be referred to law enforcement for prosecution. Any inmate who files a false allegation is subject to disciplinary action."

Per information received from the former PREA Coordinator, all disciplinary reports are reviewed and if infractions have been written that do not comply with standard and policy requirements, the infraction would be dismissed or dismissed on appeal. There have been no applicable infractions issued at RCC; as a result, there is no secondary documentation available for review. An interview with the Disciplinary Hearing Officer that such an infraction would be very rare and would require an unfounded finding in a formal investigation with sufficient support to determine that the inmate made an intention false report.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.78 (g)
Per information provided by the former PREA Coordinator, if an inmate engages in consensual sexual behavior with another inmate, the inmates could be infracted for an A-21 rule violation, which is a comprehensive violation involving both PREA and non-PREA related behaviors. If such an allegation of consensual sexual activity were to be received, it would be deemed to be not PREA and not investigated or addressed under current PREA protocols.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:
- Compliance memo dated 07/27/2020 from the former PCM addressed to the DOJ Auditor
- PCM memo dated 07/27/2020 regarding lack of inmate discipline
- Policy CD-150101, *Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures, PREA* (05/29/2020)
- Policy CD-090100 and CD-090101, *Inmate Discipline*, (05/28/2019)

- Policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-150600, *Allegations from Inmates against Corrections Department Staff of Other Inmates* (07/31/2015)
- Roswell Correctional Center Inmate Handbook (updated 05/17/2020) in both English and Spanish

Interviews conducted:

- Disciplinary hearing officer
- Medical and mental health staff
- Warden

MEDICAL AND MENTAL CARE

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

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

115.81 (a)

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

115.81 (b)

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

115.81 (c)

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

115.81 (d)

- Is any information related to sexual victimization or abusiveness that occurred in an institutional setting strictly limited to medical and mental health practitioners and other staff as necessary to inform treatment plans and security management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law? ☒ Yes ☐ No

115.81 (e)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.81 (a) and (c)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section M. (page 6) requires, "Inmates identified as at risk for sexual victimization shall be assessed by a mental health or other qualified professional within 14 days of learning of such abuse history and offered treatment when deemed appropriate by mental health practitioners."

Agency policy CD-150102, *Offender Protection Against Sexual Abuse and Sexual Misconduct, PREA* (05/29/2020), section C. (page 4) requires, "Inmates identified as at risk for sexual victimization shall be assessed by a mental health or other qualified professional within 14 days of learning of such abuse history and offered treatment when deemed appropriate by mental health practitioners. Inmates at risk for sexual victimization shall be identified, monitored, and counseled."

Agency policy CD-180200, *Behavioral Health Reception and Diagnosis Center (RDC),* 02/16/2015, section N. (page 4 – 5) requires, "All intersystem transfers will undergo a mental health appraisal by a qualified mental health person with 14 days of admission to a facility. If there is documented evidence of a mental health appraisal within the previous 90 days, a new mental health appraisal is not required, except as determined by the designated mental health authority. Mental health appraisals include but are not limited to…review history of sexual abuse-victimization and predatory behavior."

The Auditor confirmed in interviews with staff who complete risk assessments that a referral form is completed and submitted via email whenever an assessed inmate scores "yes" with regarding to prior sexual victimization. Interviewees also reported that the Behavioral Health provider responses back to the assessor, indicating when the follow up meeting was conducted, adding that the provider has 14 days to respond back. Interviewees also reported that all inmates are referred, that they don't have the option of declining the referral. Per information from the former PREA Coordinator, inmates have the option of declining a follow up meeting with a mental health provider. Any declination is documented in the inmate file.

The Auditor was also provided with a blank referral form (updated 11/05/2020), which provides the following options for the assessor:

- Inmate has scored high for sexually aggressive behavior.
- Inmate has scored high for risk of sexual victimization.
- Inmate has been convicted of perpetrating sexual abuse.

- Inmate has experienced prior sexual victimization.

Per information from the former PREA Coordinator, this revised form was put in effect 11/05/2020 and will be included as an official form on the next revision to the applicable policy.

The Auditor requested documentation of follow up meetings with a mental health provider or inmate declination of same for nine (9) inmates who disclosed prior abuse during a risk assessment. This documentation was not provided.

During on-site interviews with inmates, a total of seventeen (17) indicated they had not participated in orientation and/or risk assessment processes. The Auditor requested and received applicable documentation, including the provision or declination of a follow up meeting with a mental health provider for all applicable risk assessment responses.

All nine (9) inmates who were interviewed during the on-site review based on disclosure of prior victimization during a risk assessment confirmed the offering of a follow up meeting with a mental health provider, whether the meeting was accepted or declined.

Based on the failure to provide proof documentation as requested, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/22/2020, the Auditor was provided with documentation of referral and follow up meetings with mental health providers for specified inmates based on reports provided by RCC and the former PREA Coordinator. Of the nine (9) inmates identified:

- Four (4) follow up meetings were conducted beyond required timeframes,
- One (1) follow up meeting was conducted within timeframes, and
- Four (4) included notes that the assessment was completed at another agency facility rather than RCC as indicated in reports received.

Per information in an email from the former PCM, "I self-identified that several Behavioral Health Referrals were not done by the caseworker in a timely manner…In the future, our plan is for the Unit Manager, Classification Supervisor and myself as PCM are to look at all screenings when done and ensure any Referrals are not missed." During the period between initial documentation and on-site review, the Auditor was provided with monthly lists of inmates who had been received at the facility, selecting individuals for whom risk assessment and applicable meetings with mental health were provided. The results of a review of these documents were as follows:

- Total number of inmates received = 324
- Total number of records requested and received = 41
- Total number of records indicating applicability of a follow up meeting with a mental health provider based on assessment responses (prior victimization and/or prior perpetration) = 10
    - Eight (8) of the ten (10) declined the follow up meeting.
    - One (1) declined the follow up meeting but the review was completed 12/17/2020 and the declination was not signed until 01/13/2021
    - One (1) did not have the referral made as required.

To address compliance issues, the current PCM conducted training with mental health providers to clarify issues / questions from audit. Included in this training were the following topics:

1. *[Timelines] for evaluation and treatment for victims, as appropriate, follow up services, treatment plans, and when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or release from custody.*
2. *Victims will always be referred to a follow up within 14 days even if previously declined services (may have changed mind and will to talk to BH, without fear of retaliation).*
3. *The need of documentation for acceptance or declining services to stay [in compliance].*

4. *Addressed concerns of Auditors of BH not really knowing on what happens when RCC could learn of inmate-on-inmate abuser is here at RCC or what will be done to notify the receiving facility.*
    a. *All prisons shall attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.*
    b. *This will include a PCM to PCM notification between facilities, this should also include cooperation of each facility BH.*

RCC is complying with requirements to make the offer of a follow up meeting in 80% of the reviewed documents. Based on the 20% of indicated referrals late or not completed, the Auditor will continue to monitor this during the corrective action period.

Updates:
During the corrective action period, the Auditor was provided with documentation of a tracking system implemented to document all referrals to BHS along with dates when the inmate was seen. The Auditor was also provided with examples of follow up meetings with a provider associated with several risk assessments completed. Based on this documentation, RCC is now assessed as compliant with the requirements of this provision.

115.81 (b)
Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)*,* section N. (page 6) requires, "Inmates that are identified as high risk with a history of criminally sexual behavior shall be assessed by a mental health or other qualified professional within 14 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners."

Agency policy CD-150102, *Offender Protection Against Sexual Abuse and Sexual Misconduct, PREA* (05/29/2020)*,* section D.8. (page 4) requires, "An inmate identified as high risk for sexually assaultive behavior or who has a history of sexually assaultive behavior will be assessed by a mental health or other qualified professional…Inmates with a history of sexually assaultive behavior will be identified, monitored, and counseled."

Agency policy CD-180200, *Behavioral Health Reception and Diagnosis Center (RDC)*, 02/16/2015, section N. (page 4 – 5) requires, "All intersystem transfers will undergo a mental health appraisal by a qualified mental health person with 14 days of admission to a facility. If there is documented evidence of a mental health appraisal within the previous 90 days, a new mental health appraisal is not required, except as determined by the designated mental health authority. Mental health appraisals include but are not limited to…review history of sexual abuse-victimization and predatory behavior."

The Auditor confirmed in interviews with staff who complete risk assessments that a referral form is completed and submitted via email whenever an assessed inmate scores "yes" with regarding to prior sexual victimization. Interviewees also reported that the Behavioral Health provider responses back to the assessor, indicating when the follow up meeting was conducted, adding that the provider has 14 days to respond back. Interviewees also reported that all inmates are referred, that they don't have the option of declining the referral. The Auditor was also provided with a blank referral form (updated 11/05/2020), which provides the following options for the assessor:

- Inmate has scored high for sexually aggressive behavior.
- Inmate has scored high for risk of sexual victimization.
- Inmate has been convicted of perpetrating sexual abuse.
- Inmate has experienced prior sexual victimization.

Per information from the former PREA Coordinator, this revised form was put in effect 11/05/2020 and will be included as an official form on the next revision to the applicable policy.

The Auditor requested documentation of follow up meetings with a mental health provider or inmate declination of same for seven (7) inmates who disclosed prior abuse during a risk assessment. This documentation was not provided.

Based on the failure to provide proof documentation as requested, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/22/2020 the Auditor was provided with documentation of referral and follow up meetings with mental health providers for specified inmates based on reports provided by RCC and the former PREA Coordinator. Of the seven (7) inmates identified:

- Four (4) follow up meetings were conducted beyond required timeframes,
- Documentation provided for one (1) inmate appears to be evaluation on intake completed approximately three (3) weeks before the risk assessment was completed, and
- Two (2) included notes that the assessment was completed at another agency facility rather than RCC as indicated in reports received.

Per information in an email from the former PCM, "I self-identified that several Behavioral Health Referrals were not done by the caseworker in a timely manner…In the future, our plan is for the Unit Manager, Classification Supervisor and myself as PCM are to look at all screenings when done and ensure any Referrals are not missed." During the period between initial documentation and on-site review, the Auditor was provided with monthly lists of inmates who had been received at the facility, selecting individuals for whom risk assessment and applicable meetings with mental health were provided. The results of a review of these documents were as follows:

- Total number of inmates received = 324
- Total number of records requested and received = 41
- Total number of records indicating applicability of a follow up meeting with a mental health provider based on assessment responses (prior victimization and/or prior perpetration) = 10
    - Eight (8) of the ten (10) declined the follow up meeting.
    - One (1) declined the follow up meeting but the review was completed 12/17/2020 and the declination was not signed until 01/13/2021
    - One (1) did not have the referral made as required.

RCC is complying with requirements to make the offer of a follow up meeting in 80% of the reviewed documents. Based on the 20% of indicated referrals late or not completed, the Auditor will continue to monitor this during the corrective action period.

Updates:
During the corrective action period, the Auditor was provided with documentation of a tracking system implemented to document all referrals to BHS along with dates when the inmate was seen. The Auditor was also provided with examples of follow up meetings with a provider associated with several risk assessments completed. Based on this documentation, RCC is now assessed as compliant with the requirements of this provision.

115.81 (d)
As previously noted with standard 115.41, all detail information regarding inmate risk assessments is highly restricted with access approved by the PREA Coordinator. Information regarding the final risk indicator is available in various local tracking documents to those individuals who are responsible for housing and program assignments.

A hard copy of the risk assessment is maintained in the inmate's master record, which is maintained in a secure file room with restricted access. Agency policy CD-040101, *Inmate Records* (06/09/2016), section B.1. and 2. (page 1) requires, "Inmate Records shall be kept in a secure location, safeguarded from unauthorized and improper disclosure, and will not be available to inmates at any time, unless an inmate is authorized by the Warden, or designee, to inspect his or her file or the contents thereof. Every effort shall be made to preserve all inmate records. Access to the file room at the facilities will be limited to authorized personnel. During normal operations the Advanced Records Coordinator or the Records Manager shall determine who has authorized access. After-hours access, will be determined by the shift supervisor."

The Auditor was provided with a review of the risk assessment system in place via a zoom meeting with the former PREA Coordinator. The Auditor confirmed that all risk assessment information is maintained in a restricted component within the Correctional Management Information System (CMIS) that is only accessible by approved users. In a subcomponent housing all assessments, access is granted by type of assessment (e.g., PREA risk assessment, educational assessments, etc.) with individuals who access the system able to see when each type of assessment was completed, but only able to view the details of the assessments to which access has been granted.

The confidentiality of information contained in the electronic assessment system as well as restrictions on access were confirmed in interviews with the interim PREA Coordinator, risk assessors and all PCM's. However, the current PREA Coordinator reported that access to the confidential information in the risk assessment system is available to those who make housing and programming assignments, to include classification staff, intake officers, and sergeants, but indicated there has been discussion of limiting it to just PCM's. The current PREA Coordinator provided the Auditor with policy language and system screen shots that confirm continuation of noted processes since he has assumed the PREA Coordinator position.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.81 (e)
Agency policy CD-176100, *Patients Rights and Responsibilities* (02/16/2015), section A.2. (page 2), requires, "Principles of confidentiality will be followed and patients will be afforded the opportunity to approve or refuse the release of information in accordance with applicable law. Patients will be advised of any limits to confidentiality necessary in the correctional setting." The Auditor was informed in the memo from the former PCM that medical and mental health staff use form CD-180201.1, *New Mexico Corrections Department Rights to Confidentiality and Availability of Services* form to notify inmates regarding which information is confidential, which will be disclosed, and which will not be disclosed without consent. The form indicates, "Generally, statements made by inmates to Behavioral Health Staff are confidential, and will not be disclosed without the inmate's consent, except as follows…Allegations that you have been abused by a staff member or another inmate."

Per information from the former PREA Coordinator, there have been no instances in which prior abuse, outside incarceration, was reported to a medical or mental health provider. As a result, there are no examples of obtaining informed consent by medical or mental health before disclosing prior abuse that did not occur in an incarcerated setting. A review of information provided between initial documentation and on-site review also indicated that no applicable information was reported.

Interviews with mental health providers confirmed knowledge of confidentiality restrictions. However, medical providers were mixed in their knowledge of consent requirements regarding abuse that occurred outside of an incarcerated setting. Requirements were explained during the interview process and it is recommended that the provisions of this standard be reviewed with all medical providers.

RCC does not house youthful offenders and, as such, there is no separate informed consent process of inmates under the age of 18.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 09/10/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-180200, Behavioral Health Reception and Diagnosis Center (RDC) 02/16/2015
- Policy CD-040101, *Inmate Records* (06/09/2016)
- Policy CD-176100, *Patients Rights and Responsibilities* (02/16/2015)
- Blank sexual risk indicator screening referral form
- Documentation of referral and follow up meetings with mental health providers for select inmates
- Policy CD-044000 *Information Technology Management* (02/04/2021)
- BHS referral tracker

Interviews conducted:

- Inmates who disclosed sexual victimization at risk screening
- Medical and mental health staff
- Staff responsible for risk screening

Standard 115.82: Access to emergency medical and mental health services

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

115.82 (a)

- Do inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment? ☒ Yes ☐ No

115.82 (b)

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

- Do security staff first responders immediately notify the appropriate medical and mental health practitioners? ☒ Yes ☐ No

115.82 (c)

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

115.82 (d)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.82 (a)

Agency policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting*

Procedures, PREA (05/29/2020)*,* section 3. (page 1) requires, “Victims receive all necessary immediate and ongoing medical, mental health, and support services.”

Agency policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)*,* section A.3. (page 1) requires, “A facility health care professional will take a history and conduct an examination to determine the extent of physical injury and to determine if there are injuries that merit transfer to another medical facility…The purpose of the examination is to determine the patient’s stability for transfer to a site that provides forensic examinations.”

Agency policy CD-170101, *Medical Clinical Services, Psychiatry Services, Detoxification, Intoxication and Withdrawal* (06/09/2016), section S. (page 20) requires, “In the event of a sexual assault, health services will ensure that the victim receives prompt and appropriate medical intervention. The following procedure will be followed: (1) Emergency medical treatment will be provided by medical staff as needed. The Medical Director or physician on call will be contacted to authorize referral to a Medical Center Emergency Room. With the inmate assault victim’s consent, he or she will be transported to a Medical Center by Security for examination, treatment and collection of evidence.”

The provision of timely, unimpeded emergency medical treatment and crisis intervention services was confirmed in interviews with medical and mental health providers. The Auditor also confirmed that this care was provided immediately if providers were on site, and up to an hour after report if the on-call provider was contacted and needed to report to the facility. It was reported that care provided was determined based on the providers professional judgement, established health services protocols, and professional standards of patient management.

Information provided by the former PCM indicated that there have been no allegations received at RCC that indicated the need for a forensic medical examination or other emergent medical examination. This was confirmed in a review of all allegations received beginning in 2018 and continuing through the on-site review.

The Auditor reviewed all investigations conducted between 01/2019 and 09/2020 as provided with initial documentation along with investigations completed between initial documentation and on-site review. None of the inmates who were identified as alleged victims in any abuse investigation remained housed at RCC. As a result, there were no inmates who reported sexual abuse available for interview.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.82 (b)
Per information obtained in interviews with medical and mental health providers, RCC operates an on-site health care facility 8 hours per day, 5 days per week. During any off-hours, a medical and mental health practitioner are on call and are required to report to the facility as needed to address immediate inmate medical and mental health issues.

Per information received from the former PCM, “Our medical unit is not 24 hour but Wexford [contract provider] always has someone on call…Our nurses are here within the hour but immediately start advising the Security staff of things that they can be doing until they arrive…We have an extra office that Medical uses to treat inmates for most things, if needed, they are walked across the compound to the Medical area. Worst case scenarios (PREA sexual abuse cases with injuries that cannot wait, a terrible fight with injuries, overdoses, etc.) if the inmate needs immediate attention faster and we cannot wait for the on-call nurse to get here, emergency services would be called, and an ambulance would come out to RCC within 15 minutes.”

Information provided by the former PCM indicated that there have been no allegations received at RCC

that indicated the need for a forensic medical examination or other emergent medical examination. This was confirmed in a review of all allegations received beginning in 2018 and continuing through the on-site review.

The Auditor reviewed all investigations conducted between 01/2019 and 09/2020 as provided with initial documentation along with investigations completed between initial documentation and on-site review. None of the inmates who were identified as alleged victims in any abuse investigation remained housed at RCC. As a result, there were no inmates who reported sexual abuse available for interview.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.82 (c)
Regarding procedures to be followed during forensic medical examinations, agency policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section C.8 and 9. (page 4) requires, "The examiner will perform [a] sexually transmitted infection evaluation and provide for treatment…The examiner will perform a pregnancy risk evaluation and schedule follow-up care."

Agency policy CD-170101, *Medical Clinical Services, Psychiatry Services, Detoxification, Intoxication and Withdrawal* (06/09/2016), section S.3. (page 20), requires, "The Medical Director will review the treatment recommendations from the Medical Center and ensure the inmate victim receives the indicated prophylactic treatment and testing."

The Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 36) requires, "The Medical Department shall counsel the inmate(s) regarding health risks of sexual activity. Regardless of when an allegation of vaginal/oral/anal penetration occurred, the facility physician shall ensure that testing for sexually transmitted diseases is completed." The manual then lists out a number of related tests that are to be included. The same manual (page 36), requires, "The alleged victim and the alleged perpetrator will receive prophylaxis treatment in the form of antibiotics to cover at a minimum: (A.) Chlamydia; (B.) Gonorrhea; (C.) Trichomoniasis; and (D.) BV – bacterial Vaginosis (females only)."

The provision of information and applicable treatment of sexually transmitted infection was confirmed in interviews with medical providers. Interviewees reported that the facility would follow up with any care initiated during the course of a forensic medical examination.

A review of all allegations received beginning in 2018 and continuing through the on-site review confirmed that no allegations were received that indicated the need for the emergent medical treatment detailed in this provision. As a result, no secondary documentation is available for review.

The Auditor reviewed all investigations conducted between 01/2019 and 09/2020 as provided with initial documentation along with investigations completed between initial documentation and on-site review. None of the inmates who were identified as alleged victims in any abuse investigation remained housed at RCC. As a result, there were no inmates who reported sexual abuse available for interview.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.82 (d)
Agency policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section C.1. (page 3) requires, "The Warden or designee will ensure that victims of sexual assault are promptly transferred under appropriate security provisions By Emergency Medical Services or NMCD personnel as is medically appropriate to a community health care facility for treatment and gathering of evidence, (CD-170100.OO). This will be at no charge to the

inmate."

The provision of all medical and mental health treatment with no copay or other charge to the inmate was confirmed in interviews with medical and mental health staff. The provision is not applicable only to PREA-related care, but all health services care provided.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 09/10/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150100, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-170101, *Medical Clinical Services, Psychiatry Services, Detoxification, Intoxication and Withdrawal* (06/09/2016)
- Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated)

Interviews conducted:

- Medical and mental health staff
- Security staff and non-security staff first responders

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

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

115.83 (a)

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

115.83 (b)

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

115.83 (c)

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

115.83 (d)

- Are inmate victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests? (N/A if "all-male" facility. *Note: in "all-male" facilities, there may be inmates who identify as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.*) ☐ Yes ☐ No ☒ NA

115.83 (e)

- If pregnancy results from the conduct described in paragraph § 115.83(d), do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services? (N/A if "all-male" facility. *Note: in "all-male" facilities, there may be inmates who identify as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.*) ☐ Yes ☐ No ☒ NA

115.83 (f)

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

115.83 (g)

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

115.83 (h)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.83 (a)
Agency policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section D. 2, 3, 4, and 6. (page 4) requires, "The facility medical director will initiate the 48-hour medical treatment review of the victim… A facility mental health professional will perform an evaluation to assess the need for crisis intervention and long-term follow-up…The facility medical director and mental health supervisor will develop a treatment plan for follow-up services…The assigned mental health provider will provide access to counseling and advocacy services." The same policy, section G. (page 5) requires, "A written individual treatment plan is required for inmates requiring close medical supervision…This plan includes directions to health care and other personnel regarding their roles in the care and supervision of the inmate and is developed by the appropriate health care practitioner for each inmate requiring a treatment plan.:

Agency policy CD-170101, *Medical Clinical Services, Psychiatry Services, Detoxification, Intoxication and Withdrawal* (06/09/2016), (entire policy) provides direction for the health services to be provided to all inmates, to include evaluation, treatment planning, health education, and continuity of care.

The Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 36 – 37) requires, "Psychology staff / Behavior Health shall be responsible for interviewing all reported victims of sexual contact or others as referred by medical or institutional administration…If indicated, ongoing treatment shall be provided to remediate potential mental health consequences." Per the former PREA Coordinator, this information should be documented in the PREA Management Information System (PMIS) as a part of the allegation documentation. Based on this response requirement, the inmates who were the alleged victims in the two (2) abuse allegations reported (case 19-0276 and new allegation reported 10/28/2020) should have been referred to medical and been interviewed by a mental health practitioner. The Auditor requested applicable documentation and was informed of the following:

- With the completed investigation, the offender declined mental health care and it was uncertain if he had been referred to medical. The Auditor requested documentation, but it was not provided.
- With the October 2020 allegation, it was reported by the first responder that the inmate was not referred to mental health because the inmate did not request such a referral. There was no indication of the inmate being referred to medical.

Based on the failure to make the medical and mental health referrals required in response protocols, RCC was initially assessed as non-compliant with the requirements of this provision. On 12/16/2020, the Auditor was provided with minutes from a 12/09/2020 meeting with the former PCM, Warden, Unit Managers, Chief of Security, ACA Officer, Behavioral Health Supervisor, and Business Manager in which instruction was provided that, "If an inmate at RCC reports a sexual assault, the State Police, Medical and Behavior Health must be called. No exceptions." The Auditor will continue to monitor all allegations and investigations throughout the corrective action period to determine if required medical and mental health referrals are made / services provided to applicable inmates.

During the period between initial documentation and on-site review, four (4) additional investigations were initiated. The alleged victim in the first investigation had been transferred to another facility and no follow up with applicable staff from that facility was made to ensure required services were provided. The three (3) remaining (and most recent) allegations included documentation of both medical and mental health referrals in the investigation report or as provided separately upon request.

To support continued compliance the interim PCM established a review process to ensure all referrals were made and documented as required. The current PCM has provided applicable training to all mental health providers and has also established tracking systems to ensure all actions associated with the receipt of an allegation are completed and documented.

Based on these actions, RCC is now assessed as compliant with the requirements of this provision.

115.83 (b)
Agency policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)*,* section D. 3, 4, and 6. (page 4) requires, "A facility mental health professional will perform an evaluation to assess the need for crisis intervention and long-term follow-up…The facility medical director and mental health supervisor will develop a treatment plan for follow-up services…The assigned mental health provider will provide access to counseling and advocacy services."

Agency policy CD-170101, *Medical Clinical Services, Psychiatry Services, Detoxification, Intoxication and Withdrawal* (06/09/2016), (entire policy) provides direction for the health services to be provided to all inmates, to include evaluation, treatment planning, health education, and continuity of care.

Per information included with provision (a), applicable alleged victims were not referred to medical and mental health providers as required in response policies and protocols. As a result, there is no documentation available regarding declination of services or the completion of evaluation and treatment of alleged victims of abuse. During the period between initial documentation and on-site review, four (4) additional investigations were initiated. The alleged victim in the first investigation had been transferred to another facility and no follow up with applicable staff from that facility was made to ensure required services were provided. The three (3) remaining (and most recent) allegations included documentation of both medical and mental health referrals in the investigation report or as provided separately upon request.

Interviews with medical and mental health providers confirmed that the care provided to alleged victims of sexual abuse includes initial physical examination and mental health evaluation, treatment planning, goals, follow up care, and referral to additional resources as needed.

The Auditor reviewed all investigations conducted between 01/2019 and 09/2020 as provided with initial documentation along with investigations completed between initial documentation and on-site review. None of the inmates who were identified as alleged victims in any abuse investigation remained housed at RCC. As a result, there were no inmates who reported sexual abuse available for interview.

To support continued compliance the interim PCM established a review process to ensure all referrals were made and documented as required. The current PCM has provided applicable training to all mental health providers and has also established tracking systems to ensure all actions associated with the receipt of an allegation are completed and documented.

Based on these actions, RCC is now assessed as compliant with the requirements of this provision.

115.83 (c)
Interviews with medical and mental health providers confirmed that the care provided to inmates is at or better than the community level of care. The Auditor confirmed this appraisal based on the additional interview information provided.

Per information included with provision (a), applicable alleged victims were not referred to medical and mental health providers as required in response policies and protocols, but the non-compliance has since been addressed and documented.

Based on these actions and interview information, RCC is now assessed as compliant with the requirements of this provision.

115.83 (d)
Regarding procedures associated with forensic medical examinations, agency policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section C.9. (page 4) requires, “The examiner will perform a pregnancy risk evaluation and schedule follow-up care.”

RCC does not house female inmates, which was confirmed in interviews with facility staff.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.83 (e)
Regarding procedures associated with forensic medical examinations, agency policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section C.9. (page 4) requires, “The examiner will perform a pregnancy risk evaluation and schedule follow-up care.”

RCC does not house female inmates, which was confirmed in interviews with facility staff.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.83 (f)
Regarding procedures associated with forensic medical examinations, agency policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section C.8. (page 4) requires, “The examiner will perform [a] sexually transmitted infection evaluation and provide for treatment.”

Agency policy CD-170101, *Medical Clinical Services, Psychiatry Services, Detoxification, Intoxication and Withdrawal* (06/09/2016), section S.3. (page 20), requires, "The Medical Director will review the treatment recommendations from the Medical Center and ensure the inmate victim receives the indicated prophylactic treatment and testing."

The Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) (page 36) requires, "The Medical Department shall counsel the inmate(s) regarding health risks of sexual activity. Regardless of when an allegation of vaginal/oral/anal penetration occurred, the facility physician shall ensure that testing for sexually transmitted diseases is completed." The manual then lists out a number of related tests that are to be included. The same manual (page 36), requires, "The alleged victim and the alleged perpetrator will receive prophylaxis treatment in the form of antibiotics to cover at a minimum: (A.) Chlamydia; (B.) Gonorrhea; (C.) Trichomoniasis; and (D.) BV – bacterial Vaginosis (females only)."

The provision of information of and applicable treatment of sexually transmitted infection was confirmed in interviews with medical providers. Interviewees reported that the facility would follow up with any care initiated during the course of a forensic medical examination.

The Auditor reviewed all investigations conducted between 01/2019 and 09/2020 as provided with initial documentation along with investigations completed between initial documentation and on-site review. None of the inmates who were identified as alleged victims in any abuse investigation remained housed at RCC. As a result, there were no inmates who reported sexual abuse available for interview.

During the audit reporting period and period between initial documentation and on-site review, there were no allegations of abuse that would indicate the need for tests for sexually transmitted infections. As a result, there is no secondary documentation available for review.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.83 (g)
Regarding procedures associated with forensic medical examinations, agency policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section C.1. (page 3) requires, "This will be at no charge to the inmate."

The provision of all medical and mental health treatment with no copay or other charge to the inmate was confirmed in interviews with medical and mental health staff. The provision is not applicable only to PREA-related care, but all health services care provided.

The Auditor reviewed all investigations conducted between 01/2019 and 09/2020 as provided with initial documentation along with investigations completed between initial documentation and on-site review. None of the inmates who were identified as alleged victims in any abuse investigation remained housed at RCC. As a result, there were no inmates who reported sexual abuse available for interview.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.83 (h)
Agency policy CD-180100 *Behavioral Health Clinical Services* (07/12/2017), section C. (page 5) requires, "Inmates identified as high risk with a history of sexually assaultive behavior are assessed by a behavioral health or other qualified professional. Inmates with a history of sexually assaultive behavior are identified, monitored, and counseled." Per information received from the former PCM, most of the mental health providers at RCC are new and have not been at the facility when an applicable investigation occurred. "In the case where there was a substantiated case or if there was additional information received, I would initiate the mental health referral thru the inmate's caseworker to keep them in the loop." It is

recommended that the process is reviewed with current mental health providers to ensure a thorough knowledge of standard requirements.

Information obtained from interviews indicated that providers were not aware of this requirement and would rely on the mental health exam conducted on arrival of the inmate to RCC. Per information from the former PREA Coordinator, "…a request has been made to adjust the policy. The mental health referral has been updated and will be sent out to all facilities…I do not believe that RCC has had any inmates that would meet this standard during the documentation period. There have also not been any inmate on inmate substantiated sexual abuse allegations at RCC."

To correct the identified issue, the former PREA Coordinator distributed a revised referral form with the following direction, "Attached is a revised referral form for behavior health. Inmates that are known inmate on inmate abusers shall be referred to mental health for an evaluation regardless if the inmate declines. If the inmates [do] not want treatment, he must decline with the mental health staff and documented in his/her mental health file. Please ensure that your staff are only utilizing this form and provide training to them so they under it. Your mental health staff should also be trained that they must attempt to conduct a mental health evaluation within 60 days."

During informal interviews conducted while on-site, medical and classification staff continued to express a lack of understanding of the requirements of this provision. Classification staff appears to focus on immediate actions when an allegation of abuse was reported rather than the mental health evaluation required following a substantiated investigation or receipt of information regarding substantiated perpetration (e.g., an investigation completed in another facility or jurisdiction). Mental health staff again appeared to focus on intake mental health assessments completed for all inmates and/or follow up meetings resulting from risk assessment results.

To address the non-compliance issue, the current PCM conducted training with all mental health providers, to include the following:

1. *[Timelines] for evaluation and treatment for victims, as appropriate, follow up services, treatment plans, and when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or release from custody.*
2. *Victims will always be referred to a follow up within 14 days even if previously declined services (may have changed mind and will to talk to BH, without fear of retaliation).*
3. *The need of documentation for acceptance or declining services to stay [in compliance].*
4. *Addressed concerns of Auditors of BH not really knowing on what happens when RCC could learn of inmate-on-inmate abuser is here at RCC or what will be done to notify the receiving facility.*
    a. *All prisons shall attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.*
    b. *This will include a PCM to PCM notification between facilities, this should also include cooperation of each facility BH.*

The training provided appears to address the confusion observed. RCC has also developed a tracking system to ensure that mental health providers attempt to conduct all indicated evaluations. The Auditor was informed that agency policy requires that any inmate who has been determined to be a sexual abuse perpetrator would be automatically transferred to another, more appropriate facility. As such, no applicable inmates would be housed at RCC and the need for the evaluation required by this provision would be forwarded to the new facility. Based on these actions, RCC is now assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 09/10/2020 from the former PCM addressed to the DOJ Auditor

- Policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Policy CD-180100 *Behavioral Health Clinical Services* (07/12/2017)
- Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated)
- Screen print from the PREA Management Information System (PMIS)

Interviews conducted:

- Medical and mental health staff

DATA COLLECTION AND REVIEW

Standard 115.86: Sexual abuse incident reviews

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

115.86 (a)

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

115.86 (b)

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

115.86 (c)

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

115.86 (d)

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

115.86 (e)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.86 (a)
Agency policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section F.2. (page 5 - 6) requires, "The Warden and Facility PREA Compliance Manager should complete the sexual abuse incident team review at the conclusion of every criminal or administrative sexual abuse investigation, unless the allegation has been determined to be unfounded. A completed report will be submitted to the PREA Coordinator and the Director of Adult Prisons, or designee using the Sexual Abuse or Assault Incident Review Team form (*CD- 150102.3*)."

Per information received in a memo from the former PCM, "NMCD and the facility reviews all substantiated [investigations]".

During the audit documentation period, there were no investigations completed that required an incident review by policy and/or standard requirements. As a result, the Auditor looked at previous investigations from 2018 and identified two (2) investigations in which an incident review was required (18-0448 and 18-0471). The Auditor was informed that during this time period, incident reviews were not conducted in the current electronic system but were competed on paper. The Auditor was also informed that either these reviews were not conducted as required or the hardcopy review document could not be located. During the time period between initial documentation and on-site review, no investigations were completed that indicated an incident review. The Warden and current PCM are aware of standard and policy requirements, and a system to track and ensure all required actions are completed regarding each investigation is being implemented.

Based on the lack of documentation confirming completion of required reviews, RCC was initially assessed as non-compliant with the requirements of this provision. The Auditor will continue to monitor investigations completed during the corrective action period before making final compliance decisions based solely on Warden and PCM knowledge and the tracking system once established.

Updates:
During the corrective action period, one (1) investigation was completed that indicated the need for an incident review. This review was completed as required by standard and policy. Additionally, the PCM established a comprehensive tracking system to ensure all investigations were reviewed as required. The PCM demonstrated a thorough knowledge of policy and standard requirements. Based on these

actions and documentation submitted, RCC is now assessed as compliant with the requirements of this provision.

115.86 (b)
Although not specified in agency policy, the New Mexico Department of Corrections Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) requires, “The review should occur within 30 days of the conclusion of the investigation…”

During the audit documentation period, there were no investigations completed that required an incident review by policy and/or standard requirements. As a result, the Auditor looked at previous investigations from 2018 and identified two (2) investigations in which an incident review was required (18-0448 and 18-0471). The Auditor was informed that during this time period, incident reviews were not conducted in the current electronic system but were competed on paper. The Auditor was also informed that either these reviews were not conducted as required or the hardcopy review document could not be located. During the time period between initial documentation and on-site review, no investigations were completed that indicated an incident review. The Warden and current PCM are aware of standard and policy requirements, and a system to track and ensure all required actions are completed regarding each investigation is being implemented.

Based on the lack of documentation confirming completion of required reviews, RCC was initially assessed as non-compliant with the requirements of this provision. The Auditor will continue to monitor investigations completed during the corrective action period before making final compliance decisions based solely on Warden and PCM knowledge and the tracking system once established

Updates:
During the corrective action period, one (1) investigation was completed that indicated the need for an incident review. This review was completed more than 30 days after closure of the investigation by the investigator, but within 30 days of approval of the investigation by General Council. The PREA Coordinator provided clarifying information to the facility regarding the change in practices that an investigation is now considered complete once it has been closed by the investigator and review / approved by the Warden, rather than General Council. Based on these actions and documentation submitted, RCC is now assessed as compliant with the requirements of this provision.

115.86 (c)
Agency policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section F.2. (page 5) requires, “The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical/mental health practitioners.” Inclusion of the PCM, Unit Managers, the Captain, Lieutenants, and medical and mental health staff was confirmed in an interview with the Warden.

During the audit documentation period, there were no investigations completed that required an incident review by policy and/or standard requirements. As a result, the Auditor looked at previous investigations from 2018 and identified two (2) investigations in which an incident review was required (18-0448 and 18-0471). The Auditor was informed that during this time period, incident reviews were not conducted in the current electronic system but were competed on paper. The Auditor was also informed that either these reviews were not conducted as required or the hardcopy review document could not be located. During the time period between initial documentation and on-site review, no investigations were completed that indicated an incident review. The Warden and current PCM are aware of standard and policy requirements, and a system to track and ensure all required actions are completed regarding each investigation is being implemented.

Based on the lack of documentation confirming completion of required reviews, RCC was initially assessed as non-compliant with the requirements of this provision. The Auditor will continue to monitor investigations completed during the corrective action period before making final compliance decisions based solely on Warden and PCM knowledge and the tracking system once established.

Updates:
During the corrective action period, one (1) investigation was completed that indicated the need for an incident review. This review was completed as required by standard and policy. Additionally, the PCM established a comprehensive tracking system to ensure all investigations were reviewed as required. The PCM demonstrated a thorough knowledge of policy and standard requirements. Based on these actions and documentation submitted, RCC is now assessed as compliant with the requirements of this provision.

115.86 (d)
Agency policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)*,* section F.2. (page 5 - 6) requires, "The review team shall (a) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; (b) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility; (c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; (d) Assess the adequacy of staffing levels in the area during the different shifts; (e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and (f) Prepare a report of its findings on the Sexual Abuse or Assault Incident Review for (CD-150102.3)…" The Auditor reviewed the noted review form, confirming inclusion of all standard elements.

All interviewees confirmed knowledge of the elements required in an incident review. Currently reviews are conducted in the electronic system, guiding the user through all required elements. A formal report can then be generated from the information entered. Members of the incident review team reported that they had never participated in such a review but were familiar with the process and required review elements.

During a telephone conversation with the former PCM, she noted that the facility mandates the completion of "blind checks" to mitigate the risk associated with areas of the facility in which blind spots have been identified and which are not currently addressed by mirror or camera locations. Per information received from the former PREA Coordinator, "RCC identified several areas at the facility that are blind spots. These areas you cannot put cameras or mirrors or any other way to eliminate the blind spots. Because of this RCC instituted 'Blind spot' checks. In addition to normal rounds supervisors are required to complete regular blind spot reviews of these areas. RCC created a "blind spot" check form." The Auditor was informed that these checks are required to be completed and documented on each shift, followed by a review and sign off by the Shift Supervisor and the PCM. The Auditor requested examples of these log, but none were provided. It was later learned that there is no formal documentation of these reviews, but staff responsible for conducting rounds are aware of identified areas and review them during all rounds conducted.

During the audit documentation period, there were no investigations completed that required an incident review by policy and/or standard requirements. As a result, the Auditor looked at previous investigations from 2018 and identified two (2) investigations in which an incident review was required (18-0448 and 18-0471). The Auditor was informed that during this time period, incident reviews were not conducted in the current electronic system but were competed on paper. The Auditor was also informed that either these reviews were not conducted as required or the hardcopy review document could not be located.

During the time period between initial documentation and on-site review, no investigations were completed that indicated an incident review. The Warden and current PCM are aware of standard and policy requirements, and a system to track and ensure all required actions are completed regarding each investigation is being implemented.

Based on the lack of documentation confirming completion of required reviews, RCC was initially assessed as non-compliant with the requirements of this provision. The Auditor will continue to monitor investigations completed during the corrective action period before making final compliance decisions based solely on review team member knowledge and the tracking system once established.

Updates:
During the corrective action period, one (1) investigation was completed that indicated the need for an incident review. This review was completed as required by standard and policy. Additionally, the PCM established a comprehensive tracking system to ensure all investigations were reviewed as required. The PCM demonstrated a thorough knowledge of policy and standard requirements. Based on these actions and documentation submitted, RCC is now assessed as compliant with the requirements of this provision.

115.86 (e)
Specific language regarding recommendations for improvement as identified in incident reviews is not currently included in agency policy. However, the New Mexico Department of Corrections Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated) requires, "The review team shall prepare a report of its findings, including but not limited to determinations made and any recommendations for improvement…Any box marked Yes [referencing the analysis of causal factors] should also include comments related to the change that the SAR [sexual assault response] participant believes needs improvement at the institution or facility. The Warden shall implement the recommendations for improvement or document the reasons for not doing so."

The Sexual Assault or Abuse Incident Review Team form includes an area for recommendations, noting, "List all recommended changes in policies, procedures, and/or practices identified through the questions above, and describe exactly how each recommendation was implemented." The language in the form implies that all identified corrective actions are completed at the time of the incident review, which may not be possible with actions such as policy revisions that may take more than 30 days to implement. The form does not include a traditional corrective action plan format for such activities that may require longer timeframes to achieve implementation. Additionally, the form does not include documentation of Warden approval or declination of recommendations made or reasons for denying recommendations.

During the audit documentation period, there were no investigations completed that required an incident review by policy and/or standard requirements. As a result, the Auditor looked at previous investigations from 2018 and identified two (2) investigations in which an incident review was required (18-0448 and 18-0471). The Auditor was informed that during this time period, incident reviews were not conducted in the current electronic system but were competed on paper. The Auditor was also informed that either these reviews were not conducted as required or the hardcopy review document could not be located. During the time period between initial documentation and on-site review, no investigations were completed that indicated an incident review. The Warden and current PCM are aware of standard and policy requirements, and a system to track and ensure all required actions are completed regarding each investigation is being implemented.

Based on the lack of documentation confirming completion of required reviews and lack of documentation in the current review process regarding approval and completion of incident review team recommended actions, RCC was initially assessed as non-compliant with the requirements of this provision. The Auditor will continue to monitor investigations completed during the corrective action period before making final

compliance decisions based solely on Warden and PCM knowledge and the tracking system once established.

Updates:
During the corrective action period, one (1) investigation was completed that indicated the need for an incident review. This review was completed as required by standard and policy. Additionally, the PCM established a comprehensive tracking system to ensure all investigations were reviewed as required. The PCM demonstrated a thorough knowledge of policy and standard requirements. Based on these actions and documentation submitted, RCC is now assessed as compliant with the requirements of this provision.

Documentation provided for this standard:
- Compliance memo dated 07/27/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150102, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- 2018 and 2019 annual agency PREA reports as posted to the public website
- New Mexico Department of Corrections Prison Rape Elimination Act Sexual Assault Response Team PREA Manual (undated)
- Documentation if incident review

Interviews conducted:
- Incident review team
- PREA compliance managers
- Warden

Standard 115.87: Data collection

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

115.87 (a)

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

115.87 (b)

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

115.87 (c)

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

115.87 (d)

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

115.87 (e)

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

115.87 (f)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.87 (a) and (c)
Per information received via email from the former PREA Coordinator, "PREA Management System (PIMS) is located in the CIMS Web extension of our CMIS [Criminal Management Information System – the encompassing database system for all inmate information]…It is designed to answer all the questions on the SSV. The system does interact with our CMIS, so basically when you enter an inmate in as a victim or witness, it will pull all available information from the case management system, i.e. NMCD number, DOB [etc.]. It all pulls information we have for staff, as well. There are several different security levels with this system. Starting with PREA General, Sgts and above are PREA General. Basically what happens is when an allegation is reported, the shift commander or designee is the first to enter the case into PIMS immediately. Once all information is entered, the system will automatically produce the SIR [serious incident report] and the referral to OPS, which is given to the Warden to submit for investigation. The system is designed to 'not save' until all information required has been entered. The next security level is facility PCM, once the PCM enters his/her name as the PCM, all PREA General is locked out and can no longer see the case. The only people who can view the case at this point is the facility PCM, PREA Coordinator, [the Compliance Officer], Warden or the Director. A PCM at one facility cannot see cases at another facility, unless they are added into the system as a PCM on that case. We use to have to do this for retaliation monitoring when the PCMs were conducting it, because if the inmate or witness was moved to another facility, the PCM at that facility would have to complete the retaliation monitoring…Super User Access, is only the PREA Coordinator and [Compliance Officer]. We can see ALL cases. We can edit ALL cases, if needed. The PIMS Systems contains retaliation monitoring, SANE Information, Law Enforcement Info, SART Reviews and all case information. The system went Live for two facilities in October 2017 (PNM and SNMCF) This was done to work out all kinks and problems prior to going live statewide. In January 2018 all public facilities went live. Private facilities could not [go] live as there were issues because staff info is not in our CMIS so changes had to be made that the information could be manually entered. The private facilities went live in May 2018. Each facility was required to enter all allegations from January 2018 so we would have a complete year for 2018…Prior to the PIMS system all PREA data was kept in an access database [with limited access]. All PREA data from 2016, 2017, 2018, 2019 is stored in the database. We maintained the PREA database, for two years 2018, and 2019, to ensure that all cases were being entered in the PIMS system. Once we were sure that the PIMS was being utilized as required, we discontinued the use of the database in January 2020."

During a review of the definitions included in multiple platforms within the agency (e.g., policy, annual report, staff training, offender publications), it was found that the definitions were inconsistent and did not include all the elements required in the DOJ standard definitions regarding prohibited acts. This causes confusion among stakeholders, both internal and external to the agency and results in the inability to effectively analyze allegation and investigation data.

The Auditor received Survey of Sexual Violence reports for calendar years 2018 and 2019 confirming that the agency collects data sufficient to complete these requests from the Department of Justice.

As a result of the inconsistency in the definitions of prohibited acts across agency platforms and the non-compliance with DOJ PREA definitions, RCC was initially assessed as non-compliant with the requirements of this provision. On 03/08/2021, the Auditor reviewed a revised annual report with the 2020 draft report, which includes all required elements to bring this into compliance. On 05/24/2021, the

Auditor received a pdf of signed 2020 annual report with notation that the Inspector General is sending a request to the IT department to post it on the NMCD website. Once posting is confirmed, this item can be closed as compliant. On 06/01/2021, the Auditor confirmed posting of new annual report to agency public website.

Based on the above noted actions, RCC is assessed as compliant with the requirements of this provision.

115.87 (b)
A review of historical PREA reports (2012 through 2018) revealed inconsistency in data, with report detailing allegations such as “sexual activity”, “sexual allegation” and “undue familiarity” and findings such as “sustained” and “informational only”. The former PREA Coordinator informed the Auditor that these reports were completed before her tenure and that prior reports included consensual sexual behavior between offenders and allegations that were determined not to fall within established definitions of prohibited behavior. She also reported that in previous years, those who determined findings had used terms such as “inconclusive” and “exonerated”, adding that these issues have since been addressed and standard-compliant processes put in place. The Auditor located the 2019 annual report on the agency’s public website that had been added during the pre-audit phase of this review. This report includes aggregate data for the agency for the current as well as prior years as required by the standard.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.87 (d)
Per information received via email from the former PREA Coordinator, “PREA Management System (PIMS) is located in the CIMS Web extension of our CMIS…The system does interact with our CMIS [Criminal Management Information System – the encompassing database system for all inmate information], so basically when you enter an inmate in as a victim or witness, it will pull all available information from the case management system, i.e. NMCD number, DOB [etc.]. It all pulls information we have for staff, as well. The PIMS Systems contains retaliation monitoring, SANE Information, Law Enforcement Info, SART Reviews and all case information.”

During a Zoom meeting, the former PREA Coordinator was able to demonstrate all electronic systems associated with PREA, confirming compliance with data collection and retention requirements.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.87 (e)
Per information received via email from the former PREA Coordinator, “PREA Management System (PIMS) is located in the CIMS Web extension of our CMIS [Criminal Management Information System] …It is designed to answer all the questions on the SSV. The system went Live for two facilities in October 2017 (PNM and SNMCF) This was done to work out all kinks and problems prior to going live statewide. In January 2018 all public facilities went live. Private facilities could not [go] live as there were issues because staff info is not in our CMIS so changes had to be made that the information could be manually entered. The private facilities went live in May 2018.” The Auditor also confirmed inclusion of data from private, contracted facilities in the agency’s annual PREA report.

The annual report for 2019 was reviewed as it was determined that earlier versions of the report did not meet standard requirements. The 2019 report included information from all privately contracted facilities with the exception of the New Mexico Men’s Recovery Academy and the New Mexico Women’s Recovery Academy (NMWRA). Per the former PREA Coordinator, the data is available but had not previously been included in agency annual reports, which is the platform the agency uses to consolidate all incident data.

Based on the omission of the noted two facilities in the agency annual reports, RCC was initially assessed as non-compliant with the requirements of this provision. On 03/08/2021, the Auditor reviewed a revised annual report with the 2020 draft report, which includes all required elements to bring this into compliance. On 05/24/2021, the Auditor received a pdf of signed 2020 annual report with notation that the Inspector General is sending a request to the IT department to post it on the NMCD website. Once posting is confirmed, this item can be closed as compliant. On 06/01/2021, the Auditor confirmed posting of new annual report to agency public website.

Based on the above noted actions, RCC is assessed as compliant with the requirements of this provision.

115.87 (f)
The Auditor was provided with Survey of Sexual Violence summary and detail reports for 2018 and 2019, confirming submission as requested. It is noted that as of the writing of the interim report, the 2020 summary has not yet been distributed by the Department of Justice.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:
- Compliance memo dated 07/27/2020 from the former PCM addressed to the DOJ Auditor
- Screen shot of the agency's public website
- Annual agency PREA reports 2012 through 2020 as posted to the agency's public website
- 2018 and 2019 Survey of Sexual Violence reports submitted to the Department of Justice

Interviews conducted:
- None were indicated in the DOJ Auditor Compliance Tool or interview templates

Standard 115.88: Data review for corrective action

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

115.88 (a)

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas? ☒ Yes ☐ No

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis? ☒ Yes ☐ No

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

115.88 (b)

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

115.88 (c)

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

115.88 (d)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.88 (a)
The Auditor reviewed agency annual PREA reports for 2012, 2013, 2014, 2015, 2016, 2017, and 2018. These reports evolved over the years and all detail aggregated data for the agency. Annual reports for 2012 through 2015 included agency plans for moving forward. However, this was removed from the report beginning with 2016. No problem identification or corrective action was detailed in the 2018 report for the agency as a whole.

Beginning with the 2014 annual report, detailed allegation and planning information was included for each agency facility. This was revised in the 2016 annual report to include facility data and accomplishments; however, this was again revised in the 2018 report to only include facility descriptions and data. No problem identification or corrective action was detailed in the 2018 report for this facility. These historical deficiencies were discussed with the former PREA Coordinator and are to be addressed in future reports.

The Auditor was also able to review the 2019 annual agency PREA report as recently posted to the agency's public website. The report now includes detail of agency accomplishments to summarize the PREA-related activities and achievements during the 2019 calendar year. The annual report also includes aggregate data for the current calendar year as well as a comparison of that data with prior years. The report includes a corrective action section, separated by allegation type, with a summary of the actions the agency plans to take moving forward, as follows:

- *Continue ongoing review of operational practices to improve the sexual safety within all facilities.*
- *Maintain compliance with §115.401 Frequency and Scope of Audits and ensure that all facilities are audited within the three-year cycle.*
- *The PREA Coordinator will work with the IT Department to establish reports in PMS.*
- *Continue to enhance training for staff, contract staff, contractors, volunteers, and inmates.*

The information included in the annual report for RCC is as follows:

- *Dedicated position, to serve as the facility PREA Compliance Manager (PCM),*
- *Sends the PCM on technical reviews and facility assessments throughout the state to gain Agency level compliance.*
- *Has successfully been determined to be compliant of all PREA standards, during two Department of Justice PREA Audits (2016, 2018).*

The most current annual report does not include corrective action on the facility level. It was noted that RCC did not have any substantiated investigations and therefore would not have related corrective action. However, the corrective action noted for this provision is not limited to investigations, but prevention, detection, and response strategies comprehensively. The Auditor reviewed standard requirements with the former PREA Coordinator and PREA Resource Center and is able to assess the annual report as substantively compliant.

All individuals interviewed (Secretary's designee, former and interim PREA Coordinators, and all PCM's) confirmed a review of all available data to assess and improve the effectiveness of the agency's sexual abuse prevention, detection, and response policies, and training. There appears to be good communication regarding this review and the agency appears to be responsive with regard to issues identified. It is noted that the current PREA Coordinator has not yet been involved in the annual review of data and may need direction from applicable stakeholders when this review comes due again.

Based on the above, RCC is assessed as substantively compliant with the requirements of this provision.

115.88 (b)
The Auditor reviewed agency annual PREA reports for 2012, 2013, 2014, 2015, 2016, 2017, and 2018. These reports evolved over the years and all detail aggregated data for the agency. Annual reports for 2012 through 2015 included agency plans for moving forward. However, this was removed from the report beginning with 2016.

The Auditor was also able to review the 2019 annual agency PREA report as recently posted to the agency's public website. The report now includes detail of agency accomplishments to summarize the PREA-related activities and achievements during the 2019 calendar year. The annual report also includes aggregate data for the current calendar year as well as a comparison of that data with prior years. The report includes a corrective action section, separated by allegation type, with a summary of the actions the agency plans to take moving forward, as follows:

- *Continue ongoing review of operational practices to improve the sexual safety within all facilities.*
- *Maintain compliance with §115.401 Frequency and Scope of Audits and ensure that all facilities are audited within the three-year cycle.*
- *The PREA Coordinator will work with the IT Department to establish reports in PMS.*
- *Continue to enhance training for staff, contract staff, contractors, volunteers, and inmates.*

It is noted that the 2019 annual report does not include a comparison of corrective action for the current year with that of previous years as the prior annual reports did not include corrective action information. The former PREA Coordinator has added this information to the 2019 report and will include comparison of the 2019 information with 2020 information once that report is developed.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.88 (c)
The Auditor located annual PREA reports from 2012 through 2019 on the agency's public website at: htts://cd.nm.gov/prea/prea/prea/html

The reports are signed by the agency Cabinet Secretary.

An interview with the Secretary's designee confirmed the approval of these reports, through the PREA Coordinator to the Inspector General.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.88 (d)
A review of the annual reports confirmed the lack of any personally identifying information. In an interview, the former PREA Coordinator confirmed that data maintained for the annual report does not include any personally identifying information and therefore, there has been no need for redaction. This was also confirmed in interviews with the interim and current PREA Coordinators.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 07/27/2020 from the former PCM addressed to the DOJ Auditor
- Annual agency PREA reports 2012 through 2019 as posted to the agency's public website

Interviews conducted:

- Agency head designee
- PREA compliance managers
- PREA coordinators

Standard 115.89: Data storage, publication, and destruction

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

115.89 (a)

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

115.89 (b)

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

115.89 (c)

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

115.89 (d)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.89 (a)
Agency policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020), section A.3. (page 1) requires, "All case records associated with claims of sexual abuse and sexual harassment, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings and recommendations for post-release treatment and/or counseling shall be retained in a confidential manner..."

Per information received via email from the former PREA Coordinator, "PREA Management System (PIMS) is located in the CIMS Web extension of our CMIS…It is designed to answer all the questions on the SSV. The system does interact with our CMIS [Criminal Management Information System], so basically when you enter an inmate in as a victim or witness, it will pull all available information from the case management system, i.e. NMCD number, DOB [etc.]. It all pulls information we have for staff, as well. There are several different security levels with this system. Starting with PREA General, Sgts and above are PREA General…The next security level is facility PCM, once the PCM enters his/her name as the PCM, all PREA General is locked out and can no longer see the case. The only people who can view the case at this point is the facility PCM, PREA Coordinator, {the Compliance Officer], Warden or the Director. A PCM at one facility cannot see cases at another facility, unless they are added into the system as a PCM on that case. We use to have to do this for retaliation monitoring when the PCMs were conducting it, because if the inmate or witness was moved to another facility, the PCM at that facility would have to complete the retaliation monitoring…Super User Access, is only the PREA Coordinator and [Compliance Officer]. We can see ALL cases. We can edit ALL cases, if needed."

Secure retention of all PREA-related data was also confirmed in an interview with the interim and current PREA Coordinators.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.89 (b)
The Auditor located annual PREA reports from 2012 through 2019 on the agency's public website at: htts://cd.nm.gov/prea/prea/prea/html

A review of annual reports from 2012 through 2019 confirmed inclusion of information regarding the facilities under the agency's direct control as well as the private facilities with the exception of the New Mexico Men's Recovery Academy and the New Mexico Women's Recovery Academy (NMWRA). Per the former PREA Coordinator, the data is available but had not previously been included in agency annual report, which is the platform the agency uses to consolidate all incident data.

Based on the omission of the noted two facilities in the agency annual reports, RCC was initially assessed as non-compliant with the requirements of this provision. On 03/08/2021, the Auditor reviewed a revised annual report with the 2020 draft report, which includes all required elements to bring this into compliance. On 05/24/2021, the Auditor received a pdf of signed 2020 annual report with notation that the Inspector General is sending a request to the IT department to post it on the NMCD website. Once posting is confirmed, this item can be closed as compliant. On 06/01/2021, the Auditor confirmed posting of new annual report to agency public website.

Based on the above noted actions, RCC is assessed as compliant with the requirements of this provision.

115.89 (c)
A review of the annual reports confirmed the lack of any personally identifying information. In interviews, the former, interim, and current PREA Coordinators confirmed that data maintained for the annual report does not include any personally identifying information and therefore, there has been no need for redaction.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.89 (d)
Agency policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)*,* section A.3. (page 1) requires, "All case records associated with claims of sexual abuse and sexual harassment, including incident reports, investigative reports, offender

information, case disposition, medical and counseling evaluation findings and recommendations for post-release treatment and/or counseling shall be retained in a confidential manner and are retained for ten years."

Per information received via email from the former PREA Coordinator, "PREA Management System (PIMS) is located in the CIMS Web extension of our CMIS [Criminal Management Information System]…The system went Live…in October 2017 (PNM and SNMCF) This was done to work out all kinks and problems prior to going live statewide…Prior to the PIMS system all PREA data was kept in an access database [with limited access]. All PREA data from 2016, 2017, 2018, 2019 is stored in the database. We maintained the PREA database, for two years 2018, and 2019, to ensure that all cases were being entered in the PIMS system. Once we were sure that the PIMS was being utilized as required, we discontinued the use of the database in January 2020."

As it has not yet been ten (10) years since the implementation of PREA standard requirements, no data has yet been redacted from existing data systems.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Documentation provided for this standard:

- Compliance memo dated 07/27/2020 from the former PCM addressed to the DOJ Auditor
- Policy CD-150101, *Offender Protection Against Abuse, Sexual Misconduct, Reporting Procedures, PREA* (05/29/2020)
- Annual agency PREA reports 2012 through 2020 as posted to the agency's public website

Interviews conducted:

- PREA coordinators

AUDITING AND CORRECTIVE ACTION

Standard 115.401: Frequency and scope of audits

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

115.401 (a)

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

115.401 (b)

- Is this the first year of the current audit cycle? (*Note: a "no" response does not impact overall compliance with this standard.*) ☒ Yes ☐ No

- If this is the second year of the current audit cycle, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited during the first year of the current audit cycle? (N/A if this is **not** the *second* year of the current audit cycle.) ☒ Yes ☐ No ☐ NA

- If this is the third year of the current audit cycle, did the agency ensure that at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency, were audited during the first two years of the current audit cycle? (N/A if this is **not** the *third* year of the current audit cycle.) ☒ Yes ☐ No ☐ NA

115.401 (h)

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

115.401 (i)

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

115.401 (m)

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

115.401 (n)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.401 (a)
NMCD currently operates seven (7) state-owned adult prison facilities. It is noted that this increased from six (6) during 2020 with the transition of one facility from a privately operated to a state operated prison. This facility was incorporated into the agency audit schedule for the 2020/2021 audit cycle. The Auditor confirmed via review of the agency's public website that audits have been conducted each year in 1/3 of the state operated prison facilities, beginning in 2015.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.401 (b)
NMCD currently only operates adult prison facilities. The Auditor confirmed via review of the agency's public website that audits have been conducted each year in 1/3 of the state operated prison facilities, beginning in 2015. Additionally, the agency ensures that all privately operated facilities are audited every three years based on the schedule of the private organizations. It is noted that many of the private facilities are operated by the GEO Group and are therefore incorporated into that organization's national audit schedule. It is also noted that audits scheduled for the 2019/2020 audit cycle have been postponed due to COVID-related restrictions and will be completed as soon as operations allow.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.401 (h)
Although under supervision as a facility visitor, the Auditor was allowed free access to every part of the facility. The on-site team was provided escorted access to all areas of the facility, both during the formal tour as well as throughout the on-site review. Staff were very open to showing the Team any area asked about and took members back to areas to observe physical plant modifications completed or as needed to answer any additional questions the Team had during the on-site review.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.401 (i)
The Auditor was able to request agency level documentation from the former PREA Coordinator and facility level documentation from the former PCM. Both individuals were included in all email communications. The Auditor received prompt response from the former PREA Coordinator. However,

as noted throughout this report, many of the requests to the former PCM were left partially or completely unanswered. As a result, the corresponding standard was found in non-compliance.

Based on the lack of response to requests for information and documentation, RCC was initially assessed as non-compliant with the requirements of this provision. However, with the appointments of the interim and current PCM, all requests for information and documentation were promptly and thoroughly responded to. Actions were taken by the facility to quickly and effectively address identified areas of non-compliance and communication was very open between the Auditor and facility stakeholders.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.401 (m)
All members of the on-site team were provided areas in the facility in which private interviews with staff and inmates were conducted. Interviews were conducted in various offices off housing units and in recreation.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

115.401 (n)
On 06/08/2021, the Auditor was provided with photographs of the audit notice posting from various locations within the facility. Although the photographs were not date stamped, the email confirmed posting 47 days in advance of the on-site review. The email also indicated the remainder of locations within the facility that notices were posted, to include areas accessible by inmates, staff, and the public. The Auditor did not receive any letters from anyone associated with or regarding this audit.

Based on the above, RCC is assessed as compliant with the requirements of this provision.

Standard 115.403: Audit contents and findings

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

115.403 (f)

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

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

Instructions for Overall Compliance Determination Narrative

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

115.403
The Auditor located all final PREA audit reports for all public and private facilities on the agency's public website at:
https://cd.nm.gov/divisions/administrative-support/office-of-inspector-general/prison-rape-elimination-act/

Based on the above, RCC is assessed as compliant with the requirements of this provision.

AUDITOR CERTIFICATION

I certify that:

☒ The contents of this report are accurate to the best of my knowledge.

☒ No conflict of interest exists with respect to my ability to conduct an audit of the agency under review, and

☒ I have not included in the final report any personally identifiable information (PII) about any inmate or staff member, except where the names of administrative personnel are specifically requested in the report template.

Auditor Instructions:

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

Beth L. Schubach 01/09/2022

Auditor Signature **Date**

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

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