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

☐ Interim ☒ Final

Date of Report August 20, 2018

Auditor Information

Name: Nancy L. Hardy
Email: Nancy.Hardy@cdcr.ca.gov

Company Name: California Department of Corrections and Rehabilitation

Mailing Address: P. O. Box 942883, Suite 351-N
City, State, Zip: Sacramento, CA 94283-0001

Telephone: (916) 324-0791
Date of Facility Visit: April 12 & 13, 2018

Agency Information

Name of Agency: Western New Mexico Correctional Facility

Governing Authority or Parent Agency (If Applicable): New Mexico Corrections Department

Physical Address: 2111 North Lobo Canyon Road
City, State, Zip: Grants, NM 87020

Mailing Address: P. O. Drawer 250
City, State, Zip: Grants, NM 87020

Telephone: (505) 876-8300
Is Agency accredited by any organization? ☒ Yes ☐ No

The Agency Is: ☐ Military ☐ Private for Profit ☐ Private not for Profit
☐ Municipal ☐ County ☒ State ☐ Federal

Agency mission: We commit to the safety and well-being of the people of New Mexico by doing the right thing, always.

Agency Website with PREA Information: cd.nm.gov

Agency Chief Executive Officer

Name: David Jablonski
Title: Secretary
Email: David.Jablonski@state.nm.us
Telephone: (505) 239-1789

Agency-Wide PREA Coordinator

Name: Jillian Shane
Title: PREA Coordinator
Email: Jillian.shane@state.nm.us
Telephone: (505) 383-2993
PREA Coordinator Reports to: Agency Secretary  Number of Compliance Managers who report to the PREA Coordinator: 11

### Facility Information

**Name of Facility:** Western New Mexico Correctional Facility  
**Physical Address:** Same as above  
**Mailing Address (if different than above):** Same as above  
**Telephone Number:** Same as above  
**The Facility Is:**  
- [ ] Military  
- [ ] Private for profit  
- [ ] Private not for profit  
- [X] Municipal  
- [ ] County  
- [X] State  
- [ ] Federal  
**Facility Type:**  
- [ ] Jail  
- [X] Prison  
**Facility Mission:** We commit to the safety and well-being of the people of New Mexico by doing the right thing, always.  
**Facility Website with PREA Information:** cd.nm.gov

### Warden/Superintendent

**Name:** Roberta Lucero-Ortega  
**Email:** RobertaL.Lucero-Ort@state.nm.us  
**Title:** Warden  
**Telephone:** (505) 876-8201

### Facility PREA Compliance Manager

**Name:** Victor Aldaz  
**Email:** victor.aldaz@state.nm.us  
**Title:** Lieutenant  
**Telephone:** (505) 876-8300

### Facility Health Service Administrator

**Name:** Shane Martinez  
**Email:** shmartinez@centurionnm.com  
**Title:** Health Administrator  
**Telephone:** Click or tap here to enter text.

### Facility Characteristics

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<thead>
<tr>
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<tbody>
<tr>
<td>Number of inmates admitted to facility during the past 12 months</td>
<td>788</td>
<td></td>
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</tr>
<tr>
<td>Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:</td>
<td>788</td>
<td></td>
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</tr>
<tr>
<td>Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:</td>
<td>744</td>
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</tbody>
</table>
### Number of Inmates on Date of Audit

- Admitted to facility prior to August 20, 2012: 0

### Age Range of Population

- Youthful Inmates Under 18: 0
- Adults: 19-84

### Are youthful inmates housed separately from the adult population?

- Yes
- No
- NA

### Number of Youthful Inmates

- Housed at this facility during the past 12 months: 0

### Average Length of Stay

- Under supervision: N/A

### Facility Security Level

- Level III, Level IV, Reception

### Number of Staff

- Currently employed by the facility who may have contact with inmates: 181
- Hired by the facility during the past 12 months who may have contact with inmates: 84
- Contracts in the past 12 months for services with contractors who may have contact with inmates: 47

### Physical Plant

- Number of Buildings: 26
- Number of Single Cell Housing Units: 7
- Number of Multiple Occupancy Cell Housing Units: 2
- Number of Open Bay/Dorm Housing Units: 2
- Number of Segregation Cells (Administrative and Disciplinary): 16

**Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.):**

Cameras are placed in each housing unit and in various locations outside of the housing units.

### Medical

- Type of Medical Facility: 24 hour medical facility, with long term care unit
- Forensic sexual assault medical exams are conducted at: University of New Mexico Hospital/ SANE Office 625 Silver Street, Albuquerque, NM

### Other

- Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility: 75
- Number of investigators the agency currently employs to investigate allegations of sexual abuse: 6
Audit Findings

Audit Narrative

Western New Mexico Correctional Facility (WNMCF) agreed to participate in a Prison Rape Elimination Act (PREA) audit to be conducted by certified auditors from the California Department of Corrections and Rehabilitation (CDCR). The audit was conducted at 2111 North Lobo Canyon Road, Grants, New Mexico 87020. The on-site phase of the audit took place during the period of April 12 and April 13, 2018. The audit team completed some of the pre-audit work before traveling to the facility for the on-site portion of the audit.

PRE-AUDIT PHASE

On February 20, 2018, CDCR provided (via e-mail) the audit notice to the agency’s PREA Coordinator with instructions to post copies in the housing units and other places deemed appropriate by facility staff. CDCR received the pre-audit questionnaire, audit process map, checklist of policies/procedures and other documents from New Mexico Corrections Department (NMCD), WNMCF in March 2018. Notices were to be posted in areas accessible to both inmates and staff. This was verified during the on-site portion of the audit, during the facility tour.

Pre-audit section of the compliance tool: In March 2018, the PREA Compliance Manager (PCM) provided the completed pre-audit questionnaire, including supporting documentation, to the audit team. The certified auditors started completing the compliance tool by transferring information from the pre-audit questionnaire and from supporting documentation to the pre-audit section of the compliance tool.

The audit team received two letters from inmates at the facility prior to arrival at the institution. No additional letters were received upon return to the office after completion of the on-site review.

ON-SITE PHASE

On Thursday, April 12, 2018, the audit team arrived at WNMCF. The audit team consisted of 4 certified auditors. The team included myself, retired Chief Deputy Administrator and previous PREA Coordinator for the CDCR; John Katavich, retired Warden for CDCR; Shannon Stark, Captain and current PREA Coordinator for CDCR, and Roger Benton, retired Captain for CDCR.

On April 12, 2018, the audit team met with the Warden, PREA Coordinator, PCM, and various management staff for greetings, introductions and information sharing. The team was assigned a conference room which served as the team’s primary work location for audit preparation and organization.

Upon arrival at WNMCF, the audit team requested and received the names of the employees assigned in the management and specialized staff positions, who might be interviewed during the on-site portion
of the audit. The audit team selected the names of staff who would be interviewed. Also on this date, the audit team received a roster of all inmates at the facility with identification numbers and assigned bed numbers, sorted by housing unit. The auditor also requested a list of inmates classified into any of the following categories:

- Disabled Inmates
- Limited English Proficient Inmates
- Transgender & Intersex Inmates
- Lesbian & Bisexual Inmates
- Inmates in Segregated Housing for Risk of Sexual Victimization
- Inmates who Reported Sexual Abuse
- Inmates who Disclosed Sexual Victimization during Risk Screening

The audit team requested and received a list of all staff assigned during the days of the on-site review, sorted by shift. The auditor explained that these rosters were required for the audit team to select random staff and inmates for interviews. The list did not specifically identify inmates according to all of the seven categories. However, the PCM provided additional lists which identified the inmates in the required categories. At the time of the audit, the facility did not house any inmates who were Limited English Proficient or Inmates in Segregated Housing for Risk of Sexual Victimization.

On-site Review: The audit team conducted a thorough site review of the facility. The tour was split up to allow for two teams to complete the site review. Half of the facility was reviewed by each team. One team toured the Reception and Diagnostics side of the facility which included housing for reception and diagnostics, therapeutic behavior health unit (TBHU), chronic care unit (CCU), long term care unit (LTCU), restricted housing unit (RHU) and level IV. The other team reviewed the side of the facility which houses Level III, general population inmates. There were a few buildings outside the secure perimeter where inmates work. Areas toured inside the secure perimeter included all housing units (including RHU), in-patient medical, mental health, the main kitchen, intake processing area, the laundry, central control, the law library, canteen, academic education, recreation yards, chapels, and visiting.

During the tour, audit team members asked impromptu questions of staff and inmates, noted the placement and coverage of surveillance cameras, inspected surveillance monitors, identified potential blind spots, inspected bathrooms and showers to identify potential cross gender viewing concerns, etc. In inmate dayrooms, audit team members tested inmate phones to determine the functionality of the facility’s hotline for reporting sexual abuse or harassment. In inmate work areas, audit team members assessed the level of staff supervision and asked questions to determine whether inmates are in lead positions over other inmates. Audit team members also noted the placement of PREA information posters and noted the placement of the PREA audit notice provided to the facility.

PREA Management Interviews: The lead auditor conducted interviews of the management team, including the Warden and the PCM. The auditors worked with facility staff to schedule a time for each of these interviews; and the interviews were conducted in the staff member’s office using the applicable interview protocols and responses were recorded by hand. The Secretary was interviewed by another team via the telephone. The PREA Coordinator was interviewed by another team member.
Specialized Staff Interviews: Using the list of specialized staff received from the PCM, three audit team members performed the required interviews in various locations. In some cases, it was necessary to conduct the interview via telephone because the person to be interviewed was at a distant location; examples of these were the sexual assault nurse examiner and volunteers.

The audit team identified specialized staff to be interviewed. Interviews included the following:

- Agency Head-1
- PREA Coordinator-1
- Agency Contract Administrator-1
- Warden-1
- PCM-1
- Medical and Mental Health-3
- Incident Review Team Member-1
- Staff who Perform Screening for Risk of Victimization and Abusiveness-2
- Intake Staff-2
- Office of Professional Services (facility and central office level investigations)-2
- Sexual Assault Nurse Examiner-1
- Victim Advocate-1
- Human Resources-1
- Segregated Housing staff-3
- Person Responsible for Monitoring Retaliation-1
- Higher Level Supervisor-3
- Summit Contractor (Food Services)-1
- Centurion Medical Contractor-1
- First Responders-3
- Volunteer-1
- Grievance Officer-1

Where the circumstances dictate, the interviewer would ask to review documentation, logs, computerized tracking, or other materials necessary to make a determination of compliance with the standard. During these interviews, the audit team members based the line of questioning on the standard interview protocols and recorded responses by hand. A total of 32 specialized staff interviews were conducted.

Random Staff Interviews: The audit team identified random staff to be interviewed. These random staff was selected from the shift rosters, considering a variety of work locations and various shifts. The interviews were conducted in private interview rooms, in various locations around the facility. The auditor introduced themselves, communicated the advisory statements to the staff, proceeded to ask the questions from the interview protocols for random staff and recorded the answers by hand. Clarifications were requested when needed to ensure the responses were clear enough to make a determination of compliance with applicable standards. A total of 15 random staff interviews were conducted.
Random Inmate Interviews: The auditor determined that at least one inmate from each housing unit would be interviewed. Two audit team members were assigned responsibility for the various inmate interviews. Audit team members used the alphabetical roster of inmates to randomly select one or two inmates from their assigned housing units. Interviews were conducted in a private interview room/office, in various locations throughout the facility. The audit team members introduced themselves, communicated the standard advisory statements to the inmate before proceeding with the standard line of questions from the random inmate interview protocols and recorded the inmate answers by hand using the designated form. Clarification was requested, as needed to ensure the inmate’s responses were clear. A total of 26 random interview protocols were completed.

PREA-Interest Inmate Interviews: Two audit team members were assigned responsibility for interviewing specific categories of inmates identified for interviews based upon their relevance to specific PREA standards. These categories are:

- Disabled Inmates
- Transgender and Intersex Inmates
- Lesbian and Bisexual Inmates
- Inmates who Reported Sexual Abuse
- Inmates who Disclosed Sexual Victimization during Risk Screening

The inmate was escorted to a private room/office where the auditor introduced themselves, communicated the standard advisory statement and asked the line of questions in the respective interview protocols. Audit team members also conducted these interviews if a random inmate interviewee disclosed information suggesting that one of the above categories of PREA interest applied to her. Audit team members interviewed one inmate identified as physically disabled, one inmate who was identified as being transgender, two inmates who were identified as being lesbian or bisexual, three inmates who reported sexual abuse, and two inmates who disclosed sexual victimization during risk screening; a total of 9 inmates were interviewed based upon PREA-interest categories.

Document Reviews: The document review process was divided up between the 3 auditors. One auditor reviewed all documents related to allegations of sexual abuse including notification of the outcome of the investigation to the inmate and retaliation monitoring documentation. One auditor reviewed a random sample of training records, contractor and volunteer employment and training records, and personnel training records (reflecting background checks are being completed). One auditor reviewed records documenting the training of the inmate population and the records maintained through the inmate intake process. The auditors collected copies of documents, as necessary.

The facility had the PCM provide the investigative files for 18 of the 74 allegations received during the previous 12 month period. After initiating the investigation, as required in the NMCD policy, there were 35 allegations that were determined to not meet the criteria of a PREA allegation. For the remaining 39 allegations, the breakdown is as follows:

<table>
<thead>
<tr>
<th>Type of Allegation</th>
<th>Staff on Inmate</th>
<th>Inmate on Inmate</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sexual Abuse:</td>
<td>17</td>
<td>8</td>
</tr>
<tr>
<td>--------------</td>
<td>----</td>
<td>---</td>
</tr>
<tr>
<td>Sexual Harassment:</td>
<td>10</td>
<td>4</td>
</tr>
<tr>
<td>Total:</td>
<td>27</td>
<td>12</td>
</tr>
</tbody>
</table>

The investigative reports included the date of report, date of the allegation (if different than report date), name of the victim, name of the suspect, and the disposition or status of the case. The auditor obtained the investigative files from the PCM. These reports were reviewed using a Documentation Review – Investigations form to record the following information relative to each investigative report:

- Date of Allegation
- Date of Investigation
- Staff or Inmate on Inmate
- Sexual Abuse, Sexual Misconduct, or Sexual Harassment?
- Disposition
- Is Disposition Justified?
- Investigating Officer
- Notification Given to Inmate?
- Retaliation Monitoring Completed
- Review by the SART Committee

Throughout the on-site review, the team had discussion about what was being observed, reviewed and discrepancies that were being identified. Various team members sought clarification, when discrepancies were identified to ensure that we were not missing pertinent information. The audit team scheduled a close-out discussion with the Warden and her staff. During this close-out discussion, facility staff, the PCM, and the PREA Coordinator were provided with an overview of the positive things noted by the auditors and what had been identified as areas of concern.

**POST-AUDIT PHASE**

Following the on-site portion of the audit, the lead auditor gathered written information and feedback from the team members and took responsibility for completing the interim report.

The auditor and PCM agreed that any documents not received during the pre-audit phase or on-site review would be requested via email and provided by the PCM or the PREA Coordinator. The audit team leader documented all clarification questions, missing information, requests for additional documentation, etc. to follow-up with the PCM and sent the request on a flow basis. Requested information was returned to the auditor on a flow basis.

**Audit Section of the Compliance Tool**: The auditor reviewed on-site document review notes, staff and inmate interview notes and on-site tour notes and began the process of completing the audit section of the compliance tool. The auditor used the audit section of the compliance tool as a guide to determine which question(s) in which interview guide(s), which on-site document review notes and/or which facility tour site review notes should be reviewed in order to make a determination of compliance for each standard. After checking appropriate “yes” or “no” boxes on the compliance tool for each
applicable subsection of each standard, the auditors completed the “overall determination” section at
the end of the standard indicating whether or not the facility’s policies and procedures exceeds, meets
or does not meet standard.

Interim Audit Report: Following completion of the compliance tool, the auditor started completing the
interim report. The interim report identifies which policies and other documentation were reviewed,
which staff and/or inmate interviews were conducted and what observations were made during the on-
site review of the facility in order to make a determination of compliance for each standard provision.
The auditor then provided an explanation of how evidence listed was used to draw a final conclusion of
whether the facility’s policies and procedures exceed, meet, or do not meet the standard. The written
interim report was provided to WNMCF on Tuesday, May 29, 2018.

Corrective Action Plan: A Corrective Action Plan (CAP) was provided to the facility on June 4, 2018.
The facility did not express a need to convene a conference call with the auditor to discuss the CAP
including actions needed and tentative completion dates. Corrective action was completed on
July 31, 2018 and the final report was issued to the facility on Monday, August 20, 2018.

Facility Characteristics

WNMCF is located in Cibola County, Grants, New Mexico, a community of approximately 11,000
residents. The facility, when originally opened, was designed to house female inmates. The facility
served as the Reception and Diagnostic facility for the state Corrections Department. In 1985, a
minimum unit/outside work detail unit was added and an additional 125 beds were added by double-
bunking the minimum restricted Level II division of the facility. The design capacity increased to the
current 440 beds. The facility’s mission changed in July 1999 to house male inmates. In 2016, the
mission changed again to house female inmates and again, serves as a Reception and Diagnostic
facility.

The Facility houses the Reception Diagnostic Center in Housing Unit (HU) 5, HU6, and HU7. It houses
Level III female inmates in HU1, HU2, HU3, HU4, and HU8. It houses Level IV inmates in HU 6.

Missions at the facility include Therapeutic Behavior Health Unit (TBHU) in HU7, Chronic Care Unit
(CCU) in HU7, Restricted Housing Unit (RHU) in HU1, and a Long Term Care Unit (LTCU) in the
infirmary.

WNMCF has 11 housing units. Housing units include single and double cell and dormitory style
housing. The facility has self-contained medical, laundry, and food preparation facilities. In addition,
there is an intake unit, which accommodates the process used to receive inmates into the Reception
and Diagnostics Center or from other state correctional facilities.

Dormitory-style housing units contain both single or double bunks and multi-inmate restroom and
shower rooms. All of the dormitory-style housing units contain a day room. In housing units,
 telephones are available for inmates to use. The facility has a Disciplinary RHU which is celled housing,
with toilet/sink fixtures in each cell. Showers are available outside of the cells.
The main entrance to the facility allows for the screening of all visitors, both inmate and professionals, who enter the facility. All staff, visitors and their property are screened by metal detector and x-ray for weapons and contraband.

The central control unit is staffed by a correctional officer, who views most of the facilities video monitoring output.

The facility has a commercial kitchen operated by a private contractor, which facilitates the daily feeding of the inmate population. The kitchen operates as needed and is staffed by contract staff on each shift. Security staff travels through the area multiple times per shift.

Activities available to the inmate population include education, recreational library, law library, religious services, a TBHU, dayroom activities with television viewing, and outdoor recreation yards. Family/friend visits occur in the visiting room.

**Summary of Audit Findings**

The on-site portion of the audit went very well. Facility staff was very helpful and responsive to the needs of the auditors and any concerns that were expressed. The audit team thanks the Warden, PREA Coordinator, the PCM, and the entire staff for this because it simplified the process that needed to be completed.

Overall, it is evident that staff at WNMCF has been working toward compliance with the PREA standards. Because of this hard work and actions taken by the facility and central office, the facility was in compliance with all standards after the corrective action period.

Some of the positives observed by the audit team included:

- Most of the housing units had already addressed concerns about cross-gender viewing.
- The facility appears to be very well maintained.
- Posters and contact information was painted by the Inmate telephones in both English and Spanish for quick reference by inmates.
- The facility seems to be adequately staffed. The camera system lends support to the supervision of the inmate population by custody staff.
- Supervisory staff is out in the housing units and other areas of the institution, making rounds and working with their staff to address issues. In the random staff interviews, it was apparent that the line staff is very comfortable making contact with their supervisors and working through the issues.
- Training for both contractors and volunteers appears to be completed with a high rate of compliance and good fidelity.
- Staff and inmates expressed a high level of confidence in the PCM. They expressed that when he was made aware of a situation, it was addressed and resolved.
- Male staff routinely announces their presence when entering female housing units.
- All staff and inmates were able to describe the process they would use to make a report of a PREA incident.
- Investigations are initiated timely and thoroughly completed.

**Number of Standards Exceeded:** 0

**Number of Standards Met:** 45

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
115.41 Screening for risk of victimization and abusiveness
115.42 Use of screening information
115.43 Protective Custody
115.51 Inmate Reporting
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
115.33 All inmates at the facility were provided PREA comprehensive education during April 2018. This was done because many of the inmates interviewed indicated they did not recall receiving the comprehensive education. The facility initiated a tracking system to ensure that all inmates receive initial information within 72 hours of arrival and the acknowledgement form is retained in the inmate's file as proof the inmate received the information. The same tracking system is used to ensure comprehensive education is completed within 30 days of arrival and the acknowledgement form is retained in the inmate’s file as proof the inmate received the information. The facility changed their intake process to ensure inmates transferring from another facility receive the required PREA training. The auditor monitored compliance with this standard for 90 days and determined compliance at 98.7% – 100% during the three month period.

115.41 All staff responsible to conduct the risk screening were provided additional training, to ensure a thorough understanding of what is required. The facility initiated a tracking system to ensure that all inmates are screened for risk of victimization or sexual abusiveness within 72 hours of arrival and are re-screened for their risk of victimization or abusiveness based upon additional, relevant information received by the facility since the initial intake screening and within 30 days of arrival. The auditor monitored compliance with this standard for 90 days and determined compliance at 98.8% – 99.4% during the three month period.

115.82 The PREA Resource Guide for Inmates was updated to include that the inmate does not have to name the abuser or cooperate with any investigation arising out of the incident to have access to the appropriate medical and mental health services. This information being available to the inmate victim might encourage them to seek medical and/or mental health services. The updated PREA Resource Guide for Inmates was distributed during July 2018.

115.86 Formal minutes are being taken at each SART committee meeting. These minutes are transcribed and included with the Sexual Abuse or Assault Incident Review Team form. The facility has also begun to include the SIR and investigation with the form, which make a thorough and complete package for those who need to review the facilities actions. The facility is ensuring that any recommendations for improvement are implemented or the reasons for not doing so are thoroughly documented.

Additional Recommendations:

115.17 The agency is substantially compliant with this standard; however, the auditor recommends a consolidation into one file of the documents that must be reviewed by
the auditor to determine compliance with this standard. The staff at WNMCF spent quite a bit of time tracking down all the materials that the auditor requested. If copies of all required documents were retained in one file, it would simplify the collection process for staff in preparation for the audit and the review process for the auditor.

Through discussion with the PREA Coordinator, the auditor was informed that the state has reassigned responsibility for management of the Human Resources functions. She indicated all Human Resources functions are now handled through the State Personnel Office. This change will include all records being maintained electronically and records will be standardized. They are experiencing some growing pains while they transition to the new system, but she has been working to identify the documents needed for the audit. They have created a list of those documents, which will be maintained at each facility.

115.52 The agency is substantially compliant with this standard; however, the auditor recommended that once the grievance policy was approved, the inmate handbook and/or the PREA Resource Guide for Inmates be updated to mirror the language contained in the grievance policy. This recommendation was complied with during July 2018.

115.78 The agency is substantially compliant with this standard; however, the auditor recommends the written policy be updated to include: 1) that sanctions against inmates are to be 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; and 2) that disciplinary sanctions take into account the inmate’s prior disciplinary history and the inmate’s mental health status at the time of the violation, including the motivation for the offense and the inmate’s attitude toward the victim. This recommendation was complied with during July 2018.

**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)*

New Mexico Corrections Department (NMCD) policy 150100 – Inmate Protection Against Abuse and Sexual Misconduct, Reporting Procedures, PREA outlines the agency’s zero tolerance and includes sanctions for those who violate the zero-tolerance policy. The policy further outlines implementation of the agency’s approach to prevent, detect, and respond to sexual abuse and sexual harassment. The 8-page policy provides definitions of prohibited behaviors, a description of the agency’s strategy, and response to reduce and prevent sexual abuse and harassment of inmates. Associated with this policy are NMCD Policy 150101, which is a supplement to the policy listed above and NMCD Policy 150102, Coordinated Response to Sexual Assaults, which is also a supplement to the policy listed above.

The standards mandate that a PREA Coordinator be assigned; this is confirmed by review of the agency organizational chart provided with the Pre-Audit Questionnaire (PAQ). In addition, a copy of a memorandum dated April 19, 2017 was provided in which Secretary Jablonski notifies all staff that Jillian Shane was selected as the Inspector General for the NMCD. He further states that she will remain the PREA Coordinator for the NMCD. There are currently 11 PCM’s throughout the state and the PREA Coordinator has regular contact with them through site visits and direct conversations. Ms. Shane was at the facility during the audit and answered questions, as needed.
Through the interview with Ms. Shane, she indicated she has adequate time to manage her PREA responsibilities. She provides oversight to 11 PCM (5 private prisons and 6 state facilities) for NMCD.

The standards mandate the assignment of a facility PCM. Victor Aldaz, Correctional Lieutenant (Lt.), is assigned to the role of PCM. Lt. Aldaz reports to the PREA Coordinator for PREA related issues. The facility organizational chart reflects the PCM reports to the Deputy Warden; however, the auditor was provided a memorandum dated May 28, 2017 which states Lt. Aldaz was appointed as the PCM for WNMCF and that he reports directly to the Warden. During formal and informal discussions with the auditors, it was evident Lt. Aldaz was knowledgeable about the PREA policies and was able to answer most questions and could explain the process the facility followed in preparation for this audit.

When the PCM was asked about having adequate time to manage his PREA related responsibilities, he indicated he is also responsible for other functions. He indicated it is a lot to do and at times his other work does not get completed because of the time he spends on PREA. He indicated that this issue has been discussed with the Warden and they are actively trying to identify additional resources to provide assistance for him. During the interview with the Warden, she also indicated they are working to identify additional staff who can provide support to the PREA efforts.

The staff looks to Ms. Shane and the PCM to provide direction regarding PREA compliance. It was also clear that Ms. Shane provides guidance, as needed, to the PCMs.

**Corrective Action:** None was recommended for this standard.

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

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

#### 115.12 (a)

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

#### 115.12 (b)

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

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

A memo dated 4/19/2018 authored by Ms. Shane indicates WNMCF does not contract for the confinement of its inmates with private agencies or other entities.

During the interview with the Agency Contract Administrator, she stated that she communicates with the contract agencies via e-mail, telephone and in-person visits. She reviews all PREA allegations received from the contract agency. She reviews all MOU’s and communicates with all stakeholders. There are 5 contracts: 3 with GEO, 1 with CCA and 1 with MTC. Only 2 are currently open. All contracted facilities have been certified PREA compliant during the current audit cycle. She conducts self-audits twice a year and is on-site when the formal audits are conducted.

Corrective Action: None was recommended for this standard.

Standard 115.13: Supervision and monitoring

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

115.13 (a)

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

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

- Does the agency ensure that each facility’s staffing plan takes into consideration the generally accepted detention and correctional practices in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility’s staffing plan takes into consideration any judicial findings of inadequacy in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility’s staffing plan takes into consideration any findings of
inadequacy from Federal investigative agencies in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility’s staffing plan takes into consideration any findings of inadequacy from internal or external oversight bodies in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility’s staffing plan takes into consideration all components of the facility’s physical plant (including “blind-spots” or areas where staff or inmates may be isolated) in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility’s staffing plan takes into consideration the composition of the inmate population in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility’s staffing plan takes into consideration the number and placement of supervisory staff in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility’s staffing plan takes into consideration the institution programs occurring on a particular shift in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No ☐ NA

- Does the agency ensure that each facility’s staffing plan takes into consideration any applicable State or local laws, regulations, or standards in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility’s staffing plan takes into consideration the prevalence of substantiated and unsubstantiated incidents of sexual abuse in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility’s staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

115.13 (b)

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

115.13 (c)

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

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

115.13 (d)

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

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

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

Auditor Overall Compliance Determination

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

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

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

The facility’s staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring:

1. Generally accepted detention and correctional practices? ☒ Yes ☐ No
2. Any judicial findings of inadequacy? ☒ Yes ☐ No
3. Any findings of inadequacy from Federal investigative agencies? ☒ Yes ☐ No
4. Any findings of inadequacy from internal or external oversight bodies? ☒ Yes ☐ No
5. All components of the facility’s physical plant (including “blind-spots” or areas where staff or inmates may be isolated)? ☒ Yes ☐ No
6. The composition of the inmate population? ☒ Yes ☐ No
7. The number and placement of supervisory staff? ☒ Yes ☐ No
8. Institution programs occurring on a particular shift? ☒ Yes ☐ No
9. Any applicable State or local laws, regulations, or standards? ☒ Yes ☐ No
10. The prevalence of substantiated and unsubstantiated incidents of sexual abuse? ☒ Yes ☐ No
11. Any other relevant factors? ☒ Yes ☐ No
NMCD Policy 150101, Page 1 states: (1) 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.

Through the specialized staff interviews, the Warden and PCM stated that during development of the staffing plan, the eleven (11) criteria outlined above were considered. Both indicated the facility is accredited by the American Correctional Association. The Warden stated that the staffing plan is maintained by the PCM. During the most recent review, 12 cameras were added based on PREA incidents and other incidents which occurred within the last 12 months. The Warden monitors compliance with the staffing plan by checking it regularly. She is required to report information from the staffing plan to central office on a regular basis. Compliance with the staffing plan is also considered in requesting additional resources both for physical plant and staff. She stated that all instances of non-compliance with the staffing plan are documented on the staffing rosters. When a post is not filled; the reason for not filling it is documented on the shift reports. It is generally done the shift before by the shift supervisor to ensure that adequate staffing exists and to assist in determining if overtime will be needed to cover all mandatory posts.

The PCM ensures all posts are filled; the cameras are working appropriately; and tracks where deficiencies have been noted, for use in updating the staffing plan.

The staffing plan is evaluated annually or more frequently, if needed, and provides for adequate levels of staff to protect inmates against abuse. The average daily number of inmates is 357, the staffing plan is predicated upon a population of 324 inmates.

All facilities, in consultation with the PREA Coordinator, conduct an assessment, at least annually, to determine and document whether adjustments are needed to the staffing plan. The PREA Coordinator provided a copy of the most recent annual review that was completed. The PREA Coordinator indicated that she is consulted at least annually or more frequently when the need arises. She indicated she is also involved in the review during design and again prior to implementation.

During the tour, it appeared that staffing was adequate to provide an appropriate level of supervision for the inmate population. There are a significant number of cameras positioned around the facility, which offers support to the staff who are providing the daily supervision.

WNMCF provided copies of three staffing rosters that displayed the deviations that had occurred and the reasons for the deviation. During the on-site portion of the audit, two additional staffing rosters were reviewed. Deviations had been noted and the reasons were included. The facility reported that since they received their last group of officers from the academy, they have not had any deviations from the staffing plan.
The six most common reasons for deviating from the staffing plan included: One on One observation per Mental Health, Emergency Transports, Staff Shortages/Vacancies, Facility Emergencies, Hospital Coverage, and Staff injuries.

There were 3 interviews conducted with intermediate or higher-level staff. All supervisory or higher-level staff interviewed stated they conduct unannounced rounds. They document them in the logbook or on the Master Control log. They do not tell anyone where they are going and move randomly around the facility. They also monitor radio traffic to see if their movements are being transmitted. In addition, during random discussions, line staff was asked about the policy on the unannounced rounds. The auditor was told that supervisors conduct unannounced tours of their housing units and document them on the log sheet. Copies of the logs were provided to the auditor with the PAQ. In addition, during the on-site portion of the audit, log was checked during the tour to ensure the unannounced rounds were being conducted and documented.

Corrective Action: None was recommended for this standard.

Standard 115.14: Youthful inmates

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

115.14 (a)

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

115.14 (b)

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

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

115.14 (c)

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

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

☐ Yes  ☐ No  ☒ NA

Auditor Overall Compliance Determination

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

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

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

Consistent with information reported, auditors observed no youthful inmates throughout the on-site visit. This standard for WNMCF is met because they do not house inmates under the age of 18.

**Corrective Action:** None was recommended for this standard.

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**Standard 115.15: Limits to cross-gender viewing and searches**

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

115.15 (a)

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

115.15 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female inmates in non-exigent circumstances? (N/A here for facilities with less than 50 inmates before August 20, 2017.)
  - ☒ Yes  ☐ No  ☐ NA

- Does the facility always refrain from restricting female inmates’ access to regularly available programming or other out-of-cell opportunities in order to comply with this provision? (N/A here for facilities with less than 50 inmates before August 20, 2017.)
  - ☒ Yes  ☐ No  ☐ NA

115.15 (c)

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

### 115.15 (d)

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

### 115.15 (e)

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

### 115.15 (f)

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

**Auditor Overall Compliance Determination**

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

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

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

NMCD Policy 150100, Page 5 states: (L) 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. A transgender or intersex inmate’s
own views with respect to his or her own safety shall be given serious consideration. Page 7 also states: (V) 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. Page 7 states: (W) 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.

NMCD Policy 130300, Search Policy, Page 2 states: Strip searches and visual inspections of inmate body cavities shall only be conducted by correctional employees of the same sex as that of the inmate and shall be based on reasonable belief that the inmate is carrying contraband or other prohibited material. Reasonable belief is not required when inmates return from contact with the general public or from outside the institution and shall always be conducted in a location that allows for privacy from external observations other than that of the employees conducting the search. In all cases, these inspections are conducted by trained personnel. Page 4 states: (J) Facilities shall not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate’s genital status. If the inmate’s genital status is unknown, it may be determined 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.

The PAQ reported no incidents of cross gender strip or body cavity searches in the last 12 months. Through a memorandum received from the PCM, there were no occurrences of cross gender strip searches or body cavity searches conducted in the last 12-month period. The facility maintains a general search log. The log was randomly reviewed by a member of the audit team. No cross-gender strip or body cavity searches were documented on the log.

Through general interviews with staff, all reported that cross gender strip searches or cross gender body cavity searches do not occur at this facility. There were no non-medical staff who had been involved in cross gender strip or visual searches to be interviewed.

The facility does not restrict female inmates’ access to regularly available programming or other out-of-cell opportunities to comply with this provision. During the on-site portion of the audit, it was noted that there are a significant number of female staff assigned to the facility. In discussions with various staff, the auditor was told that male staff is not involved with searches of female inmates.

All random staff who was interviewed indicated the inmate would not be restricted from participation in programs or activities. Several indicated they would call on the radio to request a female staff be sent to the area to conduct the search. Most also indicated there are plenty of female staff assigned at the facility, that they don’t have a problem getting someone to conduct a search, when needed.

Of the 26 random inmates interviewed, one indicated she did not have access to a program while waiting for a female officer to come conduct a search. All others interviewed indicated that there is always female staff available to conduct their pat search. It was also noted that one of the randomly interviewed inmates indicated she has been patted down by a male officer. When questioned further, she was unable to provide the details about when and where this happened. This equates to a 96.9%
compliance rate of the inmates interviewed and because only one out of 26 made this statement, no additional action was taken, other than letting the Warden know what had been said, with no specifics about the inmate who provided the information.

The facility does not have a written policy. It is a standing directive from the PCM via the Major that was distributed to all officers on January 1, 2018. The auditor was informed of the directive via a memorandum dated 4/23/18. WNMC mandates via institutional directive to log all strip searches as an extra precaution for any PREA allegation during the strip search process. They always have two female officers conducting the search. If a cross-gender strip search or body cavity search were completed, it would be noted in the log and an Incident Report would be completed by the shift supervisor (or designee) and routed to the Warden and the PCM.

Most of the inmate housing at WNMCF is single-cell housing; however, there were two dorms. In the cells, there is a toilet and sink combination. The showers are designed for one inmate to use them at a time. They have a barred door on the front which has been modified to restrict the view of the female inmate’s genitalia. The shower door opens onto the dayroom floor. In the dorms, the restroom and shower facilities are off the dayroom area. In various locations around the facility, the auditors observed solid doors which create blind spots. These included in Housing Unit 5, the TBHU Inmate Restroom, Dining Room B Inmate Restroom, Education Department Inmate Restroom, Housing Unit 11 Main Building Entrance Door and Inmate Restroom, and Housing Unit 8 Inmate Restrooms.

Purchase orders were created to procure the supplies needed to modify the solid doors. The purchase orders were approved and submitted to the vendor. Locks and windows were installed, as needed and the facility provided photos to demonstrate the requested modifications have been made.

When viewing the video monitors, it was noted that cameras in the dorm-style housing units provide male staff the ability to observe an inmate when she is changing clothes in her bed area. When asked about this, the auditor was told that inmates are informed, via the inmate handbook, of the expectation to change clothes in the shower or toilet area. Each inmate is given a handbook on their day of arrival at the facility. The handbook was reviewed, and the expectation was addressed.

Camera footage was reviewed during the on-site portion of the audit. An inmate was observed by the auditor to be walking around the dorm in her sports bra and sweatpants. The Warden was with the auditor and stated that this housing unit was only recently activated and that she needed to update the language in the handbook to more clearly address her expectations regarding the inmate’s dress.

There was one occurrence of cross gender viewing due to exigent circumstances during the audit period. The auditor was provided with the Incident Report and felt the need for the officer to enter the bathroom area to assist two other staff who were trying to gain control of an inmate was justified.

During the 26 random inmate interviews, seven inmates stated that when male staff enters the housing unit, most of the time they announce their presence. All others indicated it is done consistently. This equates to 27% of the inmates interviewed stating the practice is not consistent. 25 of the inmates interviewed stated they could use the toilet, change clothing and shower without staff of the opposite
gender viewing them. One inmate stated she wasn’t sure about being viewed by the cameras. The auditor reviewed the monitors and determined she could not be seen by the cameras.

All random staff interviewed stated male staff must announce their presence when entering the housing unit. Some indicated it is logged on the log in the housing unit. All indicated that inmates are able to dress, use the toilet and shower without being viewed by staff of the opposite gender.

Opposite gender staff was observed entering the housing units and announcing their presence. Opposite gender auditors made the announcement when entering the inmate housing units. The announcement was logged in the log book. The log book, for the days we were at the facility, was reviewed, and it was noted by the auditor that there were entries where male staff logged making the announcement.

During the random staff interviews, it was apparent that staff understands and abides by the policy that requires them to refrain from searching or physically examining transgender or intersex inmates for the sole purpose of determining the inmate's genital status. Most indicated that if there was a need, the officer would call their supervisor to obtain direction on how to proceed. Some indicated they were not aware of this type of search ever happening at this facility.

Through an interview with the one transgender inmate, the auditor was informed that transgender inmates at the facility are not placed in a housing unit specifically for transgender inmates. She further indicated she has not been searched for the sole purpose of determining her gender.

The search lesson plan and power point presentation were provided to the auditors. It outlines the process used to conduct opposite gender pat searches and searches of transgender or intersex inmates. The pre-audit questionnaire indicates 100% of the staff received training in proper search procedures. Auditors reviewed the search curriculum and found it to adequately address the subject matter.

During the random staff interviews, all interviewed had received training on opposite gender pat searches and on searches of transgender/intersex inmates. Many stated the training had occurred within the last 12 months. When questioned further about how they would conduct their search, staff were able to articulate the “J” method would be used when conducting transgender pat searches.

**Corrective Action:** None was recommended for this standard.

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

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

115.16 (a)

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

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

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who 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 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)*

NMCD Policy 150100, Page 6 states: (S) 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. (T) The use of 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.

NMCD Policy 041000-Inmate Orientation and the contract with Language Line Solutions were also reviewed.

Written documents which contain PREA information are provided in English and Spanish to the inmate population. During the tour, it was noted that posters were prominently displayed by the inmate telephones and in other areas in both English and Spanish. Nothing was observed related to inmates with disabilities. Inmate handbooks and other PREA posters were provided to the auditor in English and Spanish.

The Language Line Solutions contract provides over the phone interpreter services. Language line staff confirmed the contract with the facility and stated telephonic interpretive services are provided for most languages. A quick reference guide is available to staff via the shift supervisor. A copy of the
quick reference guide was provided to the auditor. The facility maintains a TTY line to assist inmates who are hearing impaired. Access to this service is arranged via the shift supervisor.

The Agency Head stated the agency has established procedures to provide inmates with disabilities or those who are Limited English Proficient (LEP) equal opportunity to participate in or benefit from all aspects of the PREA protocols. All PREA information is in Spanish. Large print is available for inmates with limited visibility. The facility has inmates designated to read to a blind inmate. They have translators, both staff and through a contract language line.

Many of the staff interviewed indicated they would only use an inmate to interpret if the inmate victim brought an interpreter with her and only to find out the basic information. They would then excuse the inmate interpreter and seek either a staff member to interpret or call the shift supervisor to contact the language line for assistance. They stated the would not seek out an inmate to act as an interpreter.

The one disabled inmate who was interviewed stated she was provided with information about sexual abuse and sexual harassment that she was able to understand. There were no LEP inmates currently assigned to the facility.

Per a memorandum received from the PCM, WNMCF had no instances of inmate interpreters being used to assist other inmates in reporting a PREA allegation.

Corrective Action: None was recommended for this standard.

Standard 115.17: Hiring and promotion decisions

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

115.17 (a)

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

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

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? ☒ Yes ☐ No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? ☒ Yes  ☐ No

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

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

115.17 (b)

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

115.17 (c)

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

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

115.17 (d)

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

115.17 (e)

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

115.17 (f)

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

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

**115.17 (g)**

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

**115.17 (h)**

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

**Auditor Overall Compliance Determination**

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

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

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

NMCD Policy 030200, Recruitment, Selection, and Hire of Correctional Officer Specialist and Probation and Parole Policy, states: In accordance with state and federal statutes, a criminal records check shall be conducted on all new employees, contract personnel, interns and volunteers prior to assuming their duties... This policy mandates a criminal background records check be completed before hiring staff that may have contact with inmates and make 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.

Through the PAQ the auditor learned there were no terminations during this audit period for staff or contractors due to material omissions or providing materially false information. The number of persons hired over the past 12 months who may have contact with inmates who have had criminal records checks was reported as 84.

Criminal background records checks are performed before enlisting the services of any contractor who may have contact with inmates. The number of contractors hired over the past 12 months who may have contact with inmates who have had criminal records checks was reported as 75 contract
employees. These contractors provide educational services, food services and medical services. Of the files reviewed, all but one contained a copy of the completed criminal background records check.

During the document review, it was found that the 3 mandated questions were asked/answered. In a memo dated 3/13/2018, authored by the PREA Coordinator, it states: Western New Mexico Correctional Facility completes a background records check on all employees every three (3) years. The most recent was completed in June 2016. This was confirmed while interviewing Human Resources staff. In addition, a memorandum authored by Brenda Gueths, Human Resources Bureau Chief, dated 4/15/16 was provided to the auditor. This memorandum was used to distribute the form and set a timeframe for employee submission to facilitate completion of the background records check in 2016. In addition, a random sample of criminal records and background checks were reviewed by the auditor. Of the 10 employee files reviewed, all contained a current criminal records or background check.

During the document review, it was found that the question about incidents of sexual harassment is being asked of all staff and contractors.

During the interview with Human Resources staff, she confirmed the question about sexual harassment is being asked and being considered to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates. She stated the facility performs criminal record background checks and considers pertinent civil or administrative adjudications for all newly hired employees who may have contact with inmates and all employees who are being considered for promotions. This is accomplished through completion of a NCIC Authorization Memorandum which is transmitted to NCIC and a state organization responsible for completion of background checks. She also indicated the facility imposes upon its staff a continuing affirmative duty to disclose any such previous misconduct. Staff who work for NMCD do not complete written self-evaluations.

The auditor was told HR staff will provide information about former employees when requested by another correctional agency. The prospective employee must have signed the proper release forms before information can be released.

The form entitled NMCD Self-Declaration of Sexual Abuse/Sexual Harassment includes the following statement: 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 have become employed, you can be terminated from employment.

**Corrective Action:** None was recommended for this standard.

**Standard 115.18: Upgrades to facilities and technologies**

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

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

115.18 (b)

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

Auditor Overall Compliance Determination

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

NMCD Policy 150100, Page 8 states: (X) 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.

Through the interview with the Secretary, the auditor was informed the PREA Coordinator and PCMs are always involved when designing, acquiring, or planning substantial modifications to facilities, to ensure changes will enhance the agency’s ability to protect an inmate from sexual abuse. They consider previous incident locations and blind spots identified by the SART committee. He indicated monitoring technology is used to gather data and provide support when allegations are made by an inmate. Past incidents are reviewed to identify blind spots and input from all levels of PREA staff is encouraged.

In discussion with the Warden, she informed the auditor that no substantial expansions were made since the last audit; however, modifications to buildings 8 and 11 were completed to assist in the transition from a male population to the current female population. She indicated that PREA considerations were addressed during the planning and design portions of the building modifications.
There was an analysis completed to determine where the cameras should be placed to cover blind spots and areas where allegations had previously been made. The Warden indicated WNMCF reviews and considers identified blind spots in determining the placement of cameras. The institution has added some cameras since their last PREA audit. The auditor was told that placement of the cameras was decided after discussion with a variety of staff including the PCM. Minutes from three meetings were provided to the auditor. Blind spots were discussed in determining the placement of the cameras.

**Corrective Action:** None was recommended for this standard.

### RESPONSIVE PLANNING

#### Standard 115.21: Evidence protocol and forensic medical examinations

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

115.21 (a)

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

115.21 (b)

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

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

115.21 (c)

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

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

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

115.21 (d)

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

- If a rape crisis center is not available to provide victim advocate services, does the agency make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member? ☒ Yes ☐ No

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

115.21 (e)

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

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

115.21 (f)

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

115.21 (g)

- Auditor is not required to audit this provision.

115.21 (h)

- If the agency uses a qualified agency staff member or a qualified community-based staff member for the purposes of this section, has the individual been screened for appropriateness to serve in this role and received education concerning sexual assault and forensic examination issues in general? [N/A if agency attempts to make a victim advocate from a rape crisis center available to victims per 115.21(d) above.] ☐ Yes ☐ No ☒ NA

Auditor Overall Compliance Determination
☐ Exceeds Standard (Substantially exceeds requirement of standards)

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

☐ Does Not Meet Standard (Requires Corrective Action)

Information reviewed included NMCD Policy 150100 and the MOU with the Rape Crisis Center of Central New Mexico. Review of the MOU verifies the MOU is written to service victims at the facility.

The agency conducts administrative sexual abuse investigations, for sexual harassment, inmate on inmate sexual abuse and staff sexual misconduct. Criminal allegations of sexual abuse and staff sexual misconduct are investigated by the New Mexico State Police when it is determined that evidence may exist that will support referral for criminal prosecution. Agency policies identify the uniform evidence protocol used for evidence collection in sex abuse allegations. There is specific language for staff to separate victim and perpetrator and ensure both do not destroy evidence, secure the scene, and gather usable physical evidence.

The agency does not house youthful inmates in their adult facilities.

Interviews with 15 random staff indicated they would follow policy to collect evidence, control the scene, separate the victim and suspect to ensure evidence was not lost, notify the supervisor, use paper bags to collect evidence, maintain the chain of custody, and document their actions. Staff indicated investigations may be completed by the PCM, Captain, Office of Professional Services (OPS) investigators or New Mexico State Police.

The MOU for Sexual Assault Nurse Examiner (SANE) services indicates that services are available 24 hours a day, 7 days a week. Over the past 12 months, 1 forensic medical exam has been conducted by a SANE. The facility ensures that inmates who allege the incident occurred within the last 120 hours are offered a forensic medical examination and if accepted, transported promptly to ensure evidence is not lost. The facility through the existing MOU is following the growing trend across the United States in the use of SANEs to conduct the exam. SANEs are registered nurses who receive specialized education and fulfill clinical requirements to perform these exams. The agency offers all inmates who experience sexual abuse access to forensic medical examinations at no financial cost to the victim where evidentiary or medically appropriate.

Through an interview with the Local Nurse SANE Coordinator, the auditor was informed she has overall authority of the SANE program for the NMCD. Her SANEs respond to either the correctional facility or the local medical facility. During an incident, the facility calls the PCM or statewide PREA Coordinator. They also call the SANE, if needed. She is available 24 hours a day and staff at each facility has her contact information.

The PCM was interviewed and verified the role of the victim advocate is provided through the MOU with the Rape Crisis Center of Central New Mexico. The PCM indicated the qualifications for the victim advocates are outlined in the current MOU. The facility, if requested by the victim, requests a victim
advocate be present for the forensic medical examination. The inmate is provided with telephone numbers for advocacy services, follow-up and may also request a self-addressed envelope to send mail to the victim advocate.

Auditors interviewed three inmates who had reported sexual abuse, one indicated she was provided information by the PCM to contact a victim advocate for support. The second inmate indicated she was allowed to contact mental health staff for support and assistance. The last inmate indicated she was not provided any information and was not allowed to contact anyone for support. Through discussion with the PREA Coordinator, the auditor was told that this case was determined not to be a PREA allegation as it involved consensual sexual activity. Therefore, information about the victim advocate was not provided.

A memorandum dated February 27, 2017, authored by Major Dina Romero, New Mexico State Police, Training and Recruiting, was provided to the auditor. This memorandum addresses NM State Police Officer Sexual Assault Training. It states all New Mexico State Police 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 to include, but not limited to, Sexual Assault Investigation, Crime Scene Processing/Evidence Preservation, Interview and Interrogation and Internal Affairs. Some of the topics covered in these classes include: 1) legal issues; 2) cultural competency; 3) trauma and victim response; 4) medical and mental health care issues of sexual assault victims; 5) first responder responsibilities, evidence collection/processing and preservation; 6) interviews of victims and interviewing suspects; 7) ensuring proper documentation in the report; 8) working with the District Attorney and Victim Advocates; 9) Miranda rights; and 10) application of Garris Rights.

**Corrective Action:** None was recommended for this standard.

**Standard 115.22: Policies to ensure referrals of allegations for investigations**

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

**115.22 (a)**
- Does the agency ensure an administrative or criminal investigation is completed for all allegations of sexual abuse? ☒ Yes ☐ No
- Does the agency ensure an administrative or criminal investigation is completed for all allegations of sexual harassment? ☒ Yes ☐ No

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

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

115.22 (d)
- Auditor is not required to audit this provision.

115.22 (e)
- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

NMCD Policy 150101, Page 1 states: (5) The Agency shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. It further states that 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.

NMCD Policy 031800, Office of Professional Standards (OPS), Personnel Investigations and Staff Misconduct Reporting policy states: 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. 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.

NMCD Policy 031801, Page 5 states: “Local Level” Prison Facility or Probation and Parole Region Office: Each prison facility and PPO Region Office shall have the discretion to designate one or more
Investigations Officers to conduct non-Level-1 investigations or to conduct Level-1 investigations as assigned by the Bureau Chief of OPS. An Investigations Officer need not necessarily serve as an investigator in a full time capacity. The Investigations Officer shall report directly to the Bureau Chief of OPS throughout the investigative process regarding assigned cases from the OPS. The Investigations Officer shall also keep open communication with the appropriate Disciplinary Authority CAO regarding investigation of matters within their sphere of authority. This policy clearly outlines the steps to be taken for all investigations.

Over the past 12 months, this facility received 74 allegations of sexual abuse and sexual harassment. The facility reported there are investigations that have not been completed. Of the 74 allegations, 25 were sexual abuse, 14 were sexual harassment, and 35 were determined not to meet the criteria to be considered PREA. Of the 39 cases determined to be PREA, seven cases were substantiated, 6 cases were unsubstantiated, 11 cases were unfounded, and 15 cases are pending. Nine cases were referred for criminal investigation.

The auditor reviewed the PREA section on the agencies website, policies are available to view.

During the interview with the Secretary, he indicated the agency has a zero-tolerance policy and investigates every allegation that is received. He indicated the PREA Coordinator is notified of every allegation. The agency or state police will conduct the investigation depending on the level (administrative or criminal) of the allegation. NMCD has a good working relationship and maintains good communication with the state police. Either state investigators or state police are assigned the allegation and all steps are completed, tracked and documented.

Through interviews with investigative staff, the auditor was informed the agency has a policy which requires all allegations to be investigated by OPS for administrative or New Mexico State Police for criminal.

A memorandum dated February 27, 2017, authored by Major Dina Romero, New Mexico State Police, Training and Recruiting, was provided to the auditor. This memorandum addresses NM State Police Officer Sexual Assault Training. It states all New Mexico State Police 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 to include, but not limited to, Sexual Assault Investigation, Crime Scene Processing/Evidence Preservation, Interview and Interrogation and Internal Affairs. Some of the topics covered in these classes include: 1) legal issues; 2) cultural competency; 3) trauma and victim response; 4) medical and mental health care issues of sexual assault victims; 5) first responder responsibilities, evidence collection/processing and preservation; 6) interviews of victims and interviewing suspects; 7) ensuring proper documentation in the report; 8) working with the District Attorney and Victim Advocates; 9) Miranda rights; and 10) application of Garrity Rights.

**Corrective Action:** None was recommended for this standard.
TRAINING AND EDUCATION

Standard 115.31: Employee training

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

115.31 (a)

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on inmates’ right to be free from sexual abuse and sexual harassment? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on the dynamics of sexual abuse and sexual harassment in confinement? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on the common reactions of sexual abuse and sexual harassment victims? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on how to detect and respond to signs of threatened and actual sexual abuse? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on how to avoid inappropriate relationships with inmates? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities? ☒ Yes ☐ No

115.31 (b)

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

115.31 (c)

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

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

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

115.31 (d)

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

Auditor Overall Compliance Determination

☐ Exceeds Standard (Substantially exceeds requirement of standards)

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

☐ Does Not Meet Standard (Requires Corrective Action)

NMCD Policy 150100, Page 8 states: (Y) 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. Also on page 8, it states: (AA) The agency shall document, through employee signature or electronic verification that employees understand the training they have received.

The requirement for civil immigration was not addressed in the lesson plan because NMCD does not house inmates detained for civil immigration purposes.

The lesson plan is a general lesson plan designed to help train all levels of staff on the implications of PREA. Refresher training is scheduled an annual basis. The lesson plan is tailored to the gender of the inmates at the employee's facility. Employees who are reassigned from a facility housing male inmates are given additional training, upon transfer to WNMCF which houses female inmates.

Two phases of PREA training are provided. Initial PREA training is provided during the academy and additional facility specific training is provided later through annual mandatory training.
PREA training requirements mandate attendance at the required training is documented, through employee signature that they understand the training they have received. Employees are required to complete the Prison Rape Elimination Act – Acknowledgement Form: New Mexico Corrections Department upon completion of training. As part of this acknowledgement process, the employee is certifying that they understood the training materials.

The 15 random staff interviewed indicated they had all been trained in the last 12 months. Staff interviewed reported the training included zero tolerance, mandatory reporting, being respectful, retaliation is not allowed, and you could lose your job if you do it, their mission is to create a safe living and working environment and that all allegations will be investigated.

During the site visit, record reviews for 10 randomly selected staff were conducting and it was determined that all the staff who had their training file reviewed had received their mandatory PREA training. Through reviewing the list of staff who had received PREA training during the audit period, it was noted that the current number of employees is 146. Of those, 123 had received training within the last 12 months, as required in the agency’s policy. 23 of the 146 did not receive training creating a deficiency of 15.8%. Auditors made the Warden and PCM aware of this deficiency. Training was conducted on April 18 & 23 and on May 22, 2018. All remaining individuals on the list are either no longer employed at the facility or are off work on a short or long term basis. Based on this additional training, the facility is in compliance with this standard.

**Corrective Action:** None was recommended for this standard.

### Standard 115.32: Volunteer and contractor training

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

115.32 (a)

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

115.32 (b)

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

115.32 (c)

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

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

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

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

NMCD Policy 150100, Page 8 states: (Y) 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. (Z) The agency shall maintain documentation confirming that volunteers and contractors understand the training they have received.

During the site visit, volunteers and contractors were interviewed and training records were checked. It appears the facility has a good process in place to ensure contractors and volunteers receive PREA training.

During the interviews, auditors were told that volunteers and contractors are provided PREA training annually. All of the individuals who were interviewed were able to explain to the auditor the components of the training and the requirement to report immediately, should they be made aware of an incident. Verification of this training was accomplished via completion of the Prison Rape Elimination Act – Acknowledgement Form: New Mexico Corrections Department.

All volunteers and contractors interviewed stated they had been through training provided by the NMCD and through training provided by their contract agency. All stated they had received training within the last 12 months. This was verified by review of documentation in the files.

**Corrective Action:** None was recommended for this standard.

**Standard 115.33: Inmate education**

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

115.33 (a)

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

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

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

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

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

115.33 (c)

- Have all inmates received such education? ☒ Yes ☐ No

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

115.33 (d)

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

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

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

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

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

115.33 (e)

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

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

Auditor Overall Compliance Determination

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

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

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

NMCD Policy 150100, Page 4 states:

(F) Information shall be provided to inmates about sexual abuse/assault including: Prevention/intervention; Self-protection; How to report; Zero Tolerance; Reporting sexual abuse/assault; and, Treatment/counseling. (G) This information shall be communicated orally and in writing, in a language clearly understood by the inmate, upon arrival at a facility. Within thirty (30) days of intake, 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. In addition to providing such education, the agency shall ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats. (H) 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.

NMCD Policy 041001, Inmate Orientation, states:

All new intakes shall receive written orientation materials and/or translations in their own language. When a literacy problem exists, a staff member assists the inmate in understanding the material. The information is communicated orally and in writing, in a language clearly understood by the inmate, upon arrival at the facility. Completion of orientation is documented on the Orientation Verification form signed and dated by the inmate. During orientation all inmates shall be provided information about sexual abuse or assault including: Prevention and intervention; Self-protection; Reporting sexual abuse or assault; and Treatment and counseling.

Policy mandates that all inmates receive PREA education within 72 hours of intake or transfer. The auditor was provided a memorandum that all inmates were received after the initial effective date of PREA because the institution was transitioned from a male institution to a female institution in 2016. All inmates who arrived during this transition were provided PREA information and educational materials.

As reported on the PAQ, there were 788 inmates who were provided the PREA information during the intake process, which represents 100% compliance.

The PREA Resource Guide for Inmates is available for inmates to review in the Law Library. In addition, inmates receive PREA Inmate Handbook upon arrival at WNMCF. All written materials are available in English and Spanish.
During the site visit, the team observed posters available for viewing around the facility in housing units and other areas. Also, the information is available through a handbook and brochures that are provided to inmates. Language lines are available through a contract provider. For inmates who are disabled, information is available for hearing impaired, visually impaired, otherwise disabled inmates and inmates who have limited reading skills. These additional materials are available through staff, the PCM, and in the library. Access to these materials is addressed in the PREA Resource Guide.

In addition should an Inmate speak a language other than Spanish, WNMCF has a contract for translation services with Language Line Solutions. A copy of the flyer was provided to the auditor. WNMCF has a TTY phone located Master Control for those inmates that are hearing impaired. This information will also be communicated orally and in writing as per NMCD Policy 041000.

During interviews with two intake staff, both indicated they provide inmates with information about the zero-tolerance policy and how to report incidents or suspicions of sexual abuse or sexual harassment. They indicated they show a 5 minute video in the receiving/intake area. In addition, inmates are provided with a handbook and a pamphlet. On the back of their ID card there is information about how to contact the Rape Crisis Center. The auditor was told that inmates sign a form stating they have received the information and understand it. This information is generally provided within a few hours of arrival at WNMCF or on the next business day, except if they are transferring from Springer. There is no training provided to transferring inmates.

Of the 26 inmates interviewed, 14 stated they saw the video upon arrival at WNMCF, a few others indicated they had seen it recently, but not upon arrival. This equates to 54% of the inmates interviewed saying they saw the video. 20 indicated they had received the handbook which equates to 77% and 10 indicated they had received a pamphlet upon arrival, which equates to 39%.

Of the 26 inmates interviewed, their responses to the following group of questions were as follows:

(a) Upon arrival, were you told about your right to not be sexually abused or sexually harassed?
   Yes - 24
   No - 2

(b) Were you told how to report an allegation of sexual abuse or sexual harassment?
   Yes – 23
   No – 3

(c) Were you informed you would not be punished for reporting?
   Yes – 23
   No – 3

(d) How long after your arrival did you get the information?
   Same day-17
   Within one week-1,
   Unsure of the time period – 6
   Never-2

During a spot check of the acknowledgment forms in the inmate's file, forms were not consistently found in the files.
Corrective Action:
1. Ensure the written materials are distributed within 72 hours of arrival and the acknowledgement form is retained in the inmate’s file as proof the inmate received the information.
2. Ensure comprehensive training is completed within 30 days of arrival and the acknowledgement form is retained in the inmate’s file as proof the inmate received the information.
3. Ensure inmates transferring from another facility received the required PREA training.

Update:
To address the identified deficiencies, all inmates at the facility were provided PREA comprehensive education between the periods of April 4, and April 7, 2018. This was done because many of the inmates interviewed indicated they did not recall receiving the comprehensive education. The facility initiated a tracking system to ensure that all inmates receive initial PREA information within 72 hours of arrival and the acknowledgement form is retained in the inmate’s file as proof the inmate received the information. The same tracking system is used to ensure comprehensive education is completed within 30 days of arrival and the acknowledgement form is retained in the inmate’s file as proof the inmate received the information. The facility changed their intake process to ensure inmates transferring from another facility receive the required PREA training. The auditor monitored compliance with this standard for 90 days and finds the facility to be in compliance with this standard.

Standard 115.34: Specialized training: Investigations

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

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

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

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

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

115.34 (c)

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

115.34 (d)

Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

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

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

NMCD Policy 150100, page 8 states (BB) 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.

NMCD Policy 150101, page 1 states (6) 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.

Investigative staff have attended the following courses: Investigation of Sexual Assault in a Correctional Setting (NMLEA #NM12-65E)-7 staff completed; Investigating Sexual Violence – Effective Strategies for Military and Civilian Law Enforcement (by NM Coalition of Sexual Assault Programs) – 2 staff completed; and Office of Professional Standards Administrative Investigations (by NMCD Advanced Training) – 2 staff completed. Training certificates were provided with the PAQ.
Investigative staff receive training specific to conducting sexual assault investigations in confinement settings. Training objectives in the Investigating Sexual Assaults in a Correctional Setting course include: 1) correctly identifying the four factors in sexual assault investigations in a correctional setting; 2) correctly identify the seven inmate related issues to investigating sexual assaults; 3) correctly identify the seven staff barriers to investigations of sexual assault; 4) correctly identify the five barriers to investigating staff sexual misconduct; 5) correctly identify the six issues that facilities need to address in order to effectively investigate sexual assault; and 6) correctly identify two outside factors that impact sexual assault investigations.

Through interviews with Investigative Staff, the auditor was told that the agency has developed specialized training for investigators. Both investigators interviewed had completed the training. The training included inmate and staff barriers to identifying and investigating sexual assault allegations in a confinement setting, the complexity of investigating sexual assaults in correctional facilities, elements of an effective investigation, determining the nature of the sex act, difficulties in obtaining evidence, and several other topics.

A memorandum dated February 27, 2017, authored by Major Dina Romero, New Mexico State Police, Training and Recruiting, was provided to the auditor. This memorandum addresses NM State Police Officer Sexual Assault Training. It states all New Mexico State Police 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 to include, but not limited to, Sexual Assault Investigation, Crime Scene Processing/Evidence Preservation, Interview and Interrogation and Internal Affairs. Some of the topics covered in these classes include: 1) legal issues; 2) cultural competency; 3) trauma and victim response; 4) medical and mental health care issues of sexual assault victims; 5) first responder responsibilities, evidence collection/processing and preservation; 6) interviews of victims and interviewing suspects; 7) ensuring proper documentation in the report; 8) working with the District Attorney and Victim Advocates; 9) Miranda rights; and 10) application of Garrity Rights.

**Corrective Action:** None was recommended for this standard.

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**Standard 115.35:** Specialized training: Medical and mental health care

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

115.35 (a)

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to detect and assess signs of sexual abuse and sexual harassment? ☒ Yes □ No

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to preserve physical evidence of sexual abuse? ☒ Yes □ No
Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to respond effectively and professionally to victims of sexual abuse and sexual harassment? ☒ Yes ☐ No

Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how and to whom to report allegations or suspicions of sexual abuse and sexual harassment? ☒ Yes ☐ No

115.35 (b)

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

115.35 (c)

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

115.35 (d)

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

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

Auditor Overall Compliance Determination

☐ Exceeds Standard (Substantially exceeds requirement of standards)

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

☐ Does Not Meet Standard (Requires Corrective Action)

NMCD Policy 150100, page 8 states: (BB) 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 PAQ indicated that 100% have received the general training, which incorporates the four components outlined in standard provision 115.35(a).
All 3 medical and mental health staff interviewed indicated they had received the specialized training, shortly after arriving at the facility. They indicated the training included detecting sexual abuse and harassment, preserving DNA evidence, how to respond to victims, and how to report and document allegations or suspicions.

During records reviews, the training files for 5 medical and 5 mental health staff were reviewed. Training acknowledgement forms were contained in each file.

Supervisory medical personnel and the Warden clearly reported that medical staff is prohibited by procedure from performing forensic examinations on sexual abuse victims. The auditor was provided with a memorandum dated April 26, 2018 which confirms the verbal information that was provided.

Medical and mental health care practitioners receive general PREA training mandated for employees, volunteers & contractors as identified in policy and outlined in PREA standards, depending upon the practitioner's status in the agency.

During the on-site visit, audit team members reviewed and verified attendance at PREA training through the training records. Documentation is maintained that medical and mental health practitioners have received the general PREA training and the specialized training referenced in standard 115.35 either from the agency or elsewhere. Training acknowledgement forms were provided to the auditor.

Corrective Action: None was recommended for this standard.

SCRENNING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Standard 115.41: Screening for risk of victimization and abusiveness

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

115.41 (a)

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

115.41 (b)

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

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

115.41 (d)

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

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

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

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

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

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

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener’s perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)? ☒ Yes ☐ No

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

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

115.41 (e)

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

115.41 (f)

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

115.41 (g)

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

115.41 (h)

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

115.41 (i)

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

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

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

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

NMCD Policy 150100, Page 5 states: (J) 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. Inmates will be reassessed thereafter due to a referral, request, incident of sexual abuse, 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. Transgender and Intersex inmates shall be screened every six months. In the event of an incident, both the inmate perpetrator and/or inmate victim will be re-screened. Policy 150100 further mandates that inmates not be disciplined for refusing to answer or for not disclosing complete information in response to questions asked pursuant to Standard 115.41.

NMCD Policy 150100 further mandates that the agency implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to standard 115.41 in order to ensure sensitive information is not exploited to the inmate’s detriment by staff or other inmates. This is accomplished by the SRNS being completed electronically. Based on the answers given by the inmate, a code is assigned in the electronic system. The code is available to staff with a need to know, but the detailed information which caused the code to be assigned is only available to caseworkers, unit supervisors, and the management team.

The Sexual Risk Indicator Screening (SRNS) form was reviewed by the audit team.

The facility assesses inmates upon arrival as part of the intake process. This process evaluates risk of sexual victimization and abusiveness. The auditors were provided with a copy of a SRNS, on which these risks are documented. The SRNS meets all protocols except for 115.41(d)(10).

Policy mandates the SRNS consider at a minimum nine of the criteria identified in Standard provision 115.41(d). Civil immigration is not addressed on the SRNS because the facility does not detain inmates solely for civil immigration purposes.

During interviews with two staff that perform screening for risk of victimization and abusiveness, the auditor was told that they are responsible to complete the risk screening for inmates arriving at WNMCF. They stated it is generally done on the day the inmate arrives or the next business day. The auditor was informed that generally, inmates are rescreened within 30 days of arrival. When explaining the SRNS process, staff informed the auditor that the PREA screening form considers age, mental/physical health, criminal past, safety precautions, immigration, gender identity, sexual orientation, prior victimization, vulnerability and non-violent criminal history. The auditor was informed
that caseworkers complete an additional reassessment of the risk based on referral, inmate request, incident of sexual abuse, or receipt of additional information that might change the risk factors. The staff also shared that inmates are not disciplined for refusing to answer or for not disclosing complete information in response to questions asked during the screening process. The auditor was told that access to the SRNS is authorized for intake staff and caseworkers. They further indicated that some managers have access to the screening information.

Of the 26 inmates interviewed, 1 stated she was never asked questions about her safety, 2 indicated they didn’t remember being asked, and 23 indicated they had been asked either the day they arrived or the next day. This equates to 88% compliance of the inmates who were interviewed regarding the initial risk screening process. When asked about the re-assessment, 8 inmates indicated they had been asked the PREA screening questions again (timeframe ranged from 1 week to 60 days), 9 indicated they had not been asked the questions again, 6 indicated they couldn't remember and 3 indicated they had not been at the facility long enough to have the questions asked again.

There was no intake during the time the auditors were present on-site at the facility; therefore, the screening/intake process was not observed. During the tour, the intake and screening processes were explained to the auditor. The area where intake is conducted was visited. The custody supervisor assigned to the area answered questions and showed the area where the PREA video is shown to new arrivals.

Through review of documentation, it was noted the initial risk screening forms are not being consistently completed within the required timeframes. Of the 19 files reviewed, 16 of the screening forms were completed timely and 3 were not. This equates to an 84.2% compliance rate of the files reviewed. 15.8% of the records reviewed were not compliant with this standard.

Through review of documentation, it was noted the risk screening forms for the re-assessment are not being consistently completed within the required timeframes. Of the 19 files reviewed, 14 of the screening forms were completed timely and 5 were not. This equates to a 74.7% compliance rate of the files reviewed. 26.3% of the records reviewed were not compliant with this standard or the agency's policy. It was noted through spot checking the inmates files that updated risk screening forms were in the file for those who had substantiated allegations of sexual assault.

The PREA Coordinator stated that the agency has identified caseworkers, unit supervisors and Wardens to have access to the screening information. The agency is currently in the process to add housing and assignment staff to ensure potential victims and potential aggressors are not housed together.

The PCM stated the agency has identified caseworkers, intake staff, unit managers and the PCM as those who will have access to the screening information. He further indicated, it is important for staff to know the inmates assigned to their area of supervision, and if questions arise, they would notify their supervisor for assistance.

**Correction Action:**

1. The facility shall ensure that all inmates are screened within 72 hours of arrival.
2. The facility shall ensure that all inmates are re-screened for their risk of victimization or abusiveness based upon additional, relevant information received by the facility since the initial intake screening and within 25 days of arrival.

**Update:**
To address this deficiency, all staff responsible to conduct the initial risk screening was provided additional training, to establish a thorough understanding of what is required. The facility initiated a tracking system to ensure that all inmates are screened for risk of victimization or sexual abusiveness within 72 hours of arrival. The auditor monitored compliance with this standard for 90 days. Through this monitoring, the facility demonstrated consistent screening of all inmates who arrived at the facility, within the required 72 hours.

The facility initiated a tracking system to ensure that all inmates are re-screened for their risk of victimization or abusiveness based upon additional, relevant information received by the facility since the initial intake screening and within 30 days of arrival. The auditor monitored compliance with this standard for 90 days. Through this monitoring, the facility demonstrated consistent re-screening of all inmates within the required 30 days. The facility meets all requirements for this standard.

**Standard 115.42: Use of screening information**

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

**115.42 (a)**

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

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

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

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

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

**115.42 (b)**
<table>
<thead>
<tr>
<th>Standard</th>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>115.42 (c)</td>
<td>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)?</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>115.42 (d)</td>
<td>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?</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>115.42 (e)</td>
<td>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?</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>115.42 (f)</td>
<td>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?</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>115.42 (g)</td>
<td>Are transgender and intersex inmates given the opportunity to shower separately from other inmates?</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>115.42 (h)</td>
<td>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?</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td></td>
<td>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?</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>
Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? ☒ Yes ☐ No

Auditor Overall Compliance Determination

☐ Exceeds Standard (Substantially exceeds requirement of standards)

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

☐ Does Not Meet Standard (Requires Corrective Action)

NMCD Policy CD-150100, page 5 states: (J) 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. Inmates will be reassessed thereafter due to a referral, request, incident of sexual abuse, 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. Also on page 5, it states: (L) 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. A transgender or intersex inmate’s own views with respect to his or her own safety shall be given serious consideration. On Page 6, it states: (N) 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. Inmates with a history of criminally sexual behavior shall be identified, monitored, and counseled. Also on page 6, it states: (O) 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.

Policy 150100 further states: Appropriate transgender or intersex housing in either male or female facilities and programming assignments are determined on a case-by-case basis. Placement decisions will ensure the inmate’s health and safety and will consider whether placement would present management or security problems. It requires inmates be reassessed at least twice a year to review any threats to safety experienced by the inmate. Policy states that a transgender or intersex inmate’s own views with respect to his or her own safety shall be given serious consideration. It mandates placement and programming assignments for both transgender and intersex inmates be reassessed at least twice a year to review any threats to safety experienced by the inmate. Policy requires that a transgender or intersex inmate’s own views with respect to his or her own safety be given serious consideration and that transgender and intersex inmates shall be given the opportunity to shower separately from other inmates. Policy mandates the agency not place Lesbian, Gay, Bi-sexual,
Transgender, or Intersex (LGBTI) inmates in dedicated facilities, units, or wings solely on the basis of such identification or status.

NMCD Policy CD-080100, Institutional Classification, Inmate Risk Assessment and Central Office Classification also outlines which screenings inmates will go through, how information received is documented, and which staff member is responsible for each portion of the process. The classification officer completes the PREA risk screening form.

After initial screening, the inmate is seen by the ITAP committee. This committee consists of staff from medical, mental health, addiction services, education/employment, security, and classification. It is chaired by the Unit Manager or designee. The inmate’s case factors including PREA precautions are considered during this committee in confirming housing and assigning program/work/education assignment.

Staff responsible for risk screening shared that information obtained through the interview with the inmate is used to assess the appropriateness of housing and bed assignment for the inmate. At WNMCF, Correctional Lieutenants use the information about “possible victim” or “possible predator” to ensure the inmates are not housed in the same pod.

The auditor had one of the unit managers and a lieutenant walk him through the process used to assign housing to an inmate. The auditor was shown screens from the Offender Management System (OMS) that displays possible victim/predator and it was described how the lieutenant would review this information prior to assigning an inmate to a housing pod.

The PCM indicated the facility uses information from the screening in making appropriate housing assignments for the inmate, to ensure they are safe. He stated the information gained from the screening tool and the information contained in the inmate files are considered, along with a discussion with the inmate on where they would feel safe to be housed. They try to ensure the inmate’s safety while still maintaining safety and security of the institution. Transgender inmates are allowed to shower separately, if they request to do so. Most of the showers in the facility are single shower heads, so it depends where the inmate is assigned to live. If she lives in a dorm, she would be allowed to shower during count.

Housing units were toured and in most of the housing units, the showers are individual showers with only one shower head. There were some dormitories where there were showers with multiple shower heads.

There were no new arrivals during the on-site portion of the audit, so the auditor was not able to observe the intake and screening process.

The transgender inmate that was interviewed indicated that staff at the facility did not ask her about her safety, only the PREA Coordinator talked to her about housing and where she would feel safe. She was not placed in a housing unit designated solely for transgender inmates. The inmate file of the
transgender inmate assigned at WNMCF was reviewed, and it was noted that 6-month reassessments were consistently completed.

During interviews with two staff that complete the risk screening and the PCM, the auditor was informed that housing assignments and program assignments are assessed every 6 months for transgender and intersex inmates. They indicated that a transgender inmate’s views of her own personal safety would be taken into consideration in housing placement and programming assignments. One of the staff interviewed was unsure if a transgender inmate could request to shower separately from the other inmates. The second indicated the transgender inmate could request to use a single shower.

The transgender inmate who was interviewed indicated she is not allowed to shower separately from other inmates. When discussing this with the Major, the auditor was told that if the inmate asks to shower separately, she would be allowed. He was not sure if the transgender inmate had ever requested to shower separately. On 5/14/18, the PCM spoke with the transgender inmate and informed her that she could request to shower separately from other inmates. She indicated she was assigned in a housing unit that had individual showers, so it was not currently an issue for her. The PCM documented the conversation as proof of practice.

The PREA Coordinator and the PCM confirmed that the agency has no consent decrees, legal settlements, or legal judgements for the purpose of protecting such inmates.

In reviewing the housing assignments for LGBTI inmates, it was noted by the audit team that they are not housed in a specific area; they are housed in various units within the facility. Through interviews with lesbian and transgender inmates, the audit team confirmed that inmates are not put in a housing area only for lesbian and transgender inmates.

**Corrective Action:** None was recommended for this standard.

**Standard 115.43: Protective Custody**

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

115.43 (a)

- Does the facility always refrain from placing inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers? ☒ Yes ☐ No

- If a facility cannot conduct such an assessment immediately, does the facility hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment? ☒ Yes ☐ No

115.43 (b)
Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible? ☒ Yes ☐ No

Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Privileges to the extent possible? ☒ Yes ☐ No

Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Education to the extent possible? ☒ Yes ☐ No

Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Work opportunities to the extent possible? ☒ Yes ☐ No

If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The opportunities that have been limited? ☒ Yes ☐ No

If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The duration of the limitation? ☒ Yes ☐ No

If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The reasons for such limitations? ☒ Yes ☐ No

115.43 (c)

Does the facility assign inmates at high risk of sexual victimization to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged? ☒ Yes ☐ No

Does such an assignment not ordinarily exceed a period of 30 days? ☒ Yes ☐ No

115.43 (d)

If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, does the facility clearly document: The basis for the facility’s concern for the inmate’s safety? ☒ Yes ☐ No

If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, does the facility clearly document: The reason why no alternative means of separation can be arranged? ☒ Yes ☐ No

115.43 (e)

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

Auditor Overall Compliance Determination

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

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

NMCD Policy 150100, Page 5 states: (K) 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.

The Warden stated the agency has a policy which does not allow an inmate at high risk of sexual victimization to be placed in the RHU unless an assessment has determined there are no available alternative means of separation from potential predators. She indicated that there has not been a female inmate involuntarily placed in restricted housing due to her risk of victimization since the facility was converted in 2016. The Warden indicated there hasn’t been a need to place an inmate who is at high risk of sexual victimization in involuntary segregated housing. She stated, if it was necessary, they could do it, as it is allowed in policy. She indicated that based on the design of the facility; there are a lot of housing options available to her when an inmate is identified as high risk of victimization. If the need for segregation arose, the inmate would be assessed within the first 24 hours and seen for a Unit Team Meeting within 72 hours. Housing would be identified as soon as possible after conclusion of these processes.

In reviewing a random sample of housing records, it was noted that no inmate has been placed in segregated housing upon arrival at WNMCF due to a high risk for sexual victimization during this review period. It was also noted that there were no inmates who were placed involuntarily into restricted housing during this review period.

The 3 staff who supervises inmates in segregated housing indicated inmates placed in RHU for protection from sexual abuse or after having alleged sexual abuse, would have access to in-cell programs, privileges, in-cell education and some in-house work opportunities. All of these depend on the length of time the inmate is retained in RHU.

There were no inmates who met this criterion currently housed at WNMCF, so the interview protocol was not utilized.

During interviews with two staff who supervise inmates in segregated housing, they told the auditor that inmates who are placed in RHU for protection from potential predators would only be kept there until they can be moved to a safe housing situation. One of the staff indicated that she has never seen inmates housed in RHU for this reason.

Per the PAQ and discussion with the Warden, there were no inmates retained in involuntarily restricted housing for more than 30 days during this review period.
During interviews with staff who supervise inmates in segregated housing, they indicated that reviews would always be done every thirty days, usually they are done weekly. Rounds in RHU are done multiple times daily. Rounds are logged in the Rover’s log book. The control officer fills out a daily report and gives to their supervisor at the end of each shift. The shift supervisor conducts periodic reviews and logs.

During the tour, it was noted that there were no inmates currently housed in segregated housing due to victim concerns.

**Corrective Action:** None was recommended for this standard.

### REPORTING

#### Standard 115.51: Inmate reporting

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

**115.51 (a)**

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

**115.51 (b)**

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

**115.51 (c)**

[Table content is not provided in the image.]
- 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)*

NMCD Policy 150100 states: 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 mail boxes (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 page 6, it also states: (Q) Inmates that are victims of sexual abuse or sexual harassment shall have an option to report the incident to a designated staff member other than an immediate point-of-contact line officer.

NMCD Policy 150101, Page 2 states: (B)(1)Any employee who witnesses or receives information regarding the physical abuse, mental abuse or any sexual misconduct directed towards an inmate 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.
Review of the Inmate PREA Handbook indicates internal reporting mechanism for inmates is by: 1) advising any staff member, contractor or volunteer (verbally or in writing); 2) advise medical or behavioral health staff; 3) writing an Inmate Request to any staff member; 4) filing a grievance; 5) 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 with whom the inmate feels comfortable; 6) advise a third party (family, friend, attorney) and ask them to report. They may report directly to the facility where the inmate is housed by sending electronic mail; or 7) call the statewide PREA reporting line at (575) 523-3303. PREA posters, written in both English & Spanish, provide a number which can be called confidentially.

There is information provided to inmates upon intake. This includes a handbook, pamphlet, and a business card. These materials provide contact information including telephone numbers and addresses where an inmate can reach out to seek assistance.

During interviews with 15 random staff, the auditor was told by every staff member that there are several ways to report. These include hotline, notifying mental health, writing a letter, telling staff, family calling, reporting to an outside agency, filing a grievance, or telling the victim advocate. Staff stated that they can privately report sexual abuse or harassment of inmates. They indicated they could send an anonymous memorandum, call the hotline, or tell a supervisor. All staff interviewed indicated they would accept a verbal report and would act immediately on the information provided. Some stated they would ask the inmate to document the report once the immediate needs of the situation were addressed while others indicated they would document what they were told by the inmate in their written report and would not require the inmate to submit a written report.

During interviews with 26 random inmates, the auditors were told by all except one of the inmates interviewed that there were several methods they could use to report. These included calling the telephone numbers painted on the wall by the phone, filing a grievance, telling staff, reporting to a supervisor, writing a kite or a letter. Through the random inmate interviews, the auditor learned from all but 3 of the inmates interviewed that they can make a report in person or in writing. They also believe someone else could make a report for them.

During the tour, it was noted that there were posters about PREA painted in each housing unit. They were painted by the telephone, in English and Spanish. The posters provided contact numbers for reporting to the Inspector General’s Office and telephone numbers to reach a victim advocate, to assist with advocacy needs.

NMCD has a MOU in place with the Colorado Department of Corrections until approximately 2022 to accept sexual abuse or harassment allegations regarding inmates housed in NMCD facilities. The third party reporting agency information is included in the Inmate PREA Handbook. It states: Write a third party reporting agency (not a part of NMCD) at: PREA Reporting Office, 1250 Academy Park Loop, Colorado Springs, Colorado 80910.

Staff will accept all reports including those made verbally, in writing, anonymously and from third parties and will promptly document any verbal reports. Staff is trained on this requirement in the pre-service and in-service trainings. The power point provided to the auditor addresses accepting verbal
report, documenting the verbal reports or the ways by which a staff can confidentially report an incident.

**Corrective Action:** None was recommended for this standard.

### Standard 115.52: Exhaustion of administrative remedies

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

#### 115.52 (a)

- Is the agency exempt from this standard? NOTE: The agency is exempt ONLY if it does not have administrative procedures to address inmate grievances regarding sexual abuse. This does not mean the agency is exempt simply because an inmate does not have to or is not ordinarily expected to submit a grievance to report sexual abuse.  
  - Yes ☒  
  - No ☐  
  - NA ☐

#### 115.52 (b)

- Does the agency permit inmates to submit a grievance regarding an allegation of sexual abuse without any type of time limits? (The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.) (N/A if agency is exempt from this standard.)  
  - Yes ☒  
  - No ☐  
  - NA ☐

- Does the agency always refrain from requiring an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse? (N/A if agency is exempt from this standard.)  
  - Yes ☒  
  - No ☐  
  - NA ☐

#### 115.52 (c)

- Does the agency ensure that: An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.)  
  - Yes ☒  
  - No ☐  
  - NA ☐

- Does the agency ensure that: Such grievance is not referred to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.)  
  - Yes ☒  
  - No ☐  
  - NA ☐

#### 115.52 (d)

- Does the agency issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance? (Computation of the 90-day time period does not include time consumed by inmates in preparing any administrative appeal.) (N/A if agency is exempt from this standard.)  
  - Yes ☒  
  - No ☐  
  - NA ☐

- If the agency claims the maximum allowable extension of time to respond of up to 70 days per 115.52(d)(3) when the normal time period for response is insufficient to make an appropriate
Western New Mexico Correctional Facility

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)

The facility is not exempt from this standard and in compliance with this provision of the standard.

NMCD Policy 150500, Inmate Grievances, 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. These will not be subject to this standard and must be treated as emergency formal grievances. The Facility Grievance officer or the Statewide Grievance/Disciplinary Appeals Manager has the authority to return the formal grievances to the respective Unit Manager, Chief of Security, or designated facility staff. This staff will deal with the issues at the local level (Informal complaint), if not completed in the initial request before proceeding to the formal grievance process. The exception to this is any PREA grievances will not be subject to this standard and must be treated as an Emergency Formal Grievance.

NMCD Policy 150500 further states: Grievances must be filed within 5 working days from the date of the incident giving rise to the complaint. Later in the policy, it states PREA complaints are exempted from the noted time limits. It indicates a decision on the merits of any grievance or portion of a grievance alleging sexual abuse is made within 90 days of the filing of the grievance. 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 grievance responses which will be completed within forty-eight (48) hours of receipt of the grievance. The policy does not define an emergency PREA grievance as a substantial risk of imminent sexual abuse; instead, the policy seems to indicate all PREA grievances are handled as emergency.
NMCD Policy 150100 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 or Other Inmates.

Information is found in the Inmate Handbook under the section on Grievances, which indicates in subsection 1. The following matters are grievable by inmates: (e) Department personnel sexual misconduct. This also includes any PREA. Grievances submitted by the inmate or another individual who has knowledge of the incident. (f) PREA grievances may be filed on behalf of a third party in regards to an alleged victim. The alleged victim does not agree, there must be written documentation noting that concern.

Per the PAQ, over the past 12 months, no grievances alleging sexual abuse filed by inmates were declined third party assistance.

In reviewing the WNMCF Inmate Handbook, Chapter 2-Grievance System states that the inmate must file the informal grievance within 5 calendar days. It does not state that PREA complaints are exempt from the timeframes mentioned in the policy. It also does not state that the alleged victim is not required to file an informal grievance before moving forward.

Inmates are provided with a copy of the Grievance policy upon arrival at the facility; therefore, the information is available to them. The auditor was informed (and provided with a copy) of the updated version of the grievance policy, which provides additional text related to PREA grievances. At the time of the interim report, the policy was in the review/approval process. The grievance policy was approved in June 2018. The auditor recommended that once the grievance policy was approved, the inmate handbook and/or the PREA Resource Guide for Inmates be updated to mirror the language contained in the policy. This was completed in June 2018.

Agency policy allows an inmate to submit a grievance alleging sexual abuse without submitting it to the staff member who is the subject of the complaint; the inmate handbook has been updated to inform the inmate of this information.

In reviewing the log from the grievance system, it was noted that there were three regular PREA grievances filed in 2017, zero PREA grievances filed to date in 2018 and zero emergency PREA grievance filed during this review period.

Of the inmates who reported sexual abuse, none utilized the grievance system to make the report.

Through a memorandum provided by the facility, during this review period, there was no emergency grievance filed.

Over the past 12 months, no grievances alleging sexual abuse resulted in disciplinary action against the inmate for filing the grievance in bad faith.

**Corrective Action:** None was required for this standard.
### Standard 115.53: Inmate access to outside confidential support services

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

**115.53 (a)**

- Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations? ☒ Yes ☐ No

- Does the facility provide persons detained solely for civil immigration purposes mailing addresses and telephone numbers, including toll-free hotline numbers where available of local, State, or national immigrant services agencies? ☐ Yes ☒ No

- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible? ☒ Yes ☐ No

**115.53 (b)**

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

**115.53 (c)**

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

- Does the agency maintain copies of agreements or documentation showing attempts to enter into such agreements? ☒ Yes ☐ No

**Auditor Overall Compliance Determination**

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

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

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

This substandard is not specifically addressed in policy. However, the agency has made great efforts to offer outside victim advocates for emotional support services to inmates who allege sexual abuse or
sexual harassment.

NMCD has established the hotline telephone number of *9999 that is available to call from all inmate telephones. This call is unrecorded, unmonitored, and free of all charges to the inmate population. This phone number leads to La Pinon Rape Crisis Center. Posting of this telephone number is in all housing areas and general areas where inmates have access to telephones.

The aforementioned information and other reporting information is available through:

- The inmate handbook
- The Inmate Resource guide (Page 29)
- PREA Pamphlet
- Business Card given to inmate at intake

Through the 26 random inmate interviews, 19 inmates indicated they could call the rape crisis center for counseling. They stated the phone number is on the wall by the telephones. They stated the service is available anytime they can make a call and the call is free. Seven inmates indicated they were unsure if these types of services were available to them. Seventeen indicated that if they contacted the advocate their conversation would remain private because the call is not recorded or monitored. The remainder indicated they were not sure.

During interviews with inmates who reported sexual abuse, all 3 indicated there is a telephone number painted on the wall by the inmate telephone. It is to reach an advocate. Two indicated they had been given an address if they wanted to write while the third indicated she was not given an address. Two of the three indicated they were aware the information being provided to the advocate was private. Their handbook indicated the *9999 number is not recorded or monitored.

During the tour, it was evident that this information is made available to the inmate population. In every housing unit, by the telephone, the information is painted on the wall. There is a *9999 number to contact a victim advocate for emotional support services. This number is not recorded and not monitored. It is also a toll free call. The audit team called the number and it reached a victim advocate.

The facility informs inmates, prior to giving them access, of the extent to which communications will be monitored and to the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws in the inmate PREA Handbook and the PREA Resource Guide for inmates.

There is a current Memorandum of Understanding between NMCD and New Mexico Coalition of Sexual Assault Programs, Inc. A copy was provided to the auditor. It went into effect on 4/18/17 for a period of at least 12 months. Per the PREA Coordinator, the required annual review occurred. No changes were needed, so the group decided to review each two years.
A victim advocate from the Rape Crisis Center was interviewed by the lead auditor. She is actively working with several inmates at the facility and schedules individual and group meetings at the facility at least monthly, and sometimes more frequently, when needed.

**Corrective Action:** None was recommended for this standard.

### Standard 115.54: Third-party reporting

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

**115.54 (a)**

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

**Auditor Overall Compliance Determination**

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

The facility provides a method to receive third-party reports of inmate sexual abuse or sexual harassment. NMCD will accept all third party reports and an investigation will be conducted and documented whenever a criminal sexual behavior, sexual misconduct or threat is reported. This information is available on the public website and provides inmate family and friends with an email address, **NMCD-PREAREporting@state.nm.us**. Family and friends can email this address and an investigation will immediately begin. In addition, in the inmate visitation areas and areas visited by the public, a family and friends brochure is available which provides numerous ways in which the public can report on behalf of an inmate. At WNMCF, they are available and located at the Western and RDC visitation rooms. Lastly, the inmate handbook and PREA Resource Guide advise the inmate population of these and all other reporting mechanisms.

The auditor reviewed the NMCD website and found the required information.

The facility provided the auditor with a copy of the Family and Friends Brochure. The brochure was reviewed and the required information was included.

**Corrective Action:** None was recommended for this standard.
OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

Standard 115.61: Staff and agency reporting duties

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

115.61 (a)

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency? ☒ Yes ☐ No

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding retaliation against inmates or staff who reported an incident of sexual abuse or sexual harassment? ☒ Yes ☐ No

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment or retaliation? ☒ Yes ☐ No

115.61 (b)

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

115.61 (c)

- Unless otherwise precluded by Federal, State, or local law, are medical and mental health practitioners required to report sexual abuse pursuant to paragraph (a) of this section? ☒ Yes ☐ No

- Are medical and mental health practitioners required to inform inmates of the practitioner’s duty to report, and the limitations of confidentiality, at the initiation of services? ☒ Yes ☐ No

115.61 (d)

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

115.61 (e)
Does the facility report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility’s designated investigators? ☒ Yes ☐ No

Auditor Overall Compliance Determination

☐ Exceeds Standard (Substantially exceeds requirement of standards)

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

☐ Does Not Meet Standard (Requires Corrective Action)

NMCD Policy 150100, Page 4 states: (E) It is mandatory that staff, vendors, contractors or any inmates who witness or are the subject of abuse or sexual misconduct, who witness retaliation against those who report such incidents, or who witness any staff neglect or violation of responsibilities that may have contributed to an incident, must immediately report such conduct to one or more of the following persons: The Secretary of Corrections, OPS, the Warden, the Shift Supervisor, the Institutional Investigator, District Supervisor or any other employee of the NMCD. 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. Policy states any employee, inmate or other person who in good faith reports abuse or sexual misconduct will not be subject to retaliation. Information will be kept confidential. It also indicates that all allegations of sexual abuse or sexual harassment are reported to designated investigators, including 3rd party and anonymous reports.

NMCD Policy 180201 requires medical and mental health practitioners to report sexual abuse pursuant to standard provision 115.61(a), and to inform inmates of the practitioner’s duty to report, and the limitations of confidentiality, at the initiation of services, unless precluded by federal, state, or local law. Form 180201.1, Rights to Confidentiality and Availability of Services is the form given to the inmate to notify them of the practitioner’s duty to report and limitations of confidentiality. A copy of this form was provided to the auditor to review.

The standards require staff to report any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency. The current policy does not specify all of this detail. Per the PREA Coordinator, the policy is being amended to address this concern and a copy of proposed text has been provided to the auditor. The policy was finalized during the corrective action period.

Per a memorandum from the PCM - No inmates under the age of 18 are housed at WNMCF. 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.
The PCM indicated if an incapacitated adult was received at an institution, other than Los Lunas, mental health staff would be heavily involved to determine appropriate housing and ensuring effective communication is attained until the inmate could be transported to the appropriate facility.

Through the random staff interviews, all 15 staff interviewed was able to explain their reporting requirements. The consensus of the staff interviewed was to separate the victim/suspect, control the scene, don't let either inmate destroy evidence, notify the supervisor, collect all evidence, take inmates to medical and mental health, take the victim out for a forensic medical exam, if needed, and document their actions.

Of the 3 medical and mental health staff interviewed, all indicated they would disclose the limitations of confidentiality and their duty to report to the inmate prior to initiating the services. They also indicated they are required to report any knowledge, suspicion or information regarding incidents of sexual abuse or harassment. One of the three indicated she had become aware of such an incident and she did report it. The other two indicated they had never received a report of a sexual abuse incident.

The Warden stated they do not house inmate who are under the age of 18 and have never received an inmate who was identified as a vulnerable adult. She stated all allegations of sexual assault or harassment are reported to investigators. The level of investigator depends on the nature of the allegation. She would also notify the PCM, if he was unaware.

As part of the on-site portion of the audit, investigative files were reviewed.

**Corrective Action:** None was recommended for this standard.

**Standard 115.62: Agency protection duties**

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

115.62 (a)

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

**Auditor Overall Compliance Determination**

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

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

☐ Does Not Meet Standard (*Requires Corrective Action*)
NMCD Policy 150100 states: When staff or the agency believes that an inmate is at substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate.

The PAQ indicated there were no occurrences of an inmate being subject to substantial risk of imminent sexual abuse during the review period.

The Secretary stated that if he was informed an inmate was at substantial risk of imminent sexual abuse, the actions to be taken would include separating and protecting the victim, ensuring medical and mental health concerns were addressed and ensuring the case was referred for investigation.

The Warden stated that if she received a report that an inmate was in substantial risk of imminent sexual abuse, she would direct staff to immediately remove the inmate from her housing unit and take her somewhere that staff could privately interview her. Based on what the inmate says, the staff would consider a housing change. If the inmate identifies the perpetrator, that individual would be taken to RHU pending an investigation.

During interviews with a random sample of staff, the auditor was told they would immediately report this type of contact and initiate PREA protocols. Most indicated they would remove the inmate from her housing unit and conduct an interview to find out what was happening. Based on what they found out through the interview, they stated the supervisor would decide on the need for a change in housing for the inmate.

**Corrective Action:** None was recommended for this standard.

### Standard 115.63: Reporting to other confinement facilities

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

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

**115.63 (b)**
- Is such notification provided as soon as possible, but no later than 72 hours after receiving the allegation? ☒ Yes ☐ No

**115.63 (c)**
- Does the agency document that it has provided such notification? ☒ Yes ☐ No

**115.63 (d)**
- Does the facility head or agency office that receives such notification ensure that the allegation is investigated in accordance with these standards? ☒ Yes ☐ No

**Auditor Overall Compliance Determination**

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

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

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

NMCD Policy 150100, Page 5 states: (I) If an incident of sexual abuse or sexual harassment that occurred in another facility, that 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.

Policy requires all allegations received from other facilities/agencies be investigated in accordance with the PREA standards and NMCD internal investigative protocols.

During this review period, WNMCF received two allegations where the alleged abuse occurred at another confinement facility. The facility provided a copy of the standardized notification template that is used when these allegations are received. The initial notification was made within the required 72 hours. Copies of the two allegations were provided to the auditor for review.

During the interview with the Secretary, he indicated that Warden to Warden notifications are made utilizing electronic mail. The PCM and local investigators are also notified.

The Warden, during her interview, stated that she would notify the warden of the other facility via e-mail. She would forward the allegation to the PCM and OPS to initiate an investigation. Once the investigation was complete, the inmate would be notified via a letter from the PREA Coordinator at Central Office.

**Corrective Action:** None was recommended for this standard.

**Standard 115.64: Staff first responder duties**

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

115.64 (a)
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Separate the alleged victim and abuser? ☒ Yes ☐ No

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence? ☒ Yes ☐ No

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence? ☒ Yes ☐ No

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence? ☒ Yes ☐ No

115.64 (b)

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

Auditor Overall Compliance Determination

☐ Exceeds Standard (Substantially exceeds requirement of standards)

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

☐ Does Not Meet Standard (Requires Corrective Action)

Policy outlining first responder duties is documented in NMCD Policy 150102. The agency provided copies of the training materials as proof of practice. The policy requires that, upon learning of an allegation that an inmate was sexually abused, the first security staff member to respond to the report is required to separate the victim and the abuser, ensure the victim does not shower, wash clothing, use toilet or take any other action that may destroy evidence. Agency policy requires that if the first staff responder is not a security staff member, that responder is required to ensure the victim does not do anything to destroy evidence and notify security staff immediately.

The PAQ indicates that there were 19 incidents of sexual abuse within the audit review period. One of these allegations was made within the time period that would allow for collection of physical evidence.
For this allegation, the first responder controlled the crime scene, ensured the victim took no action that would destroy evidence, and notified his supervisor.

Of the allegations that an inmate was sexually abused made in the past 12 months, there were two times when a non-security staff member was the first responder. In one of the allegations, the alleged victim was directed to not take any actions that could destroy physical evidence. In both occurrences, the non-custody staff notified security staff.

During the on-site portion of the audit, investigative files for 18 allegations of sexual assault and sexual harassment were reviewed by the audit team.

Three security staff first responders were interviewed, all were correctional officers. All indicated they would respond to the area, contact the supervisor, separate the inmates, assess if there is a medical or mental health concern, control the area, consider evidence collection, maintain constant contact with the victim and document their actions.

During interviews with three inmates who reported sexual abuse, it was noted that two of the allegations were sexual harassment. The one allegation of sexual abuse, the inmate stated she wasn’t sure how it got reported. The PCM came and spoke with her and then took her to Mental Health to speak with a clinician. When she left Mental Health, she was moved to a different housing unit, away from the other inmate.

Through the random staff interviews, the auditor was told that non-custody staff can respond. If they are first on the scene, they are required to call custody, and control the victim and suspect to ensure evidence is not destroyed. Staff didn’t differentiate between victim and suspect on how they would be treated. Many of the staff interviewed indicated they would not allow the victim to shower, use the toilet, change clothes or brush their teeth. This is contrary to the mandate which states they should explain that evidence could be lost if they do any of these things, but if the inmate victim persists, they should not take any action to prevent it.

The Warden, PREA Coordinator and PCM were made aware of this concern. During the period of April 23 through April 25, 2018, prior to issuance of the interim report, training was conducted on all shifts for both custody and non-custody staff. This training reiterated the requirement that staff should explain why it is important for the victim to refrain from showering, using the toilet, changing clothing or brushing their teeth may cause important evidence to be lost; however, if the victim chooses to do these things, there is nothing staff can do. Also, staff were trained that they are required to ensure the suspect does not shower, use the toilet, change clothes or brush their teeth. Based on this additional training, the auditor feels this standard has been met.

**Corrective Action:** None was recommended for this standard.

**Standard 115.65: Coordinated response**
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)*

NMCD Policy 150102 establishes procedures for a coordinated facility response to allegations of sexual abuse. The policy was reviewed and determined to provide all required information.

The policy describes the coordination to be followed in response to an incident of sexual assault, among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

Facility leadership and line staff understood the response that is required when allegations of sexual abuse are made and were able to adequately describe their role, if appropriate.

During the Warden’s interview, she indicated the facility has NMCD Policy 150102 to coordinate staff’s actions in response to an allegation of sexual abuse. They also use the incident command system as a guide for response.

**Corrective Action:** None was recommended for this standard.

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**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*)

The agency has not entered into or renewed any collective bargaining agreements since the last PREA audit. The auditor reviewed the agreement between the State of New Mexico and AFSCME Counsel 18. On Page 124, it 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.”

During the interview with the Secretary, he indicated the agency has not entered into any new collective bargaining agreement since 8/20/2012. The NMCD is still under the old contract which was ratified on 12/31/2011. They are currently at impasse in the collective bargaining process for a new contract.

**Corrective Action:** None was recommended for this standard.

**Standard 115.67: Agency protection against retaliation**

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

115.67 (a)

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

- Has the agency designated which staff members or departments are charged with monitoring retaliation? ☒ Yes ☐ No
115.67 (b)

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

115.67 (c)

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of inmates or staff who reported the sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff? ☒ Yes  ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff? ☒ Yes  ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Act promptly to remedy any such retaliation? ☒ Yes  ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor any inmate disciplinary reports? ☒ Yes  ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate housing changes? ☒ Yes  ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate program changes? ☒ Yes  ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff? ☒ Yes  ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff? ☒ Yes  ☐ No

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

NMCD Policy 150100, Page 4 states: (D) Any employee, inmate or other person who in good faith reports abuse or sexual misconduct will not be subject to retaliation. Information will be kept confidential. Wardens or their designee 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. Policy mandates the agency to 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 inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. Items the agency monitors include inmate disciplinary reports, housing or program changes, or negative performance reviews or reassignments of staff.

NMCD Policy 150102, Page 2 states: 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 if necessary) be sent to the Agency PREA Coordinator.

The policy does not indicate that retaliation monitoring can be discontinued upon the allegation being determined to be unfounded. This was discussed with the PREA Coordinator and she indicated the agency does not discontinue monitoring. She further indicated that the agency continues for all cases, which they feel is well above the requirement. The agency made this decision statewide to address
inmates or staff being retaliated against in unfounded cases (i.e.; staff can rub it in or be mean because of it, etc.).

The facility has designated the PCM as the employee responsible to monitor for retaliation against inmates or staff for reporting incidents of sexual abuse/harassment or cooperating with sexual abuse/harassment investigations. The PCM stated during his interview that he monitors continuously and documents his actions at least on day 15, 45 and 90. If he identifies possible retaliation, he reports it to the Warden. He would monitor beyond 90 days if high profile case or if issues continue to arise. He stated he does not have an ending time, he will continue to monitor until all issues are addressed. His communication with both staff and inmates and attitude toward this issue helps everyone feel comfortable reporting information to him. He looks for things like housing moves, inmate discipline, staff job changes and others. He also tries to be aware of the individual becoming an outcast or being bullied by other inmates or staff.

In reviewing the 74 reported allegations of sexual abuse and sexual harassment, the facility took action in each case where the victim and/or abuser were identified. The facility reported that one incident of retaliation occurred during the review period.

During the interview with the Secretary, he stated the PCM at each facility is charged with monitoring for retaliation. The PCM reviews housing changes; unwanted transfers to another facility; job changes for staff without proper documentation/authority; and other negative changes. He indicated that if an employee or inmate was in fear of being retaliated against after cooperating with an investigation, the Warden would initiate the monitoring for retaliation process. This would include review of adverse housing changes, changes to work assignments, or program changes.

The Warden stated, during her interview, that the PCM tracks and takes reports of retaliation, when needed. When the PCM receives a report of retaliation, a serious incident report would be written based on the allegation. The Warden stated she would refer the allegation for investigation to OPS. If the retaliation allegation was against a staff member, he/she would be placed in an assignment with no inmate contact or placed on administrative leave depending on the circumstances of the allegation. The Warden stated that when she suspects retaliation, she will call the staff member in and discuss the situation with them. She has an expectation of zero tolerance. She stated that acts of retaliation would be a code of ethics violation according to policy and she would make a referral to the OPS based on the discussion with the inmate.

There were no interviews with inmates in segregated housing (for risk of sexual victimization/who allege to have suffered sexual abuse) because there were no inmates meeting this criterion during the on-site portion of the audit.

When inmates who reported sexual abuse were asked about feeling protected from possible revenge from staff or other inmates: the first inmate stated Yes she feels safe, but feels staff will back each other and won’t admit when they are wrong; the second inmate stated Yes she feels safe and she has not experienced any issues; and the third inmate stated No she does not feel safe from retaliation by
staff, she feels safe from inmates. This inmate was involved in consensual sexual activities and was
disciplined for her behavior. The incident was determined not to be PREA.

During the on-site review, the auditor reviewed investigatory files which contained the completed
retaliation monitoring forms. Each case that required monitoring had a retaliation monitoring form in
the file. Some were completed, and some were still being monitored. One of the monitoring forms
provided to the auditor indicated an officer had been identified as possibly retaliating against an
inmate. The incident was reported during the 60 day review. The officer was counseled and assigned
to another area of the facility to work.

Corrective Action: None was required for this standard.

Standard 115.68: Post-allegation protective custody

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

115.68 (a)

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

Auditor Overall Compliance Determination

☐ Exceeds Standard (Substantially exceeds requirement of standards)

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

☐ Does Not Meet Standard (Requires Corrective Action)

NMCD Policy 150100 states: 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 Policy
143001.

NMCD Policy 141100, Protective Custody, 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.

The facility reports that no inmates who allege to have suffered sexual abuse were held in involuntary
segregated housing in the past 12 months. No involuntary housing placements or assignments have
been made over the past 12 months. Through inmate interviews, there were no inmates who were placed in involuntary segregated housing.

Because of the physical plant design of the facility, it is easy to relocate an inmate to another housing unit, should the need arise. Each housing unit has its own yard. There is very little interaction between inmates in different housing units.

Through record reviews, it was noted there were no inmates placed in segregation based on a high risk of sexual victimization during this review period.

The Warden indicated that the agency has a policy which does not allow an inmate at high risk of sexual victimization to be placed in RHU unless an assessment has determined there are no other means of separation from potential predators. The Warden indicated there hasn't been a need to place an inmate who is at high risk of sexual victimization in involuntary segregated housing. She indicated that based on the design of the facility; there are a lot of housing options available to her when an inmate is identified as high risk of victimization. If the need arose, the inmate would be assessed within the first 24 hours and seen for a Unit Team Meeting within 72 hours. Housing would be identified as soon as possible after conclusion of these processes. There have been no circumstances in which segregated housing was used to protect an inmate who was alleged to have suffered sexual abuse in the past 12 months.

Staff who supervises inmates in segregated housing indicated they would track the inmate, document the privileges and programs she was removed from and ensure she was rehoused, as soon as possible.

**Corrective Action:** None was recommended for this standard.

### INVESTIGATIONS

**Standard 115.71: Criminal and administrative agency investigations**

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

**115.71 (a)**

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

- Does the agency conduct such investigations for all allegations, including third party and anonymous reports? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA
115.71 (b)
- Where sexual abuse is alleged, does the agency use investigators who have received specialized training in sexual abuse investigations as required by 115.34? ☒ Yes ☐ No

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

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

115.71 (e)
- Do agency investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and not on the basis of that individual’s status as inmate or staff? ☒ Yes ☐ No
- Does the agency investigate allegations of sexual abuse without requiring an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding? ☒ Yes ☐ No

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

115.71 (g)
- Are criminal investigations documented in a written report that contains a thorough description of the physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible? ☒ Yes ☐ No
- Are all substantiated allegations of conduct that appears to be criminal referred for prosecution? ☒ Yes  ☐ No

115.71 (i)

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

115.71 (j)

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

115.71 (k)

- Auditor is not required to audit this provision.

115.71 (l)

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

**Auditor Overall Compliance Determination**

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

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

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

NMCD Policy 150100 states: 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. Policy requires all written reports pertaining to the administrative or criminal investigation of alleged sexual abuse or sexual harassment to be retained for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.

NMCD Policy 031801 was reviewed by the auditor. While the policy does not specifically state that investigations should be conducted promptly, thoroughly and objectively, the policy describes a very thorough approach to conducting investigations, when notifications should be made, when referrals should be made and that these must be done immediately upon the investigator making the determination that additional attention is warranted. Page 5 of the policy states: “Local Level” Prison Facility or Probation and Parole Region Office: Each prison facility and PPO Region Office shall have the
discretion to designate one or more Investigations Officers to conduct non-Level-1 investigations or to conduct Level-1 investigations as assigned by the Bureau Chief of OPS. An Investigations Officer need not necessarily serve as an investigator in a full time capacity. The Investigations Officer shall report directly to the Bureau Chief of OPS throughout the investigative process regarding assigned cases from the OPS. The Investigations Officer shall also keep open communication with the appropriate Disciplinary Authority CAO regarding investigation of matters within their sphere of authority. This policy clearly outlines the steps to be taken for all investigations.

NMCD Policy 031801 also describes the detailed process that staff will follow when completing a sexual abuse investigation, it does not address compelled interviews because the agency is not responsible for completing investigations which may lead to criminal prosecution. Policy describes the detailed process that staff will follow when completing a sexual abuse investigation. It addresses administrative investigations including efforts to determine whether staff actions or failures to act contributed to the abuse and documentation in written reports that include a description of the physical and testimonial evidence, the reason behind credibility assessments and investigative facts and findings.

NMCD Policy 023600, page 4 states: (D) Employee conduct involving allegations of sexual misconduct, sexual assault 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

The agency conducts administrative investigations for sexual harassment, sexual assault/misconduct, and staff sexual misconduct. The New Mexico State Police conduct criminal investigations for sexual harassment, sexual assault/misconduct, and staff sexual misconduct. OPS staff at the facility and at the NMCD central office initiates the investigation to include third party and anonymous reports. If the allegation is determined to be criminal, the case is referred to the New Mexico State Police for completion and referral for criminal prosecution.

During this review period, there were 74 allegations of sexual abuse/harassment received by WNMCF. Of the 74 allegations, 25 were sexual abuse, 14 were sexual harassment, and 35 were determined to not to meet the definition for PREA. Of the 39 cases determined to be PREA, seven cases were substantiated, six cases were unsubstantiated, 11 cases were unfounded, and 15 cases are pending. Nine cases were referred for criminal investigation.

The auditor selected 18 allegations, randomly, to review. Investigative files reviewed by the auditor were thorough and complete. Many included reviews of video monitoring data, prior reports and complaints. Documentation included evidence collected, interviews conducted, synopsis of the incident, conclusion, and resulting action. The cases that were investigated have sufficient detail to come to an appropriate conclusion. The documents contained in the investigatory files reflected that all allegations were investigated promptly, when the allegations were received from either the victim, a third party or anonymously. Each investigation reviewed was completed in an objective fashion.

Information provided during specialized interviews with two investigative staff indicates investigations are initiated within 24 hours of the allegation being made. Anonymous and third party reports are
handled exactly the same way as any other report. The investigators explained the first step in initiating an investigation would require the facility to send information to OPS who assigns investigator (local or OPS) who comes into the facility. The investigative process includes review of the Serious Incident Report, preparing questions, interviewing the victim, witnesses and suspect, have witnesses document their statements, re-interview, as needed, review evidence, write the report including violation of policy, whether or not staff action or inaction contributed to incident, make a conclusion and submit report to Warden. Staff has 23 days to complete. Circumstantial evidence might include sign-in sheets, interviews, and direct hard evidence such as letters, DNA, or video from cameras.

Training records and certificates, and Sexual Assault Investigator training curriculum, were reviewed by the audit team. Policy requires all investigators to receive specialized training for conducting sexual abuse investigations in confinement settings. The Sexual Assault Investigator training curriculum was provided evidencing specialized training as described in standard 115.34 and was described during interviews with investigative staff. All of the current investigators have received the required training and certificates indicating completion of the specialized trainings were provided to the audit team.

Substandard 115.71(e) states: 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. 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. The agency policy does not specifically address these requirements; however, within the PREA training materials for all staff, the curriculum speaks to the credibility of an alleged victim, suspect, or witness being assessed on an individual basis and not being determined by the person’s status as an inmate or staff.

Through interviews with two investigative staff, they stated that to judge credibility of the parties, they look at prior history of claims. They do not use polygraph examinations to assess if the victim is telling the truth. In reviewing the investigative files, there was no indication that credibility of inmates was determined on other than an individual basis.

During the record review, it was noted that cases involving substantiated allegations of criminal misconduct were referred for prosecution. It was also noted that investigative reports routinely included a statement outlining the efforts taken to determine whether staff actions or failures to act contributed to the abuse; and the reasoning behind credibility assessments.

Through interviews with investigative staff, the auditor was told that they make an effort to determine whether staff actions or failure to act contributed to the sexual abuse and document in the written report. Administrative investigations are documented.

Criminal investigations are conducted by the New Mexico State Police. The investigators interviewed indicated criminal investigations are documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and copies of all documentary evidence are attached, where feasible.
New Mexico State Police investigate allegations of sexual abuse that are determined to be criminal and the facility cooperates with investigators, when needed. The facility endeavors to remain informed about the progress of the investigation. There were four allegations of staff sexual misconduct that were determined to be criminal and they were referred to the New Mexico State Police for completion of the investigation. It is the responsibility of the New Mexico State Police to make the referral for prosecution.

Three inmates who reported sexual abuse were asked about being required to take a polygraph test as part of the investigation into their allegation of sexual abuse. All indicated they were not required to take a polygraph test.

Through the interview with the Warden, she stated she tracks cases referred to the State Police separately from in-house investigations. She requires staff to follow-up on a regular basis to find out updates and the current status.

The PREA Coordinator indicated that when a case is being investigated by the New Mexico State Police, contact is maintained through e-mail, telephone calls, and utilizing a point of contact within the State Police.

During the interview with the PCM, he stated that he conducts follow-up based on setting up a reminder in the case file. He also uses his retaliation monitoring dates as times to follow up with the outside agency. Per information provided by the PCM, there were no investigations terminated because the alleged abuser or the victim departed the facility.

**Corrective Action:** None was recommended for this standard.

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### 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*)
NMCD Policy 031800, Page 4 states: “All investigations will be handled in a confidential manner, and findings will be determined by the preponderance of the evidence.”

Investigative staff interviews confirmed that no standard higher than a preponderance of evidence is utilized when determining whether allegations are substantiated.

A review of administrative investigative case files also confirmed compliance with this provision of the standard.

**Corrective Action:** None was recommended for this standard.

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**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)

NMCD Policy 150100, Page 5 states: (M) 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.

The PAQ indicated there were 19 allegations of sexual abuse during the audit period and there were 19 inmates notified of the outcome of the investigations. Copies of these notifications were retained in the investigatory file.
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.

These notifications are completed by the PREA Coordinator and mailed to the inmate. The facility staff is not involved in this process. The memorandum used for this notification was reviewed and contains all of the required criteria.

When the findings from the New Mexico State Police investigation are received, the information is provided to the PREA Coordinator, who will create the notification memorandum and mail it to the inmate.

Four cases were referred for criminal investigation during this review period. All inmates received the required notifications from the PREA Coordinator.

During interviews with inmates who reported sexual abuse, one of the cases was consensual sexual activity and determined not to be a PREA, so no reporting was required. The second case was against another inmate, so the question is not applicable. The third case is still under investigation, so the inmate hasn’t received any notifications.

Investigative case files with allegations against staff were reviewed. All except one file contained notifications of the criteria in this provision.

This agency goes above what is required for this substandard. When an investigation is opened, the inmate/victim is notified by the PREA Coordinator and provided with information about services available to her. She will also receive required notifications as the investigation is completed, when the case is referred for prosecution, and when the case is adjudicated through the court system.

**Corrective Action:** None was recommended for this standard.

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**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*)

NMCD Policy 150100, Page 6 states: (P) 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. Licensed professionals engaging in sexual conduct with inmates will be reported to any relevant licensing body. It also states: For matters of sexual abuse, termination should be the presumptive disciplinary sanction for staff who engaged in sexual abuse.

The PAQ indicated that three staff was terminated (or resigned prior to termination) during the past 12 months, for engaging in sexual abuse or violating the department’s zero tolerance policy.

Over the past 12 months there has been no staff disciplined, short of termination, for violation of agency sexual abuse/harassment policies.
Corrective Action: None was recommended for this standard.

**Standard 115.77: Corrective action for contractors and volunteers**

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

**115.77 (a)**

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

**115.77 (b)**

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

**Auditor Overall Compliance Determination**

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

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

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

NMCD Policy 150100, Page 6 states: (P) 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. Licensed professionals engaging in sexual conduct with inmates will be reported to any relevant licensing body. Policy indicates the facility takes appropriate remedial measures and considers whether to prohibit further contact with inmates in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

NMCD Policy 031800 states: If during an administrative or criminal investigation, the Disciplinary Authority, CAO or Bureau Chief of OPS determines that it is in the best interests of the Department that the employee be removed from his or her assigned position, the employee may be:
a. Temporarily placed on paid Administrative Leave subject to the procedures set forth in Policy (CD-037800) Disciplinary Action for Classified Employees; or
b. Temporarily reassigned to a position where he or she may function without threat to personal safety, the safety of others, or the orderly operations of the Department.

In addition, NMCD Policy 060200, Citizen Involvement and Volunteers, states that any volunteer who has or develops a relationship with an inmate other than that required for the specific program for which approval was granted as a volunteer will be denied or removed from volunteer status.

The Warden indicated that if an allegation was received, it would be investigated and while this was occurring, she would consider suspending the security clearance. This would depend on the severity of the allegation. Once the investigation is completed, she would review all pertinent information and determine if the individual can continue to function inside the secure perimeter.

Over the past 12 months, there have been no contractors or volunteers reported to law enforcement agencies for engaging in sexual abuse of inmates.

**Corrective Action:** None was recommended for this standard.

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**Standard 115.78: Disciplinary sanctions for inmates**

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

115.78 (a)

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

115.78 (b)

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

115.78 (c)

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

115.78 (d)

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

115.78 (e)

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

115.78 (f)

☒ For the purpose of disciplinary action does a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred NOT constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation? ☒ Yes ☐ No

115.78 (g)

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

Auditor Overall Compliance Determination

☐ Exceeds Standard (Substantially exceeds requirement of standards)

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

☐ Does Not Meet Standard (Requires Corrective Action)

NMCD Policy 150101, Page 2, states: (7) 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. Policy states: All sexual activity between inmates is prohibited and inmates may be disciplined for such activity. The agency does not deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

NMCD Policy 090100, Inmate Discipline, states on Page 5: (A) The NMCD shall provide a safe and secure environment for both staff and inmates through the implementation and maintenance of reasonable standards of control and discipline. Staff and inmates will be provided access to copies of this policy and procedure additions/revisions as they are implemented. This policy and procedure shall be reviewed at least annually and updated as necessary. Policy states: The agency may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
The written policy did not address that sanctions against inmates are to be 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. It also did not address disciplinary sanctions taking into account the inmate’s prior disciplinary history and the inmate’s mental health status at the time of the violation, including the motivation for the offense and the inmate’s attitude toward the victim. Policy was updated to address these provisions of the standard and was distributed to the field during July 2018.

In the past 12 months, there have been 44 administrative findings of inmate-on-inmate sexual abuse that have occurred at the facility. There have been zero criminal findings of guilt for inmate-on-inmate sexual abuse that have occurred at the facility.

Through an interview with the Warden, the auditor was told that the inmate is subject to appropriate disciplinary action following a finding of guilt in an inmate-on-inmate sexual abuse allegation. The action to be taken is based on the agency’s disciplinary policy and will be progressive based on the charge. Medical and mental health concerns are considered in determining appropriate sanctions for the inmate.

Through an interview with a Mental Health Staff, the auditor was told that services are offered, but they are limited in scope. She indicated that participation in the investigation would not be a prerequisite for access to the services. The facility offers therapy, counseling, or other interventions designed to address and correct the underlying reasons or motivations for abuse. The therapy, counseling, or other interventions are designed to address and correct the underlying reasons or motivations for abuse, the facility does not require the offending inmate to participate in such interventions as a condition of access to programming or other benefits.

According to the records reviewed, there were zero occurrences of inmates being disciplined for sexual contact with staff during this audit period. There were disciplinary reports issued to inmates involved in sexual activity during this audit period.

**Corrective Action:** None was recommended for this standard.

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**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)

NMCD Policy 150100, Page 6, states: (N) 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. Inmates with a history of criminally sexual behavior shall be identified, monitored, and
counseled. Also on page 6, it states: (O) 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.

NMCD Policy 180200, Behavioral Health Reception and Diagnostic Center (RDC), states: Inmates identified as high risk with a history of sexually assaultive behavior are assessed by mental health or other qualified professional. Inmates with a history of sexually assaultive behavior are identified, monitored, and counseled. Inmates identified as at risk for sexual victimization are assessed by a mental health professional or other qualified professional. Inmates at risk for sexual victimization are identified, monitored, and counseled. Policy also states that intersystem inmate transfers will undergo a mental health appraisal by a qualified mental health person within 14 days, if identified as having significant health care problems.

NMCD Policy 040100, Inmate Records, states: 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.

NMCD Policy 176100, Patient Rights and Responsibilities, states: 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 PAQ indicated that 216 inmates had disclosed victimization during the risk screening process, during this review period.

Two inmates who disclosed sexual victimization at risk screening were interviewed; both indicated they had been asked about seeing mental health after reporting prior victimization. One stated she declined the follow-up and the second indicated it just recently occurred and she has not heard back for the follow-up (still within the 14 days)

During the interviews with staff responsible for risk screening, the auditor was told by one staff that there is no formal process. The other staff member indicated there is a process used to ensure these inmates are seen by mental health. In most cases they are seen the same day. There is a standardized form that is used for the inmate to state either they want to be referred or they decline services. The auditor reviewed several of these forms. The auditor was told that inmates who indicate they have previously perpetrated sexual abuse are offered a follow-up meeting with mental health staff and they are generally seen by mental health the same day. One staff indicated she has not had any inmate who had reported a history of sexually assaultive behavior. In addition, medical and behavioral health staff utilizes the Rights to Confidentiality and Availability of Services form, which serves to notify the inmates which information is confidential and what will not be disclosed without the inmates
consent. A blank copy of the form was provided to the auditor to review. The Mental Health Staff were aware of the requirement to obtain informed consent before releasing information to custody staff about previous sexual abuse. WNMCF does not house inmates under the age of 18.

The Mental Health department has developed a tracking log to ensure referrals are scheduled with appropriate clinical staff. Based on a spot check, these referrals are being received by the Mental Health Department and the inmates are being scheduled to see a clinician, as appropriate.

The database which houses NMCD inmate screenings and related confidential information called CMIS, reminds staff at each log in that the information contained within is for official use only, restricted to staff who need to know and may not be disclosed. Each time the staff member clicks on the Log In button, they are acknowledging the confidential nature of the information and accept responsibility for its proper use.

During the on-site portion of the audit, while on the facility tour, the auditor reviewed screening forms and the information available to custody supervisors and unit managers to utilize in making appropriate housing decisions for those identified at risk of being a victim. A classification staff member, unit manager, and shift supervisor were interviewed to determine the access they would have if they needed to make a housing decision during the late afternoon or evening shift.

The auditor was provided with 10 completed examples of the form, as proof of practice.

**Corrective Action:** None was recommended for this standard.

### Standard 115.82: Access to emergency medical and mental health services

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

<table>
<thead>
<tr>
<th>115.82 (a)</th>
</tr>
</thead>
<tbody>
<tr>
<td>▪ 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</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>115.82 (b)</th>
</tr>
</thead>
<tbody>
<tr>
<td>▪ 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</td>
</tr>
<tr>
<td>▪ Do security staff first responders immediately notify the appropriate medical and mental health practitioners? ☒ Yes ☐ No</td>
</tr>
</tbody>
</table>
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*)

NMCD Policy 150100 states: Victims receive all necessary immediate and on-going medical, mental health and support services. Policy directs that treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. Inmate victims of sexual abuse shall 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 judgement.

NMCD Policy 170100, Clinical Services, indicates that victims of sexual abuse while incarcerated will be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, and when medically appropriate. Medical and mental health staff is on call, 24 hours per day, 7 days per week. If the need arises, the staff member who is on call will be directed to come into the facility. This process is documented in NMCD Policy 170100, Clinical Services, page 5 states: A physician on call or available 24 hours a day. Policy indicates that the NMCD currently does not impose medical co-payments on inmates.

Medical and mental health staff completes required documentation, which is secured electronically in medical computers where only medical and mental health staff have access. Interviews with medical staff indicated victims of sexual assault are offered information about and timely access to emergency contraception and sexual transmitted infection prophylaxis.

Three inmates who reported sexual abuse were interviewed. Two of the inmates interviewed indicated they received follow-up with medical or mental health very quickly after the report. The third inmate...
was involved in consensual sexual activities. She was not referred to medical but was referred to mental health. The auditor found that the question about being provided with information about, and access to, emergency contraception and/or sexually transmitted infection prophylaxis was not applicable to any of the inmates who were interviewed.

Security staff first responders stated they respond to the area, separate inmates, assess if there is a medical and mental health concern and escort, as necessary; control the area, collect evidence, and ensure a staff member maintains constant contact with the victim. Once the situation is under control, the staff will document all actions taken.

During the tour, the process of referral was described to the auditor by the Warden and by the PCM. Documentation of the referrals were reviewed and found to be compliant with the standards.

During the document reviews, the auditor was able to review documents which showed immediate notification had been received by medical or mental health staff.

The PREA Resource Guide for Inmates, Know your Rights section states: Victims of sexual abuse may be taken to an outside hospital for a medical forensic examination to collect evidence. You also have the right to refuse the examination. Victims also have access to facility medical and mental health services. Medical forensic examinations by an outside hospital and facility medical and mental health services are provided without charge.” The inmate Resource Guide does not inform the inmate that they do not have to name the abuser or cooperate with any investigation arising out of the incident to have access to these medical and mental health services.

**Corrective Action:**

1. Update the PREA Resource Guide for Inmates to include that the inmate does not have to name the abuser or cooperate with any investigation arising out of the incident to have access to the appropriate medical and mental health services.

**Update:**

The PREA Resource Guide for Inmates was updated and distributed to the facilities during July 2018. This update brings the facility into compliance with this standard.

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

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

**115.83 (a)**

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

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

115.83 (c)

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

115.83 (d)

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

115.83 (e)

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

115.83 (f)

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

115.83 (g)

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

115.83 (h)

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

Auditor Overall Compliance Determination

☐ Exceeds Standard (Substantially exceeds requirement of standards)
NMCD Policy 150102 establishes the process for staff to follow when an allegation of sexual assault is received. This policy addresses both custody and medical/mental health response. In addition, NMCD Policy 170101 Clinical Services and NMCD Policy 180100 Mental Health and Clinical Services provide additional guidance to clinical and mental health staff.

Policy states if services are not available at the institution, the inmate will be transported to a location where she may obtain the needed services. In addition, on page 11, the policy states: (EE) The contract with the health care vendor shall also ensure that all professional staff is properly licensed. (FF) All state and private facilities that house state inmates shall follow procedures and practices that are in compliance with Corrections Department policy, ACA, and NCCHC standards.

NMCD Policy 170100, Page 6 states: (J) If female inmates are housed, access to pregnancy management services is available. Provisions of pregnancy management include the following: pregnancy testing; a routine and high-risk prenatal care; management of chemically addicted pregnant inmates; comprehensive counseling and assistance; appropriate nutrition; postpartum follow up; and unless mandated by state law, birth certificates/registry does not list a correctional facility as the place of birth.

While not specific to PREA, the process for development of treatment plans is described in NMCD Policy 170100, page 5, as follows: (G) A written individual treatment plan is required for inmates requiring close medical supervision, including chronic and convalescent care. 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. (H) There is a written plan for access to twenty-four (24) hour emergency medical, dental and mental health services availability. The plan includes: on-site emergency first aid and crisis intervention; emergency evacuation of the inmate from the facility; use of an emergency medical vehicle by notification of EMS (911); use of one or more designated hospital emergency rooms or other appropriate health facilities; emergency on-call or available 24-hours per day, physician, dentist, and mental health professional services when the emergency health facility is not located in a nearby community; and security procedures providing for the immediate transfer of inmates, when appropriate.

NMCD Policy 170100, page 12 states: (OO) Victims of sexual assault are referred under appropriate security provisions to a community health care facility for treatment and gathering of evidence, or if these procedures are performed in-house, the following guidelines are used: a history is taken by health care professional who conduct an examination to document the extent of physical injury and to determine if referral to another medical facility is indicated. With victim’s consent, the examination includes the collection of evidence from victim, using a kit approved by the appropriate authority; provision is made for testing of sexually transmitted diseases (i.e. HIV, gonorrhea, hepatitis, etc) and
counseling, as appropriate; prophylactic treatment and follow-up for sexually transmitted diseases shall be offered to all victims, as appropriate; following the physical examination, there is availability of an evaluation by a mental health professional to assess the need for crisis intervention counseling and long-term follow-up; or a report shall be made to the facility or program administrator or designee to assure separation of the victim from his or her assailant. It further states: The NMCD currently does not impose medical co-payments on inmates. Policy mandates the facility attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 14 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

During the site visit, random staff was asked about medical and mental health services being offered. Staff stated inmates who make a report of sexual abuse are taken to medical as soon as possible. The auditor was provided with copies of progress notes written by medical and/or mental health staff to establish proof of practice in complying with this standard. Through document reviews, there was one occurrence during this audit period. The inmate was offered a pregnancy test as required per policy.

During interviews with medical and mental health staff, the auditors learned that staff advises the inmate to not wash hands or other parts of their body. They offer triage, as necessary and prepare the inmate for transfer to SANE. Upon return to the facility, medical staff will complete a follow-up and refer the inmate to mental health. Staff indicated that medical and mental health services are comparable to those offered in the community and that inmates are offered information and access to all lawful pregnancy-related services immediately upon the pregnancy being confirmed. The auditors learned that facility staff conduct a mental health evaluation within 14 days of being made aware and offer treatment, if appropriate.

Through interviews with the three inmates who reported sexual abuse, it was determined that a pregnancy test was not offered to any of the inmates because their allegation would not have resulted in pregnancy; therefore, this question was not applicable to any of the inmates who were interviewed. One inmate indicated mental health staff discussed follow-up services and other necessary information with her. This standard is not applicable to the other two cases. The third inmate indicated the services provided were free.

Corrective Action: None was required for this standard.

DATA COLLECTION AND REVIEW

Standard 115.86: Sexual abuse incident reviews

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

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

### 115.86 (b)
- Does such review ordinarily occur within 30 days of the conclusion of the investigation? ☒ Yes ☐ No

### 115.86 (c)
- Does the review team include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners? ☒ Yes ☐ No

### 115.86 (d)
- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse? ☒ Yes ☐ No

- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility? ☒ Yes ☐ No

- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse? ☒ Yes ☐ No

- Does the review team: Assess the adequacy of staffing levels in that area during different shifts? ☒ Yes ☐ No

- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff? ☒ Yes ☐ No

- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager? ☒ Yes ☐ No

### 115.86 (e)
- Does the facility implement the recommendations for improvement, or document its reasons for not doing so? ☒ Yes ☐ No

**Auditor Overall Compliance Determination**

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

☑ Does Not Meet Standard (Requires Corrective Action)

NMCD Policy 150100 states: 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.

NMCD Policy 150102 states: 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. The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical/mental health practitioners. The review shall be completed within 30 days of the outcome of the investigation. Policy identifies all of the components listed in standard 115.86(d) as responsibilities of the review team. Policy also states: (f) Prepare a report of its findings on the Sexual Abuse or Assault Incident Review Team form, including but not necessarily limited to determinations made pursuant to paragraphs (2)(a) through (2)(e) of this section. This will be completed within 30 days of the outcome of the investigation.

Of the 18 investigative files reviewed, there was a SART committee done on each one that required it. The auditor reviewed four of the Sexual Abuse or Assault Incident Review Team documents. The documents were very brief and the facility is not thoroughly responding to all of the questions asked on the form. When this was discussed with the PREA Coordinator and the PCM, the auditor was told that the form is in the process of being revised.

In reviewing four of the incident review documents, the auditor noted that three of the four were completed within 30 days of completion of the investigation. The standard indicates that incident reviews shall ordinarily occur within 30 days of the conclusion of the investigation.

The facility SART committee documented the staff that was present. All staff that were required to attend, per the standard, were in attendance at the meeting.

Through an interview with the Warden, the auditor was informed that the SART committee identifies trends or issues. Areas addressed by the committee include staff on post that day, camera coverage, has this area been identified in other allegations, if so, what changes may be needed to prevent incidents.

The PCM and the Incident Review Team member that were interviewed indicated that all of the identified components of the standard are addressed and documented on the form.
When this was discussed with the Warden, the auditor was told that the facility would begin having formal minutes taken during the meetings and would ensure if recommendations were identified they were addressed.

**Corrective Action:**
1. The Warden has determined that formal minutes will be taken at each SART committee meeting. These minutes will then be transferred onto the Sexual Abuse or Assault Incident Review Team form.
2. The facility will ensure that any recommendations for improvement are implemented or the reasons for not doing so are thoroughly documented.

**Update:**
The auditor reviewed documentation from six SART committees. The documents were thoroughly completed and contained enough information for the auditor to determine the process being utilized meets the standard.

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**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)

NMCD Policy 150101 states: All case records associated with claims of sexual abuse, 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. Policy requires the agency to obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its offenders.

NMCD publishes all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts on its public website at http://cd.nm.gov/prea/prea.html.

The Annual Assessment for the years 2012, 2013, 2014 and 2015 are available on the agency’s website.

The audit team was provided with the agency’s Survey of Sexual Victimization. The auditor also reviewed the agency’s website and observed previous Annual Assessments posted there.

The auditor reviewed the GEO contract for confinement of offenders during the on-site portion of the audit.

The PREA Coordinator stated that contracted facilities have access to the agency’s SIR system. This is the system utilized to collect the PREA data. The information is then compiled and reported to the Department of Justice, annually.

Corrective Action: None was recommended for this standard.

Standard 115.88: Data review for corrective action
All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.88 (a)

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas? ☒ Yes ☐ No

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis? ☒ Yes ☐ No

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

115.88 (b)

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

115.88 (c)

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

115.88 (d)

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

Auditor Overall Compliance Determination

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

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

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

NMCD Policy 150101, the Agency’s Website and the 2013, 2014, and 2015 Sexual Assault Prevention Program Annual Report were provided and reviewed by the audit team. NMCD Policy 150101 states:
All case records associated with claims of sexual abuse, 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.

The Secretary indicated that he approves the annual report after being reviewed by the PREA Coordinator. Once he has approved the report, it is posted on the NMCD website.

The PREA Coordinator indicated that annual reviews of the data collected pursuant to 115.87 are completed. The data is assessed for the effectiveness of the sexual abuse prevention, detection, and response polices, practices, and training. The agency prepares an annual report and posts the information on the website. The only information redacted from the agency report is personal identifying information. All other information is included in the annual report.

Through the interview with the Warden, the auditor was informed that the agency uses incident based data to assess and improve sexual abuse prevention, protection and response policies, procedures and training. This is accomplished through review by the SART committee and assessing all information to include area involved, staff and inmates involved, and on-going areas of concern.

Through the interview with the PCM, he indicated they meet at least one a year to review the data. He also provides monthly report to the PREA Coordinator.

NMCD publishes all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts on its public website at http://cd.nm.gov/prea/prea.html.

The facility’s annual report includes a comparison of the current year’s data and corrective actions with those from prior years. The report addresses the agency’s progress in addressing sexual abuse.

The audit team was provided with 2016 Sexual Assault Prevention Program Annual Report which compares data from the past two years. In addition, the annual report was reviewed by the audit team and no personal identifying information was included.

**Corrective Action:** None was recommended for this standard.

### Standard 115.89: Data storage, publication, and destruction

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

115.89 (a)

- Does the agency ensure that data collected pursuant to § 115.87 are securely retained?
  - ☒ Yes
  - ☐ No
115.89 (b)

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

115.89 (c)

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

115.89 (d)

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

Auditor Overall Compliance Determination

☐ Exceeds Standard (Substantially exceeds requirement of standards)

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

☐ Does Not Meet Standard (Requires Corrective Action)

NMCD Policy 150101, Page 1 states: (2) 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 as long as the alleged abuser is incarcerated or employed by agency plus five years. It also states: All case records associated with claims of sexual abuse, 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.

NMCD and WNMCF securely collect data in a data base. Access to the data is strictly limited to those with a legitimate need to know, and access to this data and the PREA information contained within must be authorized through the Secretary of Corrections.

The PREA Coordinator indicates the data is maintained in a secure data system and is backed up as required per departmental policy. She stated that personal names and any other identifiers are redacted from the annual report. The agency indicates the nature of the data being redacted.
NMCD publishes all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts on its public website at [http://cd.nm.gov/prea/prea.html](http://cd.nm.gov/prea/prea.html).

A review of the website demonstrates aggregated sexual abuse data from facilities under its control to the public is posted, as required. Information displayed on the agency website, contains no personal identifiers.

No federal, state or local law was provided by the agency to indicate there was a law in place to require a data maintenance procedure which would supersede standard provision 115.89(d).

**Corrective Action:** None was recommended for this standard.

### AUDITING AND CORRECTIVE ACTION

#### Standard 115.401: Frequency and scope of audits

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

**115.401 (a)**

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

**115.401 (b)**

- Is this the first year of the current audit cycle? *(Note: a “no” response does not impact overall compliance with this standard.)* ☐ Yes ☒ No

- If this is the second year of the current audit cycle, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited during the first year of the current audit cycle? *(N/A if this is not the second year of the current audit cycle.)* ☐ Yes ☐ No ☒ NA

- If this is the third year of the current audit cycle, did the agency ensure that at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency, were audited during the first two years of the current audit cycle? *(N/A if this is not the third year of the current audit cycle.)* ☐ Yes ☐ No ☒ NA

**115.401 (h)**
- Did the auditor have access to, and the ability to observe, all areas of the audited facility? ☒ Yes ☐ No

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

115.401 (m)
- Was the auditor permitted to conduct private interviews with inmates, residents, and detainees? ☒ Yes ☐ No

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

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

During the prior three-year audit period, the agency ensured that each facility was audited at least once. This is the second year of the current audit cycle and the agency ensured that at least one-third of each facility type was audited during the first year of the current audit cycle.

The auditor had access to and the ability to observe, all areas of the audited facility. The auditor was permitted to request and receive copies of any relevant documents (including electronically stored information). The auditor permitted to conduct private interviews with inmates, residents, and detainees. Inmates were permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.

**Standard 115.403: Audit contents and findings**

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

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

Auditor Overall Compliance Determination

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

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

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

Instructions for Overall Compliance Determination Narrative

The agency has published on its agency website all Final Audit Reports within 90 days of issuance by auditor. The review period is for prior audits completed during the past three years preceding this agency audit.
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.

Nancy L. Hardy                August 20, 2018
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.