

**PREA AUDIT REPORT     Interim    Final**  
**ADULT PRISONS & JAILS**

**Date of report:** August 17, 2017

<b>Auditor Information</b>			
<b>Auditor name:</b> Robert Lanier			
<b>Address:</b> P.O. Box 452, Blackshear, GA 31516			
<b>Email:</b> rob@diversifiedcorrectionalservices.com			
<b>Telephone number:</b> 912-281-1525			
<b>Date of facility visit:</b> July 19, 2017			
<b>Facility Information</b>			
<b>Facility name:</b> MTC Billy Moore Correctional Facility			
<b>Facility physical address:</b> 8500 N. FM 3053 Overton, Tx 75684			
<b>Facility mailing address:</b> <i>(if different from above)</i> <a href="#">Click here to enter text.</a>			
<b>Facility telephone number:</b> 903-834-6186			
<b>The facility is:</b>	<input type="checkbox"/> Federal	<input type="checkbox"/> State	<input type="checkbox"/> County
	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input checked="" type="checkbox"/> Private for profit
	<input type="checkbox"/> Private not for profit		
<b>Facility type:</b>	<input checked="" type="checkbox"/> Prison	<input type="checkbox"/> Jail	
<b>Name of facility's Chief Executive Officer:</b> Warden David Hudson			
<b>Number of staff assigned to the facility in the last 12 months:</b> 113			
<b>Designed facility capacity:</b> 513			
<b>Current population of facility:</b> 496			
<b>Facility security levels/inmate custody levels:</b> Minimum Security/Minimum Custody			
<b>Age range of the population:</b> Adults			
<b>Name of PREA Compliance Manager:</b> Chandra Daniels		<b>Title:</b> Lieutenant	
<b>Email address:</b> Chandra.daniels@mtctrains.com		<b>Telephone number:</b> 903-834-6186 ext.218	
<b>Agency Information</b>			
<b>Name of agency:</b> Management & Training Corporation			
<b>Governing authority or parent agency:</b> <i>(if applicable)</i> N/A			
<b>Physical address:</b> 500 N. Marketplace Drive, Centervill, Utah 84014			
<b>Mailing address:</b> <i>(if different from above)</i> <a href="#">Click here to enter text.</a>			
<b>Telephone number:</b> 800-574-4682			
<b>Agency Chief Executive Officer</b>			
<b>Name:</b> Scott Marquardt		<b>Title:</b> President and CEO	
<b>Email address:</b> scott.marquardt@mtctrains.com		<b>Telephone number:</b> 801-693-2800	
<b>Agency-Wide PREA Coordinator</b>			
<b>Name:</b> Mark Lee		<b>Title:</b> Director, Correction, PREA Coordinator	
<b>Email address:</b> mark.lee@mtctrains.com		<b>Telephone number:</b> 801-693-2864	

## **AUDIT FINDINGS**

### **NARRATIVE**

The on-site PREA audit of the Billy Moore Correctional Facility was conducted on July 19, 2017. Six weeks prior to the on-site audit the auditor forwarded the Notice of PREA audit to the facility for posting in areas accessible to staff, inmates, contractors and volunteers to provide anyone wishing to contact the Certified PREA Auditor with an PREA related concerns or issues. The auditor did not receive any communications as a result of those postings. Approximately 30 days prior to the audit the auditor received a "flash drive" containing the Pre-Audit Questionnaire, Management and Training Corporation Policies and Procedures, Texas Department of Criminal Justice Policies, the Texas Department of Criminal Justice Safe Prisons Plan and supporting documentation. The information provided was well organized, and each standard contained a "self-audit" evaluation sheet documenting the referenced policies to support compliance followed by that documentation. Documentation relative to each substandard was documented as well. The reviewed policies, procedures, plans and supporting documentation provided the auditor with an excellent perspective of the facility and how it operates within the Texas Department of Criminal Justice. Following the review, the auditor requested additional information.

By prior arrangement the auditor arrived at the facility at 0515 to begin to interview overnight shift prior to their departure at 7:00AM. The auditor was met by the PREA Compliance Officer. After a brief introduction, the auditor began interviewing overnight shift. Interviews continued until approximately 0800 at which time an entrance briefing was conducted. Attending the entrance briefing were the Warden, Captain, PREA Compliance Officer and Department Heads. Introductions were made and the audit process was discussed. Following the entrance briefing, the auditor was led on a tour conducted by the Major and accompanied by the Warden, Captain and PREA Compliance Officer. This facility has a large number of cameras which is unusual for this level of custody. Also, to mitigate blind spots they have installed mirrors. Keys are controlled and access to potentially trouble areas is limited. Mirrors, too have been placed in areas enabling staff to see around corners. Lastly access to keys for a number of offices and closets are reportedly restricted and must be checked out from the control room enabling staff to know who has the keys to access those areas. In most cases where there were solid doors restricting viewing inside the closet, storage area or office, cameras provided coverage to enable staff to view those going in and out of those rooms and areas. Living units/pods are open bay dorm style each housing 56 inmates. The restrooms have half walls restricting viewing of anyone seated on a commode. Showers also had half walls and an angled partition to restrict viewing. Phones were in each living unit. PREA Posters were located throughout the facility.

Following the tour interviews with specialized staff and additional random staff were conducted.

## **DESCRIPTION OF FACILITY CHARACTERISTICS**

The Billy Moore Correctional Center is a privately managed adult correctional facility operated by the Management and Training Corporation. The facility operates pursuant to a contract with the Texas Department of Criminal Justice and houses up to 500 minimum security/custody offenders.

The prison is a single structure constructed in 1995. The physical plant consists of six general population dormitories, A through F. Each dorm consists of forty-two (42) double occupancy cells. A short-term segregation unit has a capacity of nine (9) housing offenders in single occupancy cells. These cells are equipped with lavatory/commode combinations. Showers have privacy screens. Detention units have attached recreation spaces.

The rest of the physical plant consists of space for administrative and other offices, maintenance, food service, indoor and outdoor recreation, educational services, library services, religious services, property and intake processing and a central laundry. A control center monitors all traffic entering and exiting the facility. Cameras control the perimeter and are placed in the facility to monitor the security and to open doors. There are two entry points, the front staff and visitor entrance and the rear gate for vehicles. The facility and grounds were well maintained. Floors were shined.

The facility offers a variety of programs. These include: academic and vocational programs, life skills, career and technical programs and religious programs. The educational program offers Adult Basic Education and General Equivalency Diploma. The Vocational Programs include electrical, painting, custodial maintenance, basic computer literacy, blueprint awareness, driver preparation, and keyboarding.

Self-improvement programs include 7<sup>th</sup> Hour Power classes; Cage Your Rage/Anger Management, Changes, Challenge series, Inside Outs Dads, Alcohol and Drugs, and the Kid and the CEO.

Many religious programs are offered to the offenders as well.

Billy Moore Correctional Center/Facility has been accredited by the American Correctional Association for a number of years. The Billy Moore Correctional Center strives to be a leader in social impact by helping offenders prepare to successfully re-enter society. Offender programming is designed to help reduce recidivism. In 2016 the facility provided 428,234 hours of effective offender programming and 7,646 hours provided to the community.

## **SUMMARY OF AUDIT FINDINGS**

A PREA Audit of the Billy Moore Correctional Center was conducted July 19, 2017. The auditor's methodology consisted of the following: Providing a Notice of PREA Audit to enable anyone to contact the auditor with any PREA related concerns or information (the auditor did not receive any communications prior to the audit); Review of information contained on the external flash drive provided by the facility; reviewing additional documentation on site; observations made during the tour of the facility and interviewing eleven (11) random staff. Informal discussions were conducted with multiple staff and offenders. Fifteen (15) specialized staff interviews were also conducted. A total of fifteen (15) inmates were interviewed. There were no disabled inmates. There were no transgender or intersex inmates nor were there any inmates there who reported prior victimization or sexual abuse while in this facility.

Documentation, including policies, procedures and secondary documentation was reviewed to determine if the policies addressed the sub-standards of the standard. Secondary documentation was reviewed to determine "practice". Interviews with specialized and randomly selected staff confirmed their knowledge of the agency's policies and procedures as they related to PREA standards as well as "practice". Inmates were interviewed to determine the training and information they received about PREA and to determine if they were given required information upon admission, during intake, orientation and during the "education" component of the PREA Training for inmates and to determine "practice".

Forty-three standards were reviewed. One standard, 115.11, Zero Tolerance, is rated "Exceeded" the standard. Thirty-eight standards were rated "Met" and four standards, were rated "Not Applicable. The not applicable standards were: 115.12, Contracting with other entities for the confinement of inmates; 115.14, Youthful Inmates; 115.18, Upgrades to facilities and technology; and 115.66, Preservation of ability to protect inmates from contact with abusers.

Number of standards exceeded: 1

Number of standards met: 38

Number of standards not met: 0

Number of standards not applicable: 4

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

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

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

903E.02 Ensuring Safe Prisons mandates a zero tolerance toward all forms of sexual abuse and sexual harassment. The policy outlined the agency's approach to prevent, detect, and response to sexual abuse and sexual harassment. The agency policy outline is founded in section F.2. (b) On page 6. The agency policy clearly defines general definitions and definitions of prohibited behaviors to include sexual abuse and sexual harassments.

Additionally, Management & Training Corporation (MTC) policy 903E.02, Ensuring Safe Prisons, designates an upper level PREA Coordinator for the company who has sufficient time and authority to develop, implement and oversee MTC's efforts to comply with the PREA Standards in all its facilities. The agency operates more than one facility and each of MTC's facilities is required to designate a PREA Compliance manager with sufficient time and authority to coordinate the facility's efforts to comply with the PREA Standards. The facility's Safe Prisons Manager/PREA Compliance Manager is knowledgeable of PREA and the PREA Standards. The PREA Compliance Officer reports to the Captain, who reports to the Major, who reports to the Warden. She also indicated she has the full support of her Warden in implementing and maintaining compliance with the standards. In addition to her other duties, she related he has sufficient time to perform her PREA related duties. The Texas Department of Criminal Justice's (TDCJ) foreword to their Safe Prisons/PREA Plan states the TDCJ has a zero tolerance for all forms of sexual abuse and sexual harassment of offenders. It requires the TDCJ to take a proactive approach concerning the detection, prevention, response, and punishment of sexual abuse, including consensual sexual contact while in custody of the TDCJ.

MTC provided information from the Senior Vice President designating the senior director, management and operational support, as the MTC PREA coordinator. A phone interview with the PREA Coordinator confirmed he is knowledgeable of the PREA Standards and has sufficient time and authority to perform his duties in that role. Additionally, by virtue of his position within the company, he has the authority and ability to implement the PREA Standards. A previous interview with the PREA Coordinator indicated he has an exceptional knowledge of PREA and has invested considerable time and energy into working with their facilities to maintain compliance with all the PREA Standards.

Reviewed inmate handbooks contained sections on the Safe Prisons Program. Inmates are advised that in accordance with the Safe Prison Plan, the TDCJ has a "Zero Tolerance" for sexual abuse and any form of predation on offenders. Additionally, they are informed the MTC has a "Zero Tolerance" for standard for sexual violence. Additional information, including the major provisions of PREA, Victim Rights, Prevention/Intervention/Self Protection, Effects of Sexual Violence, Reporting and False Reporting. The TDCJ PREA Posters remind offenders that the Texas Legislature has adopted a Zero Tolerance Policy regarding sexual abuse, including consensual sexual contact and sexual harassment of an offender in custody of the department. It also provides that violations must be reported to the Unit Major or Office of the Inspector General or PREA Ombudsman (address given).

The Billy Moore Correctional Center PREA Acknowledgement Statement (Corporate Policy #900.2, Ensuring Safe Prisons) documents the employee's understanding that the agency and facility have a zero tolerance for sexual violence, sexual misconduct and sexual harassment. It also acknowledges a duty to report to report potential occurrences immediately to the supervisor and to perform additional first responder duties. Multiple samples were provided for review. Inmates also acknowledge understanding the zero-tolerance policy and multiples samples of acknowledgment statements were also provided for review.

This standard is rated “exceeds” because of the company and the facility’s commitment to zero tolerance as evidenced in MTC Policy, by appointing two higher level company officials who have an exceptional knowledge of PREA to serve as PREA Coordinator and Assistant PREA Coordinator, through the appointment of an alternate facility PREA Compliance Manager and through multiple interviews with staff, inmates, contractors and volunteers indicating staff, volunteers and contractors are trained annually in the Zero Tolerance Policy and that inmates have received this information multiple times through multiple means.

Multiple interviews with staff and inmates confirmed the facility has a zero-tolerance policy and all of them were aware of it.

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

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

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

This standard is rated non-applicable. MTC is the contracting agency and has delegated authority with direct responsibility for the operation of facilities that confine inmates and detainees; it does not have authority to contract with other entities for the confinement of inmates. Therefore, East Texas Treatment Facility does not have authority to contract with other entities for the confinement of inmates. Interviews with the Assistant Agency PREA Coordinator and the Facility Warden indicated that the facility does not and have not contracted any other entity for the confinement of inmates.

The reviewed Pre-Audit Questionnaire, Adult Prisons & Jails and interviews with staff confirmed there were zero contracts for the confinement of inmates that the facility entered or renewed with private entities or other government agencies since the last PREA audit.

**Standard 115.13 Supervision and monitoring**

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

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

The Safe Prisons/PREA plan states the TDCJ ensures that each unit develops documents, and complies with a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect offenders against sexual abuse and in calculating adequate staffing levels and determining the need for video monitoring, units are required to take into consideration TDCJ policies and procedures and 1) Generally accepted detention and correctional practices; 2) Any

judicial findings of inadequacy; 3) Any findings of inadequacy from federal investigative agencies; 4) Any findings of inadequacies from internal or external oversight agencies; 5) All components of the units physical plant, including “blind spots” or areas where staff or offenders may be isolated; 6) The composition of the offender population; 7) The number and placement of supervisory staff; 8) Institutional programs occurring on a particular shift; 9)

The Billy Moore Correctional Center has developed, documented, and made its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing and the use of video monitoring to protect inmates against abuse. An Interview with the Warden, as well as a reviewed email from the MTC Director, Policy and Audits, indicated that the facility takes into consideration the 11 requirements in standard 115.13 (a) – 1:

- Generally accepted detention and correctional practices;
- Any judicial findings of inadequacy;
- Any findings of inadequacies from Federal Investigative agencies;
- Any findings of inadequacy from internal and external oversight bodies;
- All components of the inmate population;
- The composition of the inmate population
- The number and placement of supervisory staff; institution programs occurring on a particular shift;
- Any applicable State or Local Laws, Regulations or Standards;
- The prevalence of substantiated or unsubstantiated incidents of sexual abuse; and
- Any other relevant factors.
- 

An interview with the Facility Warden revealed each time the staffing plan is not complied with, the facility documents and justifies all deviations from the staffing plan. Cameras are strategically located to supplement staffing and to enhance supervision of inmates. The auditor is not going to provide further information related to cameras because of security concerns however, observations made during the tour confirmed this facility has a considerable number of cameras strategically located throughout the facility supplementing supervision inside the facility fence and outside.

MTC Policy 903 E.02 and interviews with the Warden and PREA Compliance Officer as well as a review of the Facility Staffing Plan Review 2017, revealed that least annually, in collaboration with the PREA coordinator, the facility reviews the staffing plan to see whether adjustments are needed in:

- The staffing plan;
- The deployment of monitoring technology or
- The allocation of agency/facility resources to commit to the staffing plan to ensure compliance.

The Warden and PREA Compliance Manager, in interviews confirmed the process for conducting annual reviews.

MTC Policy 903A.03, Patrols and Inspections, requires intermediate and higher-level staff conduct and document unannounced rounds designed to identify and deter staff sexual abuse and sexual harassment. Staff are also prohibited from alerting other staff of the conduct of the rounds. Additionally, Billy Moore Standard Operating Practice (SOP) # 10.13.01 Unannounced Inspections by Senior Staff requires the Lieutenant, Captain, and Major to provide supervision to correctional staff and offenders by frequently conducting unannounced inspections of the buildings on the unit as well as the perimeter pickets, mobile patrol, back gate, offender housing and offender work areas and appropriately documenting the rounds. Senior Supervisors are required to conduct security rounds daily and inspect all areas of the facility. Security rounds are to be conducted during the day and the night. The SOP also prohibits staff from making announcements of the rounds. Security rounds of the housing units are to be documented in a record book designated by the Warden.

Interviews with the Facility Management Team and documentation reviewed revealed that the intermediate level and/or higher- level staff conduct unannounced rounds to identify and deter staff sexual abuse and sexual harassment. MTC Policy 903E.02, section 3.c, page 6 requires unannounced rounds to be performed on all shifts and all areas of the facility occupied by inmates.

The facility provided multiple pages of documentation to confirm unannounced rounds are being conducted. Unannounced rounds are documented in the log books in the inmate’s living units. Too, administrative staff who serve as duty officers are required to come into the facility to conduct unannounced visits and rounds at least weekly.

### Standard 115.14 Youthful inmates

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

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

This standard is rated “not applicable”. The Billy Moore Correctional Center’s Warden stated, in an interview that the facility does not house youthful offenders (Offenders under 18 years of age). This was also confirmed by reviewing the Pre-Audit Questionnaire.

### Standard 115.15 Limits to cross-gender viewing and searches

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

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

MTCs policy directs staff not to conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners(903E.02). Cross-Gender pat-down searches of female inmates, absent exigent circumstances is also prohibited by policy. Texas Department of Criminal Justice, Administrative Directive 03.22, Offender Searches I.A., prohibits male staff from conducting pat down searches of female offenders, except in exigent circumstances and when approved by a security supervisor. This directive requires that female offenders are strip searched by female officers or trained staff members and that these searches are not conducted in the visual presence of or by male staff. Male offenders likewise are to be searched by male officers or trained staff however in exigent circumstances and when approved by a security supervisor, the search may be conducted by a female officer or trained staff member. The directive, like MTC Policy, requires all cross- gender strip searches of male offenders to be documented by the shift security supervisor. If a female officer is present during a strip search of a male offender, the female officer must position herself where she does not see the offender’s nude body.

This facility houses male offenders. Female staff are trained to conduct cross-gender “pat searches” of male offenders. They are prohibited from conducting a strip search absent exigent circumstances. All the interviewed female staff related they were trained to use the back of their hands in conducting pat searches of male offenders. They stated they receive this training as a newly hired employee and annually during in-service training. Interviewed offenders related they have never been strip searched by a female staff. They also stated the pat searches are conducted professionally.

MTC Policy 903E.02, Limits to Cross-Gender Viewing, section C, requires their facilities to implement policies and procedures that enable inmates to shower and perform bodily functions and change clothing without non-medical staff of

the opposite gender viewing the breasts, buttocks or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell or bed checks. interviewed inmates stated they are never naked in full view of staff and are provided privacy while changing clothes, showering and using the restroom. Observations of restrooms and shower during the tour confirmed inmates have privacy when using the restroom, showering and changing clothing.

One-hundred percent (100%) of the interviewed male inmates affirmed they are not naked in view of staff when using the restroom, showering or changing clothes. If a female staff was working in the units, the offenders consistently stated they female officers are respectful and if they walk toward the shower area for a count, they always announce their presence in the area and stop before they get into the restroom area.

MTC Policy requires each facility to develop a system by which staff of the opposite gender announce their presence when entering an inmate housing unit. POST Orders for Dorm Officer and for Cellblock Officer documented the requirement for opposite gender staff to announce their presence when entering the housing units housing offenders of the opposite gender. An email message from the Director of the Correctional Institutions Division, dated, July 30, 2013, requires opposite gender staff to announce their presence upon assuming the shift. All the interviewed staff stated they always announce their presence when entering a unit housing offenders of the opposite gender. Interviews with multiple offenders confirmed either that staff always announce their presence or most often announce their presence. All of them related they have no issues with female staff viewing them while changing clothing, showering or using the restroom. The agency prohibits searching or physically examining a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. It also requires security staff to be trained 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. (MTC Policy 903E.02, 5.f) Texas Department of Criminal Justice Administrative Directive, (AD-03.22) prohibits searches of a transgender or intersex offender for the sole purpose of determining the offender's genital status and requires searches of all offenders, including transgender and intersex, to be conducted in a professional and respectful manner and in the least intrusive manner consistent with security needs. The facility provided the Safe Prisons/PREA FY 2017 In-Service Training Slides providing search training. Samples of pre-service and in-service training Score Sheets were provided for review. These documented the pre-and in-service PREA Training.

Staff interviews and facility documentation indicated that all cross-gender strip searches and cross-gender visual body cavity searches will be documented. There have been no cross-gender searches during the past twelve months. There were no transgender offenders present during the on-site PREA Audit.

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

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

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

Staff translators are permitted to serve as translators for offenders who are limited English proficient. Prior to being allowed to serve as a translator, staff must demonstrate proficiency and be certified through the Texas Department of Criminal Justice. If a staff translator is not available, the facility has access to the telephonic interpretive services. Interviews with staff confirmed they would not rely on inmate interpreters, readers or other types of inmate assistants absent a situation in which a delay in securing a staff or other certified interpreter would result in a potential threat or PREA Audit Report

safety concern to the offender trying.

The facility has taken appropriate steps to ensure that inmates with disabilities (including, for example, inmates who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the facility's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. To ensure effective communication with inmates who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, the facility ensures that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities, including inmates who have intellectual disabilities, limited reading skills, or who are blind or have low vision.

The facility has taken reasonable steps to ensure meaningful access to all aspects of the facility's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Staff interviews indicated that the facility has bilingual interpreters for communicating with Spanish speaking inmates. Outside interpreting services are available to the inmate population as dictated by policy and customer requirements.

The facility does not rely on inmate interpreters, inmate readers, or other types of inmate assistants 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 or the investigation of the inmate's allegations. Interviewed staff consistently stated they would not allow, except in emergency situations, an inmate to translate or interpret for another inmate in making an allegation of sexual abuse.

According to a review of the Pre-Audit Questionnaire Adult Prisons & Jails and confirm by staff interviews, in the past 12 months there were no occasions or instances where inmate interpreters, readers, or other types of inmate assistants have been used.

The auditor interviewed a limited English proficient offender. The administration secured one of their bi-lingual staff and the interview was complete and it was evident the offender understood the questions being posed to him. He could respond to all the questions posed during the interview, using the standard questions provided by the PREA Resource Center.

### **Standard 115.17 Hiring and promotion decisions**

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

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

MTC Policy 903#.02- Ensuring Safe Prisons, page 8, paragraph 7(a) – (c), Hiring and Promotion Decisions, states that MTC prohibits hiring and/or promoting staff who have contact with inmates who have engaged in sexual abuse and/or sexual harassment. Policy also requires that omission or providing materially false information is prohibited. Contractors having contact with inmates must have a background check before providing services and every five years of continued service in accordance with MTC Policy 13.20, Purchase Policy. MTC Policy 201.3, Background Checks, C., advises that background checks will be performed based on the relevancy of job-related duties required for a particular position. Employment action, PREA Audit Report

up to and including termination, will be taken if the background check is unfavorable or reveals information not reported or contrary to the information that is self-reported during the hiring the process. Policy requires the human resources manager to ensure the appropriate background checks are conducted.

The MTC Standard Operating Procedure, Background Checks, requires the facility human resources manager to be responsible for ensuring a background check is completed on all individuals who are identified and selected for employment. The SOP asserts that MTC may not hire any person who may have inmate contact who has engaged in sexual abuse in a prison or institution or who has been convicted of engaging or attempting to engage in sexual activity with any person by force, threat of force or coercion or if the victim did not or could not consent. It affirms that MTC may not hire any person who may have contact with any inmate who has been civilly adjudicated to have engaged in sexual abuse in a prison or in an institution or who has been convicted of engaging or attempting to engage in sexual activity with any person by force, threat of force or coercion or if the victim did not consent. The SOP also requires the applicant answer the PREA related questions. Policy 203.1, MTC, Rules of Conduct requires any employee or individual providing false or misleading information or documentation related to employment, to include employment application, references, transcripts etc. be terminated or disqualified from employment. The SOPs acknowledge the requirement for 5 year checks however Texas has an alternate procedure that enables the facility to be notified anytime a staff person is arrested or charged for any offense. The SOP also requires the facility make its best efforts to contact prior institutional employers for information on abuse or resignation during a pending investigation or sexual abuse. The company also considers any incidents of sexual harassment in determining whether to hire or promote anyone who may have contact with inmates.

An interview with the Human Resources staff indicated this individual is “on top” of his job and is very knowledgeable of the hiring process and the PREA Standards and requirements as they related to and impact the hiring process.

Individuals apply for positions on-line, printing out and completing their applications. If the facility has a position available and is interested in interviewing an applicant, an interview is scheduled. Completing the applicant package, the applicant completes the criminal history form, offender relationship form, job description, employment exam and the PREA Interview Questions. The selected applicant receives the following background checks: 1) Driving History; 2) Texas Department of Criminal Justice NCIC and TCIC, completes the PREA Questionnaire and the Finger Print Card.

The Texas Department of Criminal Justice has a system enabling the facility to be informed and notified anytime an employee is charged or for any arrest anywhere. The Warden provided a Statement of Fact Memo affirming that the TDCJ enters all employees and contractors into an automated system designed to trigger notification to TDCJ of all arrests entered into the NCIC/TCIC system. This system provides a continuous records check.

Contractors, Employees and Volunteers are all background cleared prior to hire or providing services. A review of twenty (20) personnel files confirmed each one had the PREA related questions, the PREA Notice and documentation that they were cleared. Additionally, the facility provided documentation of clearances and PREA related questions asked of applicants on the flash drive they provided the auditor prior to the on-site audit.

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

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

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

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

This standard is rated “not applicable”. The facility has not had any modifications or upgrades to the facility nor to the video surveillance system. Additional cameras will be installed by September 1, 2017 and the placement of these was based on identified blind spots.

**Standard 115.21 Evidence protocol and forensic medical examinations**

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

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

The Safe Prisons/PREA Plan, V., Investigations, A. General Considerations, requires all allegations of sexual abuse must follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The plan states the protocol is to be developmentally appropriate for youth, where applicable and, as appropriate, shall be adapted from or otherwise based on the most recent edition of the US Department of Justice 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. Investigations of sexual abuse are conducted promptly, thoroughly and objectively for all allegations, including third party and anonymous reports.

Administrative Directive 16-20, I. General (Procedures), authorizes the Office of Inspector General’s broad investigative responsibilities and designates the OIG as the primary investigative organization within the TDCJ. The OIG has primary jurisdiction for investigating criminal offenses occurring on TDCJ property or affecting TDCJ property, including criminal offenses. Within respective jurisdictions, local, state, and federal law enforcement agencies have concurrent investigative and law enforcement authority with the OIG. Law Enforcement agencies generally defer to the OIG about matters relating to the TDCJ. OIG investigators are commissioner Texas peace officers and have full law enforcement authority and statewide jurisdiction in criminal matters affecting the TDCJ.

Initial investigations, Offender Protection Investigations, are conducted promptly by an in-house facility investigator. The process is structured and follows MTC and Texas Department of Criminal Justice protocols and procedures. Once the initial investigation is completed, the results are considered by the Unit Classification Committee who decides if the allegation(s) are substantiated, unsubstantiated or unfounded. If it is evident immediately that a sexual assault has taken place, the OIG is notified and the investigator will report to the scene expeditiously to begin the investigation using a uniform protocol for evidence collection. The OIG investigator decides if the offender is to be sent for a forensic examination conducted by a Sexual Assault Nurse Examiner (at the East Texas Medical Center). A memo documented the medical center has five (5) nurse examiners.

Offenders are offered a forensic exam if the alleged assault occurred within 96 hours, although an interview with an OIG investigator, at another facility, indicated they may offer a forensic exam even if the alleged incident took place over, but close to the 96 hours. Forensic exams are conducted at the East Texas Medical Center.

MTC Policy, 903E.02, Ensuring Safe Prisons, Paragraph 9, Evidence Protocol and Forensic Medical Examinations, a) through e), provides for the following; To the extent MTC is responsible for investigating allegations of sexual abuse, MTC will follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The Facility does not house youth. MTC offers all victims of sexual abuse access to forensic medical examinations whether on-site or at an outside facility without financial cost, where evidentiary or medically appropriate. Examinations are required to be performed by Sexual Assault Forensic Examiners or Sexual Assault Nurse Examiners, where possible. If they are not available the exam can be performed by other qualified medical practitioners. MTC must document their efforts to provide SAFEs or SANEs. MTC will attempt to make available a victim advocate from a rape crisis center and if a rape crisis center is not available or unwilling to provide victim advocate services, the agency will make available to provide these services, a qualified staff member from a community based organization, or a qualified MTC staff member. If a staff member is used, the staff member's qualifications will be documented and maintained. If MTC is not responsible for investigating allegations of sexual abuse and relies on another agency to conduct these investigations, MTC will request, through agreement or MOU, that the responsible agency follow PREA requirements for evidence protocol and forensic examinations.

The facility provided a letter from the East Texas Crisis Center affirming the agency's agreement to accept phone calls from offenders for crisis intervention and referral services for sexual assault. The toll-free number is provided for accessing these services. Too, the Crisis Center provided the hotline number for the Rape Abuse Incest National Network (RAIN). Too, the facility has a staff who has received training to serve as a victim advocate. This staff is available for callout when OIG orders a forensic exam for an offender victim.

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

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

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

MTC Policy 903E.02, Ensuring Safe Prisons, 10., Referrals of Allegations for Investigations, requires MTC to ensure an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment (including inmate-on-inmate sexual abuse or staff-on-inmate sexual misconduct). The agency requires allegations of sexual abuse or sexual harassment to be referred to investigation to an agency with the legal authority to conduct criminal investigations unless the allegation does not involve potentially criminal behavior. Allegations of sexual abuse or sexual harassment may be initially investigated by the facility investigators and referred to the Office of Inspector General investigators if warranted. If it is readily apparent a sexual assault has occurred the OIG would be called in immediately. OIG is notified however on all allegations. The Office of Inspector General Investigator has arrest powers and has the legal authority to conduct investigations of sexual abuse in confinement settings.

Interviews with staff, random and specialized, confirmed that they are required to report any suspicion, allegation, reports or information regarding an allegation of sexual abuse or sexual harassment. Too, they all knew the facility investigator conducts Offender Protection Investigations (OPI) and that the Office of Inspector General also conducted investigations. Interviews with the facility investigator confirmed the Offender Protection Investigation process culminating with a written report presented at the Unit Classification Committee meeting to determine if the allegation is substantiated,

unsubstantiated, or unfounded. Reviewed OPIs indicated staff take allegations seriously and that they refer them to their immediate supervisor who ensures an investigation is initiated. An interview with an Office of Inspector General indicated he responds promptly to an obvious sexual assault. He conducts the investigation of all allegations that appear to be criminal in nature.

A previous interview with an Office of Inspector General Investigator confirmed the investigation process. He also stated OIG investigators are certified peace officers and have arrests powers. Too, they received extensive training in conducting sexual abuse investigations in confinement settings.

An interview with the Major, who serves as the facility's investigator indicated he would conduct a preliminary investigation however as soon as the incident appears to be criminal the Office of Inspector General would be notified and an OIG investigator would come in to conduct the investigation.

### **Standard 115.31 Employee training**

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

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

MTC Policy, 903E.02, Ensuring Safe Prisons, B.11, Employee Training, states that MTC trains all employees on matters related to PREA as detailed in MTC Policy 901D.02, Training Requirements. MTC Policy, 901D.02, C.4 Training Requirements, requires that training is tailored to the gender of the inmates at the facility. It also reiterates that employees reassigned from facilities housing the opposite gender are given additional training and between training, MTC provides the employee information about current policies, regarding sexual abuse and harassment. It also requires sexual abuse and sexual harassment training will be provided in pre-service and in-service training and include the following: 1) MTC's Zero Tolerance Policy for sexual abuse and sexual harassment; 2) How to fulfill their responsibilities under MTC sexual abuse and sexual harassment prevention, detection reporting and response policies and procedures; 3) The right of inmates to be free from sexual abuse and sexual harassment; 4) The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment; 5) The dynamics of sexual abuse and sexual harassment in confinement; 6) The common reactions of sexual abuse and sexual harassment victims; 7) How to detect and respond to signs of threatened and actual sexual abuse; 8) How to avoid inappropriate relationship with inmates; 9) How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex or gender-non-conforming inmates; and 10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities. MTC also documents that employees understand the sexual abuse and sexual harassment training they receive.

Power Point slides demonstrating the PREA training indicated the training covered all the required topics and more. The Safe Prisons PREA Plan also requires training in all the topics listed above. It also requires that all employees who have contact with offenders, including medical and mental health care practitioners, receive training as outlined in the policy at least every two years and in the interim years, receive refresher information on current sexual abuse and sexual harassment policies.

All the interviewed staff, both random and specialized confirmed they receive PREA training as newly hired employees, orientation training, training provided during annual in-service and during shift briefings. The facility provided twenty (20) requested PREA Acknowledgment Statements confirming training. The statements essentially state that the employee has PREA Audit Report

read and understands the guidelines and procedures to reduce the risk of prison sexual violence and to ensure compliance with the Prison Rape Elimination Act. They also affirm the agency's Zero-Tolerance standard for sexual violence, sexual misconduct and sexual harassment. Their duty to report as well as actions to take upon becoming aware an offender has become the victim of sexual abuse. Lastly the Warden provided a statement of fact stating, "All employees at B.M. Moore Unit have received PREA related/required training via Pre-Service or In-Service and that each employee has signed a training roster acknowledging they understand and have full knowledge of the training they received. Interviewed staff were knowledgeable of PREA and the PREA related topics.

### **Standard 115.32 Volunteer and contractor training**

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

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

MTC Policy, Ensuring Safe Prisons, Paragraph 12. Volunteer and Contractor Training, requires all volunteers and contractors who have contact with inmates to be trained in compliance with MTC Policy, 901D-02, Training Requirements. MTC Policy 901D.02, Training Requirements, 10., Part Time, Volunteer, and Contractor, requires that volunteers and contractors who have contact with inmates will be trained on their responsibilities under MTC's policies and procedures regarding sexual abuse/harassment prevention, detection and response. The level and type of training provided to volunteers and contractors is based on the service they provide and level of contact they have with inmates. All volunteers and contractors who have contact with inmates have at least been notified of MTC's zero tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents. MTC maintains documentation confirming that the volunteer/contractors understand the training they have received. It also requires that orientation for part-time staff, volunteers, and contractors will include training on security and confidentiality appropriate to their needs and based upon experience, frequency of contact with offenders and program responsibility. Topics for training are identified. Policy requires volunteers and contractors who have contact with inmates to be trained on their responsibilities under MTC's policies and procedures regarding sexual abuse/harassment prevention, detection, and response. All volunteers and contractors who have contact with inmates have at least been notified of MTC's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report these incidents.

The Texas Department of Criminal Justice Volunteer Services Handbook for Volunteers, October 2013, provides information to the volunteer on PREA. This information includes, ZERO TOLERANCE FOR SEXUAL MISCONDUCT, prohibition against volunteers establishing or engaging in personal relationships with offenders and consequences for violating this policy. Definitions of sexual abuse, sexual assault, sexual fondling, and improper sexual activity with a person in custody and sexual harassment are discussed. The TDCJ provided a Volunteer Facilitators Guide. It addressed a training DVD, Zero-Tolerance, acts of sexual misconduct, TDCJ's responsibility to report if a volunteer violates the rights of a person in custody or engages in sexual contact or sexual intercourse with a person in custody, volunteer's rights not to be retaliated against for reporting, Definitions, what sexual abuse is, and other vital information.

The Warden provided a Statement of Fact, affirming that contractors receive training regarding sexual abuse and sexual harassment prevention, detection and responsible policies and procedures based on the services they provide and level of contact with inmates. He also affirmed the facility has 42 volunteers who received volunteer training through the Texas Department of Criminal Justice.

The facility provided acknowledgments statements for volunteers and contractors. These document that the volunteer/contractor have received and understand the training they were provided.

### **Standard 115.33 Inmate education**

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

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

MTC Policy 903E-02, 13., Inmate Education, requires inmates to receive information about the zero-tolerance policy and how to report incidents or suspicions of sexual abuse or harassment. Policy also provides the training may also include: 1) Definition of Sexual Violence; 2) Specifics about the Prison Rape Elimination Act; 3) Rights as a Victim; 4) Prevention/Intervention; 5) Self-Protection; 6) Reporting Sexual Violence; 7) Treatment and counseling; 8) Information about the effects of sexual violence on victims; 9) Who to contact if an offender feels vulnerable; 10) How to contact outside Victim service providers; 11) How to report incidents that happen to others; 12) Ways to avoid sexual violence; 12) What happens if an offender makes a false report; and 13) Confidentiality.

Policy also requires inmates who are transferred from one facility to another will be educated regarding their rights to be free from both sexual abuse/harassment and retaliation for reporting such incidents and on MTC policies and procedures if the new facility differ from those of the previous facility.

MTC Policy requires this information to be available and provided in accessible formats for all inmates. MTC Facilities are also required to continuously make available through posters, inmate handbooks and other written formats, PREA education materials.

The TDCJ Safe Prisons/PREA Operations Manual, Offender Sexual Abuse Awareness Training, requires offenders to receive comprehensive education either in person or through video regarding his rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents. The Safe Prisons Manager is responsible for ensuring offenders receive the education in formats provided by the TDCJ. Training is required to be documented. Policy requires inmates to view the training video within 30 days of arrival into the TDCJ. The video can be present in part with the SAA peer education course or individually.

Offenders are provided PREA information immediately upon arrive at the facility during the intake process. During the orientation process, the offenders see the PREA Video and are then provided additional PREA information from “peer educators”. Interviews indicated these inmates apply to become “peer educators” and following training they may become one of the presenters.

The Safe Prisons Manager provided an email identifying offenders who have been trained and approved as peer educators. The facility also provided multiple samples of training rosters confirming the offender sexual abuse awareness education. These rosters document the type of class presented as “combined video and class.”

Posters are located throughout the facility. In addition to PREA related posters, there are posters about Extortion and advise inmates if they engage in extortion the facility will make every effort to prosecute them.

Interviews with staff responsible for intake advised the auditor inmates are provided the Safe Prisons PREA Flyer at intake and during orientation they watch the PREA Video, peer educators use the curriculum guide to go over PREA after which the inmate signs an acknowledgment statement. Nine of twelve (12) inmates who were interviewed related they received a PREA package at intake. They also indicated that quickly and some said the next day, inmates said they were given additional PREA related information in orientation. They said that included inmates leading the session, showing them the PREA Video and answering any questions anyone may have had. They also confirmed staff was present and contributed to the presentation as well.

### **Standard 115.34 Specialized training: Investigations**

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

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

MTC Policy 903E.02, Ensuring Safe Prisons, 13. Specialized Training: Investigations, requires if the facility conducts its own investigations of allegations of sexual abuse, investigators are trained in conducting sexual abuse investigations in confinement settings. Documentation of that training is required to be maintained documenting the training. If an external agency or Department of Justice Component conducts investigations of allegations of sexual abuse, all agents and investigators are trained in conducting investigations in confinement settings.

The Texas Department of Criminal Justice, Board Policy, BP-01-07, Inspector General Policy Statement, requires the Inspector General to appoint criminal investigators as authorized by TCCP art.2.12 and licensed by the Texas Commission on Law Enforcement Officer Standards and Education, as licensed peace officers to serve under the direction of the OIG and assist in performing law enforcement duties of the OIG. This policy affirms the mission of the OIG is to serve as an independent office to conduct investigations in accordance with those professional standards that related to the fields of investigations in a government environment and certain regulations and policies of the Texas Board of Criminal Justice., the laws of the State of Texas and the Constitution and laws of the United States, as applicable.

The provided job description for incumbents of the position of OIG Investigator Trainee, in addition to providing a description of duties, requires that upon selection, applicants are required to successfully complete a pre-service law enforcement training program selected by the OIG. The knowledge and skill section of that job description requires successful trainees will have knowledge of federal and state statutory and procedural law to include the Texas Penal Code and the Code for Criminal Procedures; current case law that impacts the functions of the Investigations Division, legal and procedural rules of evidence and laws of arrest, search and seizure. Another skill described is to secure and process crime scenes and preserve physical evidence; to prepare comprehensive and detailed reports of investigations and to prepare criminal cases for prosecution.

The facility provided several emails attempting to secure the NIC Specialized Training Certificates to document the specialized training the OIG investigators received. To this date they have not received that documentation. A memo from the Warden stated B.M. Moore reports allegations of sexual abuse to the Office of the Inspector General. It documents that these investigators are certified peace officers and attempts have been made to secure documentation of their specialized training.

The auditor interviewed an Office of Inspector General Investigator who was on-site at another facility responding to an PREA Audit Report

allegation of sexual abuse. He described the process for conducting investigations that appear to involve criminal behavior. He stated there are multiple inmates throughout the state who make multiple allegations however he stated he investigates all allegations. He related that all the OIG investigators have completed extensive training in conducting sexual assault investigations in confinement settings. This training is in addition to the regular PREA Training they receive. But additionally, the investigator related all the OIG investigators have also completed the NIC Training, Specialized Investigations: Conducting Sexual Abuse Investigations in Confinement Settings.

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

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

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

MTC Policy 903E.02, Ensuring Safe Prisons, 15., Specialized Training Medical and Mental Health Care, requires that all medical and mental health care practitioners who work regularly in its facilities have been trained in the following: 1) How to detect and assess signs of sexual abuse and sexual harassment; 2) How to preserve physical evidence of sexual abuse; 3) How to respond effectively and professionally to victims of sexual abuse and sexual harassment and; 4) How to respond effectively and professionally to victims of sexual abuse and sexual harassment, and; 5) How to and to whom to report allegations or suspicions of sexual abuse and sexual harassment. MTC also is required to maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the customer agency or elsewhere. In addition to the specialized training, medical and mental health staff are required to receive the training mandated for employees or for contractors and volunteers depending on the practitioner’s status at the agency. Medical and Mental Health practitioners are employees of the University of Texas Medical Branch and are provided specialized training. The power point presentation provided included a comprehensive training for these professionals. The power point included topics like these: 1) First responding; 2) Emergent Care;3) Evidence Collection; 4) The sexual assault evidence collection kit; 5) Dual purposes for the examination; 6) Maintaining Chain of Custody; 7) Consent; 8) Getting the history; Reactions of victims; 9) Informed Consent; 10) Confidentiality and 11) Recognizing the Red Flags of Assault/Abuse. A memo from the Warden confirmed the specialized training.

Forensic exams are not conducted at the facility. Victims would be provided a forensic exam at ETMC-Tyler. Training rosters were provided to document the specialized PREA Training. Additionally, samples of certificates were provided as well.

**Standard 115.41 Screening for risk of victimization and abusiveness**

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

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

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

MTC Policy, 903E.02, Ensuring Safe Prisons, 16., Screening for Risk for Sexual Victimization and Abusiveness, a) through d), requires that inmates be screened, using an objective screening instrument, for risk of sexual victimization or risk of sexually abusing other inmates within 72 hours of their intake. The facility may determine the screening instrument to be used in consultation with MTC PREA Coordinator and the customer agency. The recommended instrument to be used is the MTC form, Screening for Risk of Victimization and Abusiveness. Within 30 days from the inmate's arrival at the facility, the facility will reassess the inmate's risk of victimization or abusiveness based upon any additional, relevant information that bears on the inmate's risk of sexual victimization or abusiveness. An inmate will be reassessed when warranted due to a referral, request, incident of sexual abuse or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness. Policy also prohibits inmates from being disciplined for refusing to answer or for not disclosing complete information in response to questions asked regarding mental, physical or developmental disability, whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex or gender nonconforming, whether the inmate has previously experienced sexual victimization or the inmate's own perception of vulnerability. Also, MTC implements appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this policy in order that sensitive information is not exploited to the inmate's detriment by staff or other inmates.

Safe Prisons/PREA Operations Manual, Offender Assessment Screening, 03.01, requires an assessment of all offenders during an intake screening and upon transfer to another unit for his/her risk of being sexually abused by other offenders or sexually abusive toward other offenders. The Unit Classification Committee (UCC) or reviewing authority for units without a UCC, will review the screening instrument to facilitate offender housing, job placement, education and program assignments with goal of keeping all offenders with a high risk of sexual victimization separated from those at high risk or being sexually abusive. Policy requires the assessment screening to be conducted not later than 24 hours of arrival at the unit for all newly assigned offenders at intake and upon transfer at a unit for permanent assignment. It also requires this to be done prior to the initial assignment to unit committee conducted by the UCC to ensure appropriate housing of the offender. Instructions for conducting the assessment are covered in policy as well. Paragraphs C and D require one-on-one interviews in a confidential setting and the interviewer asks each question in a manner which ensures the offender understands the questions. Interpreters are to be used when warranted with limited English proficient offenders. and Paragraph F. prohibits staff from disciplining any offender for refusing to answer, or for not disclosing information in response to the questions posed to them.

Multiple examples of victimization/abuser assessments were provided for review. The instrument entitled, Texas Department of Criminal Justice, Safe Prisons/PREA Screening, Offender Assessment Screening, documents general information, the file review, history of sexual abuse, Interviewer follow-up questions, Interviewer comments, and Section V. of the instrument documents the Committee Review. In addition, staff assess the inmate using the MTC Screening for Risk for Victimization and Abusiveness. If an inmate's response endorses designated items on the risk assessment, the inmate is referred to psychology services.

#### **Standard 115.42 Use of screening information**

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

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

## **corrective actions taken by the facility.**

MTC Policy 903E-02, Ensuring Safe Prisons B.17, Use of Screening Information, a), requires MTC to use information from the risk screening required to inform housing, bed, work, education and program assignments with the goal of keeping separate those inmates at high risk for being sexually victimized from those at high risk of being sexually abusive. Individualized determinations about how to ensure the safety of each inmate will be made. The housing assignments for transgender or intersex inmates will be made on a case by case basis.

Texas Department of Criminal Justice, Offender Housing Assignments, 4.00, I. requires that to ensure each offender receives appropriate and adequate safety, supervision and treatment, housing assignments will be made based on the offender's total record and as required by the offender's current needs and circumstances, as reflect in the offender's unit file. If applicable, the information in the offender's computerized classification record and institutional records. In making housing assignments, consideration will be given to characteristics such as age, height, and weight, violent or passive tendencies, criminal sophistication, homosexual (active and passive) tendencies, offender enemies, not for same housing (NFSHA), Security Threat Group status and current institutional adjustment. Assignment to two-person cells will be made consistent with the offender's current in-cell integration form, if applicable. Offenders identified as victims/potential victims are not to be cell-housed with offenders identified as predator/potential predators. Paragraph V., asserts that no offender will be assigned to any housing area solely based on race, color, ethnic origin, sexual orientation or gender identity and lastly in VI., policy requires that any offender identified by the classification committee as being too assaultive or too vulnerable to be safely housed with another offender will be housed in a cell alone. Additional criteria for making housing assignments to outside/expansion dorms within the security perimeter are addressed.

Texas Department of Criminal Justice, Unit Classification Procedure, Offender Job Assignments, 4.01, states job assignments, to ensure that each offender receives appropriate and adequate safety, supervision and treatment, will be made based on the offender's total record and as required by the offender's current needs and circumstances as reflected in the offender's unit folder. Procedures III., requires, in making job assignments, consideration must be given to offenders' security characteristics and health-related needs.

A memo from the Warden explains that "once the offender arrives at the facility, he is screened using an objective screening instrument for risk of sexual victimization or risk of sexual abuse, using the UCR07 screen as well for confirmation of the information given by the inmate. The following day the Unit Classification Committee conducts a second screening of the offender. If the offender is a victim or a potential victim, the information is passed along to all shift supervisors and the count room (where housing assignments are tracked).

Gay, lesbian, bisexual, transgender or intersex offenders are not to be placed in housing wings solely on the basis of identification or status. Housing assignments are made on a case by case basis.

Memos from the Warden stated that offenders identified as transgender or intersex will be allowed to shower separately from other offenders. To he reiterated the classification staff will review the classification records of transgender and intersex offenders at least twice each year to determine if changes are necessary to keep the offender safe. This memo also affirms that the Major will maintain an open line of communication with all transgender and intersex offenders to ensure their views with respect to their own safety is given serious consideration.

A final memo from the Warden, re: Use of Screening Information, confirmed the B.M. Moore Correctional Center has not had any transgender or intersex offenders assigned to the facility. The memo was dated, June 21, 2017. The facility has established an agreement with the East Texas Crisis Center providing contact information for the Center. A counselor or an advocate is available Monday through Friday for counseling. The hotline, manned 24/7 is provided as well.

An interview with staff from the count room who make temporary housing assignments stated when an inmate arrives at the facility, the inmate is housed temporarily in F Dorm along with all other intakes. Staff indicated they would have already reviewed the records and incoming information and would consider their height, weight, as well as any other relevant factors in the inmate database. She related that Classification Committee meets the next business day and considers all

factors that may affect the placement and safety of the inmate. They have access to everything from the past, including any previous vulnerability assessments, the current assessment and inmate confinement history. Following the classification committee's review classification will inform the count room if a housing or bed assignment needs to be changed. Inmates are housed in two-man cells in this facility.

### **Standard 115.43 Protective custody**

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

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

MTC Policy, 903E.02, Ensuring Safe Prisons, 18. Protective Custody, a), prohibits 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. Paragraph b), states, if an involuntary housing assignment is made, the facility affords each such inmate a review every 30 days to determine whether there is a continuing need for separation from the general population.

The Warden, in an interview, indicated if an inmate was a victim of sexual assault/abuse or was a risk of imminent sexual abuse, he would probably have to place the inmate in transient status until an investigation was completed and the threat was no longer present. He stated it would be a last resort to place a victim in involuntary transient status. Another option would be to place the inmate in safe housing at the facility if he could be placed there. The inmate may also be transferred to another facility. He indicated he would try to use the lesser restriction to keep the inmate safe but that the inmate's safety had to be the consideration in all decisions. The facility also has a process for completing initial PREA investigations and there is a time limit on the investigations after which the classification committee/incident review committee would bring the inmate in after considering the issues involved in the incident and assess the housing needs at that time as well. This process enables decisions to be made expeditiously regarding safe housing and keeping the inmate safe. This committee actually makes the assessment of whether an allegation is substantiated, unsubstantiated or unfounded. Of course, criminal cases are referred to the OIG investigators who have arrest powers.

### **Standard 115.51 Inmate reporting**

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

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

MTC Policy 903E.02, Ensuring Safe Prisons, 19. Inmate Reporting, a)-e), addresses inmate reporting. MTC has established procedures allowing for multiple ways for inmates to report privately to MTC officials about sexual abuse or sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment and staff neglect or violation of responsibilities that may have contributed to such incidents. Additionally, MTC provides at least one way for inmates to report abuse or harassment to a public or private entity or office that is not a part of the agency. Inmates who are detained solely for civil immigration purposes are provided information on how to contact relevant consular officials and relevant officials of the Department of Homeland Security.

MTC Policy also mandates (903E.02, d and e) that staff must accept reports of sexual assault and sexual harassment made verbally, in writing, anonymously, and from third parties with no exceptions. MTC will also take appropriate steps to ensure that staff document verbal reports.

Texas Department of Criminal Justice, Administrative Directive 16-20 (rev.2), Reporting Incidents/Crimes to the Office of the Inspector General, II. Duty to Report, A., requires employees to report occurrences or allegations of administrative violations, criminal offenses and other incidents required to be reported by the directive immediately upon becoming aware of such conduct or as soon as practical. These reports are or may be made to the Office of Inspector General or through the employee's supervisor. Supervisory staff ensure incidents reported to them are reported to the OIG.

Texas Department of Criminal Justice, Executive Directive ED-02.10, Prison Rape Elimination Act Complaints and Inquiries, B. Public, requires the name, mailing address and phone number to be used for the purpose of directing inquiries and complaints to the PREA ombudsman is required to be available on the TDCJ website.

Posters indicate that the Texas Legislature has adopted a ZERO-TOLERANCE policy regarding sexual abuse, including consensual sexual contact and sexual harassment of an offender in the custody of the department. The poster advises that any such violation must be reported to the Unit Major or Office of the Inspector General or the PREA Ombudsman (address provided). Brochures providing contact information for the Ombudsman are posted as well.

Interviewed staff stated that upon receiving a report, an allegation and even after having a suspicion, they would report it verbally to their supervisor followed by a written report within 24 hours. Although they indicated they have 24 hours to complete a written report, they stated the expectation is that the report is written prior to the end of the shift. Interviewed offenders told the auditor they could report verbally, to a ranking staff, using the hotline, using an I-60 (request form), or through a third party and a number stated they would tell the Prisons PREA Manager.

#### **Standard 115.52 Exhaustion of administrative remedies**

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

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

MTC Policy, 903E.02, 20., Exhaustion of Administrative Remedies, a) through h), provides inmates with administrative procedures for dealing with inmate grievances regarding sexual abuse. MTC allows inmates to submit a grievance regarding an allegation of sexual abuse at any time regardless of when the alleged incident is alleged to have occurred. MTC also does not require the inmate to use any informal grievance process or to otherwise attempt to resolve the issue with staff, for an PREA Audit Report

alleged incident of sexual abuse. The grievance will not be referred to the staff member who is the subject of the complaint. Decisions on the merits of any grievance or portion of a grievance alleging sexual abuse will be made within 90 days of the filing of the grievance and MTC will notify the inmate in writing when the organization files for an extension, including notice of the date of the filing of the grievance. Third parties may assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse and to file such requests on behalf of inmates. Inmates may decline third party assistance in filing a grievance alleging sexual abuse. MTC documents the inmate's decision to decline. Paragraphs g) and h) relate to emergency grievances. MTC has established procedures for filing an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse. Each MTC facility is required to have a procedure for emergency grievances alleging substantial risk of imminent sexual abuse that require an initial response within 48 hours. Emergency grievances alleging substantial risk of imminent sexual abuse require that a final agency decision is issued within five days. MTC has written policy that limits its ability to discipline an inmate for filing a grievance alleging sexual abuse to occasions where the facility demonstrates the inmate filed the grievance in bad faith.

MTC Policy, 503, Inmate Grievances, 3. Emergency Grievances, states once the receiving staff is approached by an inmate and determines that he/she is in fact raising an issue requiring urgent attention, emergency grievance procedures will apply. The emergency grievance is immediately reviewed by the Chief of Security of designee who is then required to decide if it is life threatening or requires immediate attention. If the Grievance Officer determines it is not, it is processed as a regular grievance. Emergency grievances are processed immediately if possible and not longer than 24 hours. After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, the agency immediately forwards the grievance (or any portion thereof that alleges the substantial risk) to a level of review at which immediate corrective action may be taken and provide an initial response within 48 hours and issue a final agency decision within 5 calendar days. The initial response and final agency decision shall document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

Texas Department of Criminal Justice, Executive Directive, ED-02-03 (rev.6), Ombudsman Program, V. Emergency Grievances, requires grievances alleging sexual abuse to be coordinated with the unit warden, major, chief of unit classification, Unit Safe Prisons/PREA Program Manager, OIG, and PREA ombudsman as provided for in the TDCJ Safe Prisons/PREA Plan. Texas Department of Criminal Justice, Executive Directive, ED-02-03 (rev.6), Ombudsman Program, VI. Third Party Grievances, requires that a third-party grievance received from a fellow offender on behalf of an alleged victim that includes allegations of sexual abuse will be processed as an emergency grievance. The alleged offender victim will be given the opportunity to agree or disagree with the allegations and to have the request processed on the offender's behalf. The offender's decision will be documented on a Third Party Preliminary Investigation form. Too, notifications from non-incarcerated third parties, including staff members, family members, attorneys and outside advocates, relating to allegations of sexual abuse or sexual harassment are required to be immediately forwarded to the PREA ombudsman and OIG. Unit grievance staff are required, by policy, to immediately notify the administration with the unit administration responding within five (5) days describing the action taken.

A memo from the Warden, Exhaustion of Administrative Remedies, states a grievance for sexual abuse/assault or harassment will be addressed with immediacy as the objective.

Interviews with staff confirmed inmates may make a report of sexual abuse or sexual harassment via the grievance process. They were also generally aware that the grievance would be treated as an emergency grievance. Interviewed inmates rarely mentioned the grievance as a way to report however they were aware that a fellow-inmate or a relative might make a report for them.

#### **Standard 115.53 Inmate access to outside confidential support services**

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

- Does Not Meet Standard (requires corrective action)

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

MTC Policy, 903#-02, Ensuring Safe Prisons, 21. Access to Outside Confidential Support Services, requires MTC facilities to 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) for local, state or national victim advocacy or rape crisis organizations; giving inmates mailing addresses and telephone numbers (including toll-free hotline numbers where available) for immigrant services agencies for persons detained solely for civil immigration purposes and enables reasonable communication between inmates and these organizations in as confidential manner as possible. MTC facilities inform inmates prior to giving them access to outside support services, the extent to which such communications will be monitored. MTC also is required to inform the inmate, prior to giving them access to outside support services, of the mandatory reporting rules governing privacy, confidentiality, and/or privilege that apply for disclosures of sexual abuse made to outside victim advocates, including the limits of confidentiality under relevant federal, state or local law. Additionally, the policy requires MTC facilities to maintain memoranda of understanding or other agreements with community service providers that are able to provide inmates with emotional support services related to sexual abuse. MTC also maintains copies and documentation of attempts to enter such agreements.

The facility has a letter from the East Texas Crisis Center verifying the use of the East Texas Crisis Center hotline enabling inmates to receive crisis intervention and referral services for sexual assault and for domestic violence. The toll-free number is provided as well as the toll-free number to the Rape Abuse Incest National Network (RAIN). Inmates are provided contact information via poster and brochure. The mailing address as well as the 24-hour hotline number and the toll-free number to contact the Rape, Abuse and Incest Network.

Interviewed inmates were generally not aware of this outside source however they did acknowledge the posters and information provided them during orientation.

Inmates also have access to the Ombudsman and all contact information has been provided to them. Additionally, inmates have access to their attorney’s through written legal correspondence, via phone and through legal visitation.

### **Standard 115.54 Third-party reporting**

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

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

MTC Policy, 903E-02, Ensuring Safe Prisons, 22. Third Party Reporting, a)-b) states MTC provides a method to receive third party reports of inmate sexual abuse or sexual harassment in accordance with MTC Policy and this information is publicly distributed on how to report inmate sexual abuse or sexual harassment on behalf of inmates.

Texas Department of Criminal Justice, Correctional Institution Division, SAFE PRISONS/PREA PLAN, August 2014, Paragraph 5., Third Parties, provides for third party reports. Third Parties, including fellow offenders, staff members, family members, attorneys, and advocates are permitted to assist offenders in filing requests for administrative remedies relating to an allegation of sexual abuse, and shall also be permitted to file these requests on behalf of offenders. This policy also provides a stipulation that if a third-party files a request on behalf of an offender, the unit may require, as a condition for processing the request, the alleged victim to agree to have the request filed on his/her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process in accordance with TDCJ Offender Grievance Operations Manual. If an offender declines to have the request processed on his/her behalf, the decision must be documented in accordance with TDCH Offender Grievance Operations Manual.

Executive Directive, ED-02.10, Prison Rape Elimination Act Complaints and Inquiries, B. Public, requires the names, mailing address and phone numbers to be used for the purpose of directing inquiries and complaints to the PREA ombudsman to be available on the TDCJ website.

The TDCJ website provides information regarding reporting sexual abuse and sexual harassment to the agency's ombudsman. It states that family and friends of offenders and the general public are encouraged to report allegations of sexual abuse and sexual harassment to the PREA Ombudsman or to the TDCJ Ombudsman Office. It also informs the public that all allegations of sexual abuse or sexual harassment received in the PREA Ombudsman Office are referred to the Office of the Inspector General for possible criminal investigation. The site provides the mailing address, office phone, fax, and email address for anyone desiring to make a third-party report.

Interviews with staff confirmed they are aware that third parties may make reports or allegations of sexual abuse on behalf of an inmate. Staff related they would immediately verbally report the third-party report to their immediate supervisor and write an incident report prior to the end of the shift. Interviewed offenders/inmates affirmed, as well, that they are aware a third party, including a friend or relative may make a report of sexual abuse or sexual harassment for an inmate/offender.

#### **Standard 115.61 Staff and agency reporting duties**

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

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

MTC Policy 903E-02, Ensuring Safe Prisons,<sup>23</sup> Staff and Agency Reporting Duties, requires all staff to report immediately and according to MTC Policy 203.10 Employee Discipline, any knowledge, suspicion or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether it is part of the organization. Policy also requires staff to report immediately any retaliation against inmates or staff who report an incident of sexual abuse or sexual harassment and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Apart from reporting to the designated supervisors or officials and designated state or local services agencies, MTC prohibits staff from revealing any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.

Texas Department of Criminal Justice, Correctional Institutions Divisions, SAFE PRISONS/PREA PLAN, August 2014, B., Staff and Third Party Reporting of Allegations, requires all staff members to immediately report, according to TDCJ policy, any PREA Audit Report

knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred on a unit, whether or not it is a TDCJ facility; retaliation against offenders or staff who reported an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. This policy also requires that staff have a method to privately report sexual abuse or sexual harassment of offenders. Staff are required to accept reports made verbally, in writing, including by letter, Inmate Request to Official (I-60), sick call form, or a grievance, anonymously, and from third parties and verbal reports must be documented.

Administrative Directive, Reporting Incidents/Crimes to the Office of the Inspector General, AD-16-20 (rev.2), II. Duty to Report; requires employees to report occurrences or allegations of administrative violations, criminal offenses, and other incidents required to be reported by the directive immediately upon becoming aware of such conduct or as soon as practical. Reports are to be made directly to the OIG or through the employee's supervisor. Supervisory staff then are required to ensure that incidents reported to them are also reported to the OIG. Specific instructions are then given for reporting administrative violations and then criminal violations. Paragraph V. Reporting of Emergency Incidents, A. requires emergency incidents to be reported immediately to the entity that can provide the most effective and timely response. Instructions are provided for reporting to the OIG on a 24-hour basis.

Correctional Managed Health Care Policy Manual, G-57.1, Sexual Assault/Sexual Abuse, VIII. Reporting, requires if an offender less than 18 years of age reports previous sexual assault/abuse to health care staff, regardless of whether the incident occurred in a correctional setting or in the community, health care staff must report the incident to the OIG. Patient consent is not required. If an offender who is 18 years of age or older reports previous sexual assault/abuse to health care staff that occurred in a correctional setting, health care staff can report such incidents without consent only in the interest of treatment, security, or management issues. If an inmate who is 18 or older reports prior assault/abuse to health care staff that occurred in a correctional setting, health care staff can report the incident without consent only in the interest of treatment, security or management issues. If reporting the prior assault/abuse in the interest of initiating an investigation into the incident, health care staff must obtain consent from the offender. If an offender who is 18 or older reports previous sexual assault/abuse to health care staff that occurred in a community setting, staff may only report to OIG if the offender provides consent.

The Warden provided a memo dated June 2,2017 affirming that the facility does not house youthful offenders. It also affirms that if the alleged victim is considered a "vulnerable adult" under a State or local vulnerable person's statute, the agency will report the allegation to the designated State of local services agency under applicable mandatory reporting laws.

### **Standard 115.62 Agency protection duties**

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

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

MTC Policy, Ensuring Safe Prisons,24. Agency Protection Duties, a) Agency Protection Duties, requires that when MTC learns that an inmate is subject to a substantial risk of imminent sexual abuse, MTC requires immediate action to protect the inmates (i.e. It takes some action to assess appropriate protective measure without unreasonable delay).

Texas Department of Criminal Justice, Correctional Institutions Division, SAFE PRISONS/PREA PLAN, August 2014, discusses the efforts staff make to keep inmates safe beginning with the offender screening and assessment at intake and during the admissions process in order to attempt to safely house the inmate. Upon learning of an allegation that an offender was

sexually abused, the first correctional officers responding to the report separate the offender and monitor him/her and the assailant.

The SAFE PRISONS/PREA OPERATIONS MANUAL, 02.04, Intervention Practices, discuss and allow changes in housing assignments, work assignments or work shift hours. Paragraph F. Assignment to Safekeeping Status, designates safekeeping status to any vulnerable offender and other potential victims to be housed together in an area separate from offenders that are more aggressive. The status is also assigned to offenders who require separate housing from general population because of threats to their safety due to a history of homosexual behavior, a potential for victimization or other similar reasons. TDCJ also affords offenders requiring separate housing access to safekeeping and staff are required to conduct a thorough investigation of an offender's request for safekeeping.

Protective custody is an administrative segregation status for offenders who require maximum supervision at all times and the highest degree of protection due to threats of harm by others or high likelihood of victimization. Because of limited opportunities and privileges careful consideration is required prior to placing an offender in this status.

Interviewed staff related an offender who was a victim of sexual abuse or any offender who was at risk would be placed, most likely, in protective custody, while the preliminary investigation was taking place to ensure the offender's safety. Responses, according to staff, would be immediate and would result in either placement in another dorm, protective custody and, most likely, transfer to another facility where the potential or actual victim could feel safe.

#### **Standard 115.63 Reporting to other confinement facilities**

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

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

MTC Policy, 903E-02, Ensuring Safe Prisons, 25. Reporting to Other Confinement Facilities, a) through c), requires that upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility must notify the head of the facility or appropriate office of the agency/facility where sexual abuse is alleged to have occurred and that this notification is within 72 hours after receiving an allegation and provide documentation of the notification. Policy also requires all allegations received from other facilities/agencies are investigated.

SAFE PRISONS/PREA OPERATIONS MANUAL, .04-01, Reporting Allegations of Sexual Abuse to Other Confinement Agencies, provides instructions for processing offender reports of sexual abuse alleged to have occurred while incarcerated at a confinement facility outside TDCJ. Policy requires that upon receiving an allegation that an offender was sexually abused while confined at an outside agency facility, the Safe Prisons PREA Officer will notify the head of the facility or appropriate office of the agency where the alleged incident occurred as soon as possible but no later than 72 hours after receiving the allegation at the TDCJ. Not later than 24 hours after receiving the allegation, the USPPM will document the details of the allegation, submit a priority email via TDCJ mainframe, followed by a phone call to alert the SPPMP of the allegation and impending email. A copy of the email is printed and retained.

The Warden provided a Statement of Fact, affirming that there have been no allegations of sexual abuse in the past twelve (12) months from any offender that they were sexually assaulted by another offender prior to arriving at the Billy Moore Correctional Facility.

The Warden accurately described the process he would use upon being informed of an allegation made by an offender that he was abused in another facility.

#### **Standard 115.64 Staff first responder duties**

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

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

MTC Policy, Ensuring Safe Prisons, 903E.02, Paragraph 26, Staff First Responder Duties, requires that upon learning that an inmate was sexually abused with a time frame that still allows for the collection of physical evidence, the first security staff member to respond to the report is required to 1) Separate the alleged victim and abuser 2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence 3) Instruct the victim not to take any actions that could destroy physical evidence, including washing, brushing his or her teeth, changing clothes, urinating, defecating, smoking, drinking or eating and 4) 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 first responder is non-security staff, he or she is required to instruct the victim not to take any actions that could destroy physical evidence and then notify security staff.

The facility provided power point slides taken from the PREA Training Curriculum addressing First Responding. Slide #6, Staff First Responder Duties, requires that upon learning that an inmate was sexually abused within a time period that still allows for the collections of physical evidence, the first security staff member to respond to the report is required to: 1) Separate the alleged victim and abuser 2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence 3) Instruct the victim not to take any actions that could destroy physical evidence, including washing, brushing his teeth, changing his or her clothes, urinating, defecating, smoking, drinking or eating and 4) 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. For non-security staff first responders the slide presentation teaches non-security staff to instruct the victim not to take any actions that could destroy physical evidence and then notify security staff. Samples of signed training rosters were provided for review. Staff are also provided a first responder card that provides readily accessible step by step instructions about what to do upon becoming aware of a sexual assault or sexual abuse.

Interviewed staff consistently described the steps they would take upon being alerted that an offender had been sexually assaulted. Staff consistently stated they would immediately separate the offenders, notify their supervisor, and protect the crime scene, including not allowing the offender to shower, brush teeth, change clothing or take any action that could destroy evidence.

#### **Standard 115.65 Coordinated response**

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

relevant review period)

- Does Not Meet Standard (requires corrective action)

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

MTC Policy, 903.02, Ensuring Safe Prisons, 27. Coordinated Response a), requires each facility to develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators and facility leadership. Staff are required staff to follow the coordinated response plan after an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators and facility leadership.

Billy Moore Correctional Center provided their Coordinated Response Plan. Essentially the plan requires staff to immediately notify the shift supervisor when an incident of sexual abuse became known. The shift supervisor makes the required notifications. Mental health and health services are notified. The Emergency Action Center is notified and the OIG Investigator is contacted. The facility has a trained victim advocate on staff. The victim advocate will be notified as will the Unit Safe Prisons/PREA Manager. The victim and abuser are separated and immediately taken to medical. The shift supervisor conducts an interview with the victim to determine the location of the incident and to identify the alleged assailant. The shift supervisor assigns an officer to preserve and protect the crime scene until all evidence is collected. The Victim is escorted to medical for a physical assessment and possible transport to ETME-Tyler. Photos are to be taken of the alleged victim for any injuries.

SAFE PRISONS/PREA OPERATIONS MANUAL, 05.01, Sexual Abuse Response and Investigation, provides procedures for responding to allegations of sexual abuse with a coordinated effort between security staff, the OIG, medical and mental health services, and victim advocates or an offender victim representative. The policy goes on to provide very specific and detailed instructions for coordinating responses and activities for each component.

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

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

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

This standard is rated “not applicable”. SAFE PRISONS/PREA PLAN, page 39, 8., states that neither the TDCJ nor any other governmental entity responsible for collective bargaining on behalf of the TDCJ shall enter into or renew any collective bargaining agreement or other agreement that limits the ability of the TDCJ is removed alleged staff sexual abusers from contact with any offenders pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted. A memo from the Warden confirmed that this facility has not had any collective bargaining agreements nor are they involved in any form of collective bargaining.

### Standard 115.67 Agency protection against retaliation

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

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

MTC Policy 903E.02, Ensuring Safe Prisons, 28. Preservation of Ability to Protect Inmates from Contact with Abusers, a) through c), states MTC protects all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff. Policy also requires MTC to designate staff members or charges departments to monitor for possible retaliation. The facility will 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 will be offered for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

SAFE PRISONS/PREA PLAN, C., Protection from Retaliation, requires that offenders and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations are protected from retaliation by other offenders or staff. The Unit Safe Prisons/PREA Manager is required to monitor for retaliation and as appropriate will take multiple protective measures, including things such as housing changes, transfers for offender victims or abusers, removal of alleged staff or offender abusers from contact with victims, and emotional support services for offenders or staff who report sexual abuse or sexual harassment or for cooperating with investigations. Monitoring will be conducted and documented for at least 90 days following a report of sexual abuse or victims of sexual abuse, for changes that may indicated possible retaliation by offenders or staff, and promptly address the retaliation. Monitoring may go beyond 90 days depending on circumstances.

Policy requires that monitoring include a review of offender disciplinary reports and housing or program changes and negative performance reviews and reassignments of staff. It will also include periodic status checks of offenders. If an inmate is transferred the PREA Compliance Manager is required to coordinate with the receiving facility's PREA Compliance Manager to ensure continued monitoring if needed.

If the investigation determines the allegation to be unfounded, the monitoring is to be discontinued. There were no cases of retaliation during the past twelve (12) months.

### Standard 115.68 Post-allegation protective custody

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

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion**

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

MTC Policy 903E.02, Ensuring Safe Prisons-Prison Rape Elimination Act, 29. Post Allegation Protective Custody, indicates MTC may house inmates who are alleged to have suffered sexual abuse in restrictive housing for protective custody subject to the requirements of PREA. Arizona Department of Corrections, Department Order, 125, Sexual Offense Reporting, 1.3, addresses post allegation protection and 1.3.10, states, at the conclusion of the medical and mental health examinations, or upon return from the emergency room, reassign the inmate victim and the inmate suspect(s), if known to the “Complex Detention Unit” or a Protective Custody Unit Pending the outcome of a Protective Custody review and/or investigative process, if appropriate. The inmate victim and suspect are not to be housed in cells next to each other if they are placed in the same Protective Custody Unit.

Administrative Directive, AD-04-.63 (rev.5), Transient Status Offenders, provides procedures, along with the TDCJ Classification Plan, govern the management of transient status offenders when there is not an appropriate custody designated bed or designation on a unit. Offenders reclassified to a new custody designation will be assigned to housing areas designated for the new custody. If the housing assignment cannot be made because a bed in the offender’s new custody designation or the custody is not available on the unit, the offender will be assigned to housing which can best provide for the safety and security of the offender, other offenders, staff and the unit. Assignment to transient housing, according to policy, is to be made only if the offender’s safety or security requirements otherwise be met. The decision to house an offender in transient housing must be justified by the Unit Classification Committee.

provides for offenders who have requested protection or need to be reviewed for reassignment will be reviewed in accordance with the TDCJ Administrative Segregation Plan and the TDCJ Safe Prisons/PREA Compliance Plan. These offenders may be assigned to transient housing pending completion of the investigation.

Interviews indicated that any inmate either a victim of sexual abuse or an inmate at risk for sexual abuse, including at risk for imminent sexual abuse, will be initially placed in transient status protective custody pending the preliminary investigation after which the inmate’s status is reviewed by the classification committee and with input from the inmate regarding his/her own safety, makes bedding, housing and work assignment decisions.

The Warden, in a memo dated, June 21, 2017, stated there has not been any sexual abuse reported at Billy Moore Correctional Center in the last twelve (12) months.

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

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

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

MTC Policy 903E.02, Ensuring Safe Prisons, 30. Criminal and Administrative Agency Investigations a) through e), addresses the investigation process. When MTC investigators are involved, they are required to gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data;

interview alleged victims and alleged perpetrators and witnesses and review prior complaints and reports of sexual abuse involving the suspected perpetrator. When the quality of evidence appears to support criminal prosecution, MTC investigators typically will turn such evidence over to outside investigators. MTC investigators will conduct compelled interviews only after consulting with the Warden, prior to seeking out prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution. MTC will take appropriate steps to ensure that substantiated allegations of conduct that appear to be criminal are referred for prosecution and MTC retains all written reports pertaining to administrative or criminal investigation of alleged sexual assault or sexual harassment, for as long as the alleged abuser is incarcerated or employed by MTC, plus five years. Policy also requires that any state entity or DOJ component that conducts administrative or criminal investigations of alleged sexual assault or sexual harassment does so pursuant to the requirements of standard.

Texas Department of Criminal Justice, Correctional Institutions Division, SAFE PRISONS/PREA PLAN, August 2014, V. Investigations, requires that all allegations of sexual abuse follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. This protocol will be developmentally appropriate for youth, where applicable, and, as appropriate, will be adapted from or otherwise based on the most recent edition of the US Department of Justice 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.

Investigations are required to be conducted promptly, thoroughly, and objectively for all allegations, including third party and anonymous reports and those who conduct the investigations are to be conducted by investigators who have received special training in sexual abuse investigations in confinement settings.

In responding to an allegation of sexual abuse and when the evidence supports criminal prosecution, OIC will conduct compelled interviews only after consulting with prosecutors to ensure the interviews do not impeded subsequent criminal prosecution. Investigators are prohibited from requiring an offender who has alleged sexual abuse to submit to a polygraph or other truth telling device as a condition for proceeding with the investigation.

Policy asserts that the departure of the alleged assailant or victim from employment or custody of the TDCJ will not be a basis for terminating the investigation.

The standard of evidence required by policy is the preponderance of evidence.

Paragraph F. of the SAFE PRISONS/PREA PLAN, page 28, E. Investigation Process, requires the following:

- 1) Sexual abuse investigations are to be documented on the appropriate Safe Prisons/PREA forms.
- 2) Investigations minimally include the following:
  - a) Interviews with the alleged victim
  - b) Interviews with the suspected assailant
  - c) Interviews with witnesses
  - d) Review of prior complaints and reports of sexual abuse involving the alleged assailant
  - e) Review of video surveillance, if available
  - f) Any evidence, including physical evidence
- 3) The credibility of an alleged victim, assailant, or witness is to be assessed on an individual basis and not on status as an offender or staff member
- 4) Testimonial and physical evidence is described in the report
- 5) Staff in the facility conducting Offender Protection Investigations must cooperate with the OIG, when applicable
- 6) Following the OPI committee review, the offender is notified if the allegations were substantiated, unsubstantiated or unfounded

Policy also addresses investigation Follow-Up in Paragraph G. and addresses the incident review process, requires a description of physical and testimonial evidence, the reasoning behind credibility assessment and investigative facts and findings.

Criminal investigations are documented in accordance with the OIG policies and procedures and obviously, substantiated  
PREA Audit Report

allegations of conduct that appear to be criminal will be referred for prosecution in accordance with OIG policies and procedures.

Lastly, policy requires all administrative and criminal investigations are to be retained in accordance with the TDCJ Records Retention Schedule (provided for review).

Multiple efforts were made by the facility to secure the Specialized Training Certificates for OIG investigators however they were unable to secure them. The PREA Compliance Manager at the facility, who also serves as a facility investigator, provided documentation that she completed the Prison Rape Elimination Act Investigating Sexual Abuse in a Confinement Setting Course.

An interview with an Office of the Inspector General Investigator, at another facility confirmed that the investigators not only complete the NIC Specialized Training for Investigators but also attend and are required to successfully complete the extensive training required to become certified as a peace officer with arrest powers. He also described a very thorough and comprehensive investigation process. The facility also provided documentation to confirm the in-house Offender Protection Investigation. In this process, the evidence is collected and the incident discussed with the incident review team that is essentially composed of the classification committee and a determination made with regard to the decision to substantiate a case or to find it unsubstantiated or unfounded. Once an allegation appears to involve criminal behavior, the OIG investigators are called in. They are the agency with the authority and responsibility to conduct criminal and administrative investigations and who have the power to make arrests.

#### **Standard 115.72 Evidentiary standard for administrative investigations**

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

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

MTC Policy 903.E.2, 31. Evidentiary Standards for Administrative Investigations a), requires a standard of proof of a preponderance of evidence or lower standard of proof in determining whether allegations of sexual abuse or sexual harassment are substantiated. This standard of evidence was confirmed in interviews with facility investigators. A Statement of Fact issued by the Warden, dated June 21, 2017, asserted that the Billy Moore Correctional Center has not imposed any standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

There have been no allegations of sexual abuse or sexual harassment during the past twelve months.

#### **Standard 115.73 Reporting to inmates**

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

- Does Not Meet Standard (requires corrective action)

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

MTC Policy 903E.02, Ensuring Safe Prisons 32. Reporting to Inmates, a) through d), requires that any inmate alleging that he or she suffered sexual abuse in an MTC facility is informed, verbally or in writing, as to whether the allegation has been determined to be substantiated, unsubstantiated or unfounded following an investigation by MTC. If an outside entity conducts such investigations, MTC requests the relevant information from the investigative entity to inform the inmate as to the outcome of the investigation. MTC will take appropriate steps to ensure that MTC subsequently informs the alleged victim whenever the agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility, or the agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility. MTC requires notifications are documented.

SAFE PRISONS/PREA PLAN, C. Offender Notification by Type of Investigation, requires offenders to be notified of relevant information regarding criminal investigations, in accordance with the SPPOM. It requires if an offender is determined to have been a victim of staff-on-offender sexual abuse, the warden will inform the offender when: 1) The staff is no longer assigned to the offender’s unit or 2) The staff member is no longer employed by the TDCJ. Paragraph 5., requires if an offender is determined to have been a victim of staff-on-offender sexual abuse and the abuse is determined criminal, the SPPMO is required to inform the offender when: 1) The staff member has been indicted on a charge related to sexual abuse within the unit; or 2) The staff member has been convicted on a charge related to sexual abuse within the unit. In paragraph 5., the SAFE PRISONS/PREA PLAN requires if an offender alleges to have been a victim of offender-on offender sexual abuse, the SPPMO will subsequently inform the alleged victim when: 1) The alleged assailant has been indicted on a charge related to sexual abuse within the unit; or 2) The alleged assailant has been convicted on a charge related to sexual abuse within the unit. All the offender notifications or attempted notifications are to be documented. The requirement to provide offender notification terminates if the offender is released from the custody of the TDCJ.

The Warden related, in a Statement of Fact, dated June 21, 2017, that the facility has not had an allegation that a staff member has committed sexual abuse against the offender in the last twelve months. He asserted, if the facility does have such an incident the facility will inform the offender, unless the allegation is unfounded, when the staff is no longer posted within the inmate’s unit, the staff is no longer employed at the facility, the agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility. Notifications will, according to the Warden, be by memo. Interviews with staff who serve on the classification committee indicated that at the conclusion of an investigation, the inmates are brought before the classification committee and is notified, at that time, as to whether an investigation into allegations of sexual abuse were substantiated, unsubstantiated, or unfounded.

#### **Standard 115.76 Disciplinary sanctions for staff**

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

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

### **corrective actions taken by the facility.**

MTC Policy, 903E.02, Ensuring Safe Prisons, 33. Disciplinary Sanctions for Staff a) through c), affirms staff engaging in sexual abuse/sexual harassment against inmates are subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. Disciplinary sanctions for violations of MTC policies relating to sexual abuse/sexual harassment (other than engaging in sexual abuse) are commensurate with the nature and circumstances of the acts committed, the staff member's history and the sanctions imposed for comparable offenses by other staff with similar histories. All terminations for violations of MTC sexual abuse/sexual harassment policies or resignations by staff who would have been terminated if not for their resignation, are reported to law enforcement agencies, unless the activity was clearly not criminal and to any relevant licensing bodies.

The Employee Handbook, Rules of Conduct/Discipline, provides for rules for conduct and states the seriousness of the infraction will determine the action to be taken by a supervisor. Offenses are categorized as Category I and II. Category II covers abuse, violation of Company or facility rules, policies, the handbook, or federal, state or local laws, violation of company fraternization policy, involvement in a criminal act or negative behavior, and improper abuse. The Handbook states the company reserves the right to counsel or impose discipline on employees, up to and including termination of employment. Employees are told they are expected to comply with company rules and policies and to satisfactorily perform their job duties.

The Warden provided a Statement of Fact affirming the facility has not imposed any disciplinary sanctions against staff for sexual abuse or sexual harassment during the last twelve (12) months.

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

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

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

MTC Policy, 903E.02, Ensuring Safe Prisons, 34. Corrective Action for Contractors and Volunteers, a)-c), requires that any contractor or volunteer who engages in sexual abuse is prohibited further contact with inmates and requires that any contractor or volunteer who engages in sexual abuse be reported to law enforcement agencies, unless the activity was clearly not criminal and to relevant licensing bodies. Facilities take remedial measures and prohibit further contact with inmates in the case of any other violation of MTC sexual abuse or sexual harassment policies by a contractor or volunteer. The facility provided a memo from the Warden affirming there have been no sexual assault/abuse incidents in the last 24 months involving contractors or volunteers at this facility.

The Warden provided a Statement of Fact affirming that the facility has not had to take any corrective action against contractors or volunteers for sexual abuse or sexual harassment during the last twelve (12) months.

### **Standard 115.78 Disciplinary sanctions for inmates**

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

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

MTC Policy, 903E.02, Ensuring Safe Prisons, 33. Disciplinary Sanctions for Staff a) through c), affirms staff engaging in sexual abuse/sexual harassment against inmates are subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. Disciplinary sanctions for violations of MTC policies relating to sexual abuse/sexual harassment (other than engaging in sexual abuse) are commensurate with the nature and circumstances of the acts committed, the staff member’s history and the sanctions imposed for comparable offenses by other staff with similar histories. All terminations for violations of MTC sexual abuse/sexual harassment policies or resignations by staff who would have been terminated if not for their resignation, are reported to law enforcement agencies, unless the activity was clearly not criminal and to any relevant licensing bodies.

Interviews with staff confirmed that if an inmate was involved in an incident that was criminal in nature the inmate would be referred for prosecution. If the inmate violated any sexual harassment or other sex related rule that was not criminal in nature, the inmate will be sanctioned in accordance with the facility’s inmate disciplinary code.

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

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

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

MTC Policy 903E.02, Ensuring Safe Prisons, 36. Medical and Mental Health Screenings for History of Sexual Abuse, a) and b), requires all inmates who have disclosed any prior sexual victimization during a screening to be offered a follow-up meeting with a medical or mental health practitioner and MTC requires facilities to take appropriate steps to ensure that the follow-up meeting is offered within 14 days of the intake screening. MTC’s medical staff maintain secondary materials documenting compliance with the required services. The same is to be offered for inmates who ever previously reported previously perpetrating sexual abuse.

SAFE PRISONS/PREA PLAN, page 17, #6 and #7, require if the screening indicates an offender has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff are required to ensure the offender is offered a follow-up with a medical or mental health practitioner within 14 days of the intake screening. Likewise, if the offender indicates that he/she has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff will also ensure the offender is offered a follow-up meeting with a medical or mental health

practitioner within 14 days of the intake screening.

The plan also addresses screening information management. In Paragraph D.2, the plan limits any information related to sexual victimization or abusiveness that occurred in an institutional setting to medical and mental health practitioners and other staff, as necessary, assisting with making treatment plans and informed management decisions, including those related to housing, bed, work, education and program assignment or as otherwise required by federal, state, or local law. Too, in D.3, Medical and mental health practitioners must obtain informed consent from offenders before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the offender is under the age of 18.

Correctional Managed Health Care Policy, G-57.1, Sexual Assault/Sexual Abuse, VIII., Reporting, requires that if an offender is less than 18 reports previous sexual assault/abuse to health care staff, regardless of whether the incident occurred in a correctional setting or in the community, health care staff must report the incident to OIG. Patient consent is not required. If an offender is older than 18 when they report prior victimization, health care staff can report the incident(s) without consent only in the interest of treatment, security, or management issues. If reporting prior assault/abuse in the interest of initiating an investigation, health care staff must obtain consent from the offender. IF an offender 18 or older reports previous sexual assault/abuse to health care staff that occurred in a community setting, health care staff may report only to OIG if the offender provides consent.

The Warden provided a Statement of Fact asserting that the facility has not had an offender who experienced prior sexual victimization or prior perpetration/abusiveness, whether it occurred in an institutional setting or in the community during the audit period. If it did occur, the Warden stated the offender would be offered a follow-up with a medical or mental health practitioner. An additional Statement of Face reported that the facility has not had any mental health referrals during the past twelve (12) months.

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

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

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

MTC Policy, 903E.02, 37. Access to Emergency Medical and Mental Health Service requires MTC's medical and mental health staff to maintain secondary materials documenting the time frames of emergency medical treatment and crisis intervention services that were provided; the appropriate response by non-health staff in the event health staff are not present at the time the incident is reported and the provision of appropriate and timely information and services concerning contraception and sexually transmitted infection prophylaxis. These services are provided without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

The Texas Department of Criminal Justice, SAFE PRISONS/PREA PLAN, F. Immediate Response, requires that offenders of sexual abuse receive timely, unimpeded access in 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. If there are no qualified medical or mental health practitioners on duty at the time a report is made, correctional staff first responders are required to take preliminary steps to protect the victim and immediately notify the appropriate on-call medical and mental health practitioners. Offenders who are sexually abused while incarcerated are to be offered timely

information about access to emergency contraception (facilities housing female offenders) and sexually transmitted infections prophylaxis, according to professionally accepted standards of care, where medically appropriate in accordance with CMHC policies. Services are provided to the offender victim without financial cost regardless of whether the victim names the abuser or cooperates with any investigations arising from the incident.

The Correctional Managed Health Care Policy, G-57.1, Sexual Assault/Abuse, I. requires that all offenders with complaints of sexual assault/abuse will be immediately evaluated, examined and appropriately referred for required services. A brief history may be obtained nursing staff. It also provided for prophylactic treatment of “venereal diseases”. For HIV or Hepatitis B exposure, education and testing is to be scheduled. When indicated prophylactic medications will be offered. The sexual abuse investigation checklist documents notifications to medical and mental health, including ensuring offenders do not take any actions that might contaminate or destroy the evidence.

The Warden provided a Statement of Fact asserting the facility has not had an offender who has been a victim of sexual abuse during the audit period.

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

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

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

MTC Policy, 903E.02, Ensuring Safe Prisons, 38. Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers a) through e), states MTC facilities offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse. Inmate victims are offered tests for STIs. A mental health evaluation of all known inmate-on-inmate abusers is conducted within 60 days of learning of such abuse history and treatment offered when deemed appropriate by mental health practitioners. There have been no sexual assaults at the facility reported during the past twelve months.

The TDCJ SAFE PRISONS/PREA PLAN, G., Ongoing Medical and Mental Health requires all offenders who have been victimized by sexual abuse in any prison, jail, lock-up or juvenile unit will be offered medical and mental health evaluation and treatment, as appropriate. The evaluation and treatment will include, as appropriate, follow-up services, treatment plans and, when necessary, referrals for continued care following their transfer to, or placement in other units in accordance with CMHC policies of their release from custody. The services provided are consistent with the community level of care. Female offenders who become victims of sexually abusive penile-vaginal penetration, while incarcerated will be offered pregnancy tests. If pregnancy results from the conduct, the victim will receive timely and comprehensive information about and access to all lawful pregnancy related medical services in accordance with CMHC policies. Victims of sexual abuse will also be offered tests for STIs as medically appropriate. Mental health evaluation of all known offender-on-offender abusers will be attempted within 60 days of learning of the abuse and treatment will be offered when deemed appropriate in accordance with the health care policies.

Correctional Managed Health Care Policy Manual, G-57.1, Sexual Assault/Sexual Abuse requires in paragraph I., That all offenders who present with complaints of sexual assault/abuse will be immediately evaluated, examined and appropriate referred for services. Policy also affirms the health care services rendered are at no cost to the victim.

The Warden provided a Statement of Fact, documenting the facility has not had any offenders victimized by sexual abuse.

### Standard 115.86 Sexual abuse incident reviews

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

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

MTC Policy, 903.02, requires a review after every sexual abuse investigation, and ordinarily within 30 days of concluding the investigation, unless the allegation has been determined to be unfounded. MTC Teams consist of upper level management and allows for input from line supervisors, investigators, and medical or mental health practitioners. The incident review team considers all the items addressed in the PREA Standards. MTC requires that sexual abuse incident reviews are ordinarily conducted within 30 days of conducting the investigation. The facility prepares a report of its findings including but not limited to determinations made and recommendations for improvement. MTC policy requires the facility to implement the recommendations for improvements or document the reason for not doing so.

The Texas Department of Criminal Justice, SAFE PRISONS/PREA PLAN, I. Incident Review Team, requires an administrative review for all alleged sexual abuse and staff sexual harassment incidents, unless determined to be unfounded. The Unit Warden will obtain input from security supervisors, investigators, and medical or mental health practitioners when completing the review. The review team, according to policy, includes upper-level management, with input from line supervisors, investigators, and medical or mental health practitioners. It also reaffirms company policy by requiring the recommendations to be implemented and if not, the reasons documented.

Interviews with staff, including classification staff and the PREA Compliance Manager, confirmed that following an Offender Protection Investigation, the classification committee convenes and conducts a review of the incident.

### Standard 115.87 Data collection

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

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

MTC Collects accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions as required by MTC Policy, 903E.02, Ensuring Safe Prisons. The standardized instrument includes, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of PREA Audit Report

Sexual Violence (SSV) conducted by the Department of Justice. MTC aggregates the incident-based sexual abuse data at least annually and generates a comprehensive and informative annual report. Each MTC Facility is required by policy to maintain, review and collect data as needed from all available incident-based documents, including reports, investigation files and sexual abuse incident reviews.

Interviews indicated MTC has a very sophisticated data system enabling the company to collect and report accurate data to answer all questions on the Survey of Sexual Violence and the system is set up to answer them sequentially. Additionally, the system has the capability for generating valuable reports including the following: PREA Allegations and Investigations Summary Report, PREA Allegations and Investigations Report by Site, Investigations by Facility, Master Investigation Log, Master Investigation Log by Site and others.

The reviewed 2015 MTC Annual Report was comprehensive and detailed and included Demographics of MTC Operated Facilities as well as detailed PREA Data. A chart of PREA Allegations and Investigations Results for 2015 within MTC operated facilities compared allegations from 2013 and 2014. An assessment of the agency's progress discusses potential reasons for increased allegations for 2014 and 2015 (allegations between 2014 and 2015 increased by 16 allegations) as well as on-going efforts to continue to ensure sexual safety in all its facilities. The report analyzes the data and considers potential reasons for the slight "uptick" in allegations.

#### **Standard 115.88 Data review for corrective action**

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

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

MTC Policy 903E.02, Ensuring Safe Prisons, 41. Data Review for Corrective Action, a)-d), requires MTC to review data collected and aggregated pursuant to 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, response policies and training, including the following; 1) Identifying problem areas 2) Taking corrective action on an ongoing basis and 3) Preparing an annual report of its findings from its data review and any corrective actions for each facility, as well as the agency as a whole. The annual report includes a comparison of the current year's data and corrective actions with those from prior years and provides an assessment of MTC's progress in addressing sexual abuse. With approval of the respective customer agencies, MTC makes its annual report readily available to the public at least annually through its website. Annual reports are approved by the head of MTC. MTC's annual report does not redact material from its annual report because identifying material is never included. If material was redacted, the agency would limit that to specific materials where publication would present a clear and specific threat to the safety and security of the facility. MTC would indicate the nature of material redacted.

The facility conducts administrative incident reviews (After Action Reviews) after each investigation resulting in a finding of either substantiated or unsubstantiated. The facility inputs this information into the company's database enabling the company to generate multiple reports related to PREA. This information is used then as a management tool. The reviewed annual report for 2015 contained a summary of facility reports for 2015. This information was collected from sexual abuse incident reviews following an investigation finding of either substantiated or unsubstantiated. The review indicated there was generally no need to change policy or practices; motivations were typically not motivated by gang affiliation, status or other group dynamics; physical barriers were not seen as enabling abuse; staffing levels were considered adequate and

PREA Audit Report

although there was typically no need for additional monitoring technology, some Texas Department of Criminal Justice contracted sites commented on work requests that were pending or in progress to make specific modifications to TDCJ owned facilities.

Interviews with both the Agency’s PREA Coordinator and Assistant PREA Coordinator confirmed how the company collects data and uses that data to make management decisions and to continuously review data coming in from each MTC Facility. This sophisticated data base enables management to identify potential problem areas in specific facilities as well as results for the company as a whole. Additionally, that system enables management to track investigations, notifications and incident reviews

**Standard 115.89 Data storage, publication, and destruction**

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

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

MTC Policy 903E.02, Ensuring Safe Prisons, 42. Data Storage, Publication and Destruction, a) – c), states MTC ensures that incident based and aggregate data are securely retained; that MTC aggregates sexual abuse data from MTC facilities under its direct control and makes that information, after removing all personal identifiers, readily available to the public at least annually through its website. Information and data collected pursuant to 115.87 is maintained for at least 10 years after the date of initial collection, unless federal, state or local law requires otherwise.

**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.

Robert Lanier

August 17, 2017

Auditor Signature

Date