

PREA AUDIT: AUDITOR'S FINAL REPORT

JUVENILE FACILITY STANDARDS



Name of Facility: Merrimac Center			
Physical Address: 9300 Merrimac Trail, Williamsburg, Virginia 23185			
Date report submitted: July 4, 2017			
Auditor information: Charles J. Kehoe			
Address: P.O. Box 1265, Midlothian, Virginia 23113			
Email: charlesjkehoe@msn.com			
Telephone number: (804) 873-4949			
Date of facility visit: July 6 -9, 2016			
Facility Information			
Facility Mailing Address: <i>(if different from above)</i>			
Telephone Number: (757) 887-0225			
The Facility is:	<input type="checkbox"/> Military	<input type="checkbox"/> XX County	<input type="checkbox"/> Federal
	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Municipal	<input type="checkbox"/> State
	<input type="checkbox"/> Private not for profit		
Facility Type:	<input type="checkbox"/> XX Detention (Juvenile)	<input type="checkbox"/> Correction	<input type="checkbox"/> Other:
Name of PREA Compliance Manager:			
Title:			
Email Address:		Telephone Number:	
Agency Information			
Name of Agency: Merrimac Center			
Governing Authority or Parent Agency: <i>(if applicable)</i>			
Physical Address:			
Mailing Address: <i>(if different from above)</i>			
Telephone Number:			
Agency Chief Executive Officer			
Name: Gina Mingee	Title:	Executive Director	
Email Address: gmingee@merrimac-center.net	Telephone Number:	(757) 887-0225	
Agency Wide PREA Coordinator			
Name: William H. Orris	Title:	Operations Manager	
Email Address: worris@merrimac-center.net	Telephone Number:	(757) 887-0225	

AUDIT FINDINGS

NARRATIVE:

The PREA audit of the Merrimac Center (MC) was conducted from July 6 - 9, 2016 in Williamsburg, VA. The Designated Auditor (the auditor) was Charles J. Kehoe of Midlothian, Virginia.

The auditor wishes to extend his deepest appreciation to Gina Mingee, Executive Director of the Merrimac Center, William Orris/PREA Coordinator, and all the employees of Center for their professionalism, hospitality, and kindness.

The PREA Coordinator mailed the MC PREA policies and procedures and related documents on a flash drive to the designated auditor several weeks before the audit.

The auditor contacted Just Detention International to inquire if that agency had received any information regarding Merrimac Center. A check of their records showed no complaints on file regarding the agency.

The auditor arrived at the facility at 8:00 a.m. on Wednesday, July 6, 2016 and was greeted by Gina Mingee, the Executive Director and William Orris, the Operations Manager and PREA Coordinator (PC). An Entrance Meeting was held at 8:20 a.m. with the administrative team. Executive Director Mingee, Deputy Director Kristy Livsey, Treatment Coordinator Sara Jones, and Operations Manager/PREA Coordinator William Orris were in attendance along with the auditor. The Executive Director welcomed the auditor and provided an overview of the facility. The auditor thanked the Executive Director, the facility's leadership team, and the Middle Peninsula Juvenile Detention Commission for being involved in the PREA certification process. The auditor then reviewed the audit process and the audit schedule. The PREA Coordinator had given the auditor the names of the employees and the residents in the facility the evening before so he could select the staff and residents he would interview. The PC also identified specialized staff who could be interviewed.

The site review of the facility began at 9:12 a.m., following the Entrance Meeting. Accompanying the auditor on the tour was the Executive Director and the PC. All areas where residents have access were inspected. The site review ended at 10:55 a.m.

Following the tour the auditor began the interviews.

When the audit started, there were 32 residents (27 males and 5 females) in the facility. Seven of the 32 residents (six males and one female) were under the custody of the Virginia Department of Juvenile Justice in the Community Placement Program. Twenty residents were being held in pre-adjudication status (14 males and 6 female residents). Five male residents were in the facility's Post-Dispositional Program.

Twelve residents, eight males and four females were selected for random interviews. In the process of conducting the random interviews, one (1) resident was identified who was somewhat intellectually disabled, one (1) resident identified as bi-sexual, and one (1) resident identified as lesbian. No residents in the facility had reported an allegation of sexual abuse or sexual harassment. No resident was in isolation for behavioral issues or as a victim of sexual abuse. Two residents had disclosed prior sexual victimization. One resident reported being physically abused while at home. She stated this was reported to the MC staff and that there is an active protective service case.

MC has 57 authorized positions that have direct contact with residents.

Ten direct care staff were randomly selected by the auditor from all three shifts and interviewed. Eighteen interviews were conducted with staff, volunteers, or contractors in 10 specialized areas and included the Executive Director, the PREA Coordinator, higher level shift supervisors (3), medical and mental health professionals (2), the Human Resources Manager, volunteers /interns and contractors (2), the facility investigator, staff who screen for risk of victimization (2), an Incident Review Team member, the designated staff member who monitors for retaliation, a non-security staff who could act as a first responder, and an Intake staff member. Since this is a relatively small facility, some of the staff have multiple responsibilities so a few individuals were interviewed more than once if their duties covered more than one specialized area. The auditor also interviewed the James City County Police Chief.

In all, the auditor conducted 44 interviews during the audit.

During the site review, the auditor called the James City County Department of Social Services (JCC-DSS) which is the number listed at the PREA reporting line to test the system and see what would happen if a resident reported an abuse. The protective services worker who answered the phone said she was not familiar with PREA but they would take any call regarding an abuse allegation, regardless of the source. One number that is listed goes directly to the JCC-DSS. After hours a resident would have to call the "800" number listed in the PREA brochure that is given to each resident.

This facility does not contract for the confinement of its residents with other facilities.

Cross-gender searches are not allowed at MC. Staff have been trained to conduct cross-gender searches in an exigent circumstance. Training included the use of the Moss Group video. During the random interviews, the auditor asked the staff to demonstrate how cross-gender searches and searches of a transgender or intersex resident would be conducted. The auditor was very impressed by how well the staff demonstrated these search procedures. The staff said the searches must be respectful and the staff would explain each step in the search to the resident. The staff also said that a transgender resident would be asked if he/she had a preference as to who would search him/her.

Interviews with residents revealed that they are well informed about PREA, their rights, and how to report abuse. The residents reported all staff announce themselves before coming on the units. New admissions to the facility are informed about PREA during intake. The residents reported that the PREA video is shown every Saturday before lunch time to keep reminding residents of the importance of PREA and how to report sexual abuse or sexual harassment.

While some of the residents said they could not remember the name of the agency that would provide emotional support for a victim of sexual abuse, if needed, they all said they knew exactly where that phone number is posted, as well as the number for reporting sexual abuse or sexual harassment. Every resident confirmed that he/she had received a copy of the "Merrimac Center Resident Orientation Handbook." The last seven pages of the handbook is the "Residents Guide to Identifying and Addressing Sexual Misconduct." Listed in the Guide are the names and addresses of agencies a resident can call or write to report sexual abuse or sexual harassment or to request emotional support if he/she is sexually abused or harassed. In addition, the residents are also given the brochure "End the Silence" which also states the Center's Zero Tolerance Policy and how and where to report sexual abuse and sexual harassment and request emotional support. The MC also has signs posted throughout the facility that also provide the names and addresses of these same agencies.

MC provides very comprehensive employee PREA training that includes classroom discussion, printed materials, and video training. Training on cross-gender searches was also conducted. All

random staff interviewed acknowledged that they had received and understood the training. The most recent training was provided about six weeks prior to the audit. Five (5) training records and the curriculum were reviewed. Confirmation the employee received and understood the training was in each file.

During the interviews, all staff described the procedures for protecting residents from harm or threats of retaliation, the preservation of evidence, and the mandatory reporting requirements.

Allegations of sexual abuse will be investigated by the James City County Police Department, the James City County Department of Social Services, Child Protective Services office and the Virginia Department of Juvenile Justice. The Center has a Memorandum of Understanding (MOU) with the James City County Police Department as the principle law enforcement agency that will investigate allegations of sexual abuse in the Center. The facility also has a MOU with the James City County Department of Social Services to investigate allegations of sexual abuse and sexual harassment. There is also a MOU with Riverside Health System to provide SAFE/SANE services. The facility also has a MOU with the Avalon Center to provide confidential emotional support services to the victim of sexual abuse and accompany and support the victim through the forensic medical examination process and investigatory interviews. Avalon Center can also offer crisis intervention, information, and referral services to sexual abuse victims at the facility. Under a separate MOU, the James City County Victim-Witness Program will also provide follow-up services and crisis intervention contacts for victims of sexual

The Deputy Director and the Operations Director/PREA Coordinator completed the online specialized course for PREA investigators and the basic PREA training.

The auditor reviewed three (3) allegations of resident-on-resident sexual harassment and one allegation of staff-on-resident sexual abuse. Two of the resident-on-resident sexual harassment allegations were unsubstantiated. One was substantiated. The allegation of staff-on-resident sexual abuse was unfounded. One other allegation happened shortly before the audit and was still under investigation.

During admission, every new resident receives a health care and mental health screening. Medical and mental health services are provided to the residents of the facility on-site by a nurse (RN) and a qualified mental health professional (the clinician). A part-time physician oversees the facility's health services and sees residents.

The MC website states: "The mental health clinician (from Colonial Behavioral Health) assesses residents who have potential mental health or substance abuse problems, admissions who have been identified in the community as needing mental health services and residents referred by staff who have observed troublesome behavior. The Clinician provides individual and group counseling and education, refers residents and families for service in the community, informs the Court of juvenile mental health needs, and works with the courts, family and mental health system to obtain emergency hospitalization if needed. Case management services assist with the transition back to the community or other placement when alternative services are an on-going need."

In addition to the clinician and case manager, the Colonial Behavioral Health (CBH) provides emergency mental health assessments and ongoing mental health treatment and case management at the facility. Documentation was provided to the auditor that the specialized training for the health care and mental health professionals was delivered.

The auditor was impressed by the staff at this facility and the emphasis they place on constant supervision and lines of sight. The physical plant contributes to good supervision with good sightlines, glazing in all areas of the facility. Thirty-six video cameras provide comprehensive coverage in all housing units and in all areas where residents gather. At the time of the audit, five

additional cameras were on order to enhance the video monitoring.

MC has a very impressive website with a separate PREA tab that is found on the first page of the website in the top menu bar. The PREA page is easy to navigate. The website describes the facility's Zero Tolerance Policy, the investigative protocols, and enables third-party reporting.

The MC sexual abuse and sexual harassment data collection procedures meet the requirements of the standards. The facility published an Annual PREA Report that describes the facility's continuous effort to comply with all the PREA standards with data for FY16. The Annual Report is available in the office of the Executive Director.

When the on-site audit was completed, the auditor conducted an exit meeting at 3:00 p.m. on July 9, 2016. The Executive Director, the Deputy Director, the Treatment Coordinator and the Operations Manager/PREA Coordinator were in attendance with the auditor. While the auditor could not give the facility a final finding, as there were a few issues needing further review, the auditor did give an overview of the audit and thanked the Executive Director and staff for their hard work and dedication to the full implementation of the Prison Rape Elimination Act.

DESCRIPTION OF FACILITY CHARACTERISTICS:

The Merrimac Juvenile Detention Center (aka Merrimac Center/MC) is located at 9300 Merrimac Trail, Williamsburg, Virginia, approximately 8 miles from the center of the City of Williamsburg. MC is a 48-bed, secure, juvenile detention facility that is operated by the Middle Peninsula Juvenile Detention Commission. The facility opened on December 23, 1997 with 32 beds and a 16-bed addition under construction. The 16-bed addition, referred to as Unit 4, was opened on July 1, 1998. The Center serves the 9th and the 15th Judicial District Court Service Units and includes a total of 18 localities. MC provides secure detention for juveniles who are awaiting court hearings or who have been adjudicated delinquent (i.e., found guilty) and are awaiting transfer to another facility. The average length of stay for pre-adjudicated residents is 21 days.

The facility also operates a 15-bed post-dispositional, co-ed, detention program called Developing Alternatives for Youth (DAY). The DAY program serves youth who have been committed by the Court to the program for a fixed period of time, not to exceed six months.

The facility also accepts residents from the Virginia Department of Juvenile Justice (DJJ) who are between the ages of 15 and 21 years of age, typically 3 to 13 months from release, and are placed in the Community Placement Program (CPP) as an alternative to incarceration in a juvenile correctional center. The male CPP residents are assigned to a 10-bed housing unit.

As previously mentioned, the facility has 57 positions that have direct contact with the residents.

The purpose and philosophy of the Merrimac Center is the rehabilitation of children involved in the juvenile justice system. The facility serves as part of the community's continuum of care that begins with the least restrictive community-based programs. For young people who have committed more serious offenses, are repeat offenders, or who have not demonstrated success in the community programs, the post-dispositional detention experience focuses on short-term confinement and treatment in a highly structured setting. MC provides a range of very valuable services which support and encourage the physical, emotional, and social development of each resident. The CPP residents are engaged in a program that is very similar to the post-dispositional detention program. The auditor was told that all residents in the facility participate in programming focusing on cognitive behavioral training (CBT) including behavior modification and social-skills training.

Residents participate in as many as 21 therapeutic groups per week. The groups serve as the

foundation for the behavior modification program. The goal of the therapeutic services is to help the residents change their irrational thinking patterns in an effort to redirect their resulting behaviors, to ultimately change their outcomes. The program also helps residents understand their current situation and use that knowledge to assist them in making better decisions and to choose a new path toward success and law-abiding behavior. The groups address specific areas, such as, gender specific issues for female residents, substance abuse, relationships, parenting skills, moral decision-making, Aggression Replacement Training (ART), adolescent health, and restorative justice. The MC is the only juvenile detention center in the Commonwealth of Virginia that uses the nationally-recognized CBT Model.

James City County Public Schools provide a progressive academic program that is delivered by 8 certified teachers, a principal, and an administrative assistant. The program is fully accredited and delivers 5.5 hours of academic instruction to all residents, daily. Funding for the school is provided by the Virginia Department of Education under State Operated Programs.

The facility employs a full-time Registered Nurse, a part-time Licensed Practical Nurse, and a contract physician who serves as the medical director for the facility. Two contracted physician assistants come to the facility to see residents with health concerns on a semi-monthly basis. Selected staff are also trained as "medication agents." There is at least one "medication agent" on duty at all times to respond and triage injuries and illnesses in the absence of one of the nurses.

MC also employs a full-time mental health clinician and a full-time case manager who are dedicated to serving the needs of the CPP youth. The CBH-contracted clinician and case manager review all assessments and provide counseling and supportive services to residents, as needed. CBH also provides emergency mental health services, and a psychiatrist monitors psychotropic medications and provides consults, as necessary.

The MC is licensed by the Virginia Department of Juvenile Justice (DJJ) and operates under the standards of the Virginia Board of Juvenile Justice (BJJ). The BJJ standards require a staffing ratio of 1:10 during waking hours and 1:16 during sleeping hours. Effective August 1, 2016, MC adopted a staffing ratio of 1:8 during waking hours, exceeding the state standards and meeting the PREA requirements.

MC has four living units. Unit 1 has 10 rooms and two cameras and is used for the CPP residents. Unit 2 has 10 rooms and two cameras and is used for pre-dispositional residents. Unit 3 has 12 rooms and two cameras and is also used for pre-dispositional residents. Unit 4 has 16 rooms and three cameras and is used for the co-ed post-dispositional and female pre-dispositional youth.

All sleeping rooms are single occupancy. All rooms have sinks and toilets. All residents shower in private. The sight-lines in the units are good to very good, and staff are always in the unit when the residents are present.

Residents are brought into the facility through the intake area. The intake area has two holding rooms, called special purpose rooms. There is one camera in the intake area. The clinic is located adjacent to the intake area and has one special purpose room. Two other special purpose rooms are adjacent to the control room. All special purpose rooms are equipped with cameras to monitor a resident's behavior. The facility has blocked the view of the toilet areas on the cameras. In the control room there is a large window/view panel that looks into each special purpose room, in addition to the cameras. These two windows have blinds that are normally drawn closed. During the site review, the auditor was told male and female staff can be assigned to the control room and that a male or female resident could be in one of the special purpose rooms. The auditor was concerned that a resident using the toilet could be viewed by a staff member of the opposite sex, if the blinds were raised. Following the audit, the facility changed its procedures to ensure a resident would be given notice if a cross-gender viewing would be taking place. Such viewing

would also be documented.

In addition to the four housing units, there are also three classrooms, a library, a large gym, dining and kitchen area, a common day room, and the administrative area. The facility also has an outdoor recreation area. The areas accessible to residents have camera coverage.

As previously mentioned, at the time of the audit, the facility had 36 cameras with five (5) new cameras being installed in the immediate future. The auditor reviewed recordings from previous weeks and found them to be of very good quality. The video system also has sound recording capability.

The Notice of the Audit was posted throughout the facility as were signs that informed residents, staff, and visitors how to report allegations of sexual abuse and sexual harassment. Signs were also posted that informed residents how they could call the Avalon Women's and Children's Center for emotional support. Signage was in English and Spanish.

If a resident wishes to report an allegation of sexual abuse or sexual harassment he/she would make the call from the intake area. Residents confirmed that they are aware of multiple ways to report allegations of sexual abuse and sexual harassment.

The auditor was very impressed by the multiple programs offered by the facility and the commitment and dedication of the MC staff and agencies that support the facility's services. The facility is very committed to PREA and promotes sexual safety by creating a culture that focuses on the safety and needs of the residents. This is an excellent juvenile facility.

Following the on-site audit, the auditor informed the Executive Director and the PREA Coordinator in an email that the facility did not meet four standards. In one standard there were three parts that needed corrective action. The auditor recommended corrective actions that would bring the facility into compliance. A week following the auditor's report to the facility, the PREA Coordinator documented that all the corrective actions had been implemented. The auditor reviewed each corrective action and confirmed that the facility did meet the PREA Juvenile Facility Standards.

SUMMARY OF AUDIT FINDINGS:

Number of standards exceeded: 5

Number of standards met: 34

Number of standards not met: 0

Number of standards not applicable: 2

Standard Prevention Planning

§ 115.311 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)

Chapter 9 of the MC Policy Manual states, "It is the policy of Merrimac Center to provide a safe, humane, and secure environment for all residents. Merrimac Center maintains a zero tolerance for resident-on-resident sexual assault, staff sexual misconduct and sexual harassment toward offenders. Every allegation of sexual assault, misconduct and harassment is thoroughly investigated. The prohibited conduct identified below applies to all employees, volunteers and contract staff of MERRIMAC CENTER. Sexual conduct between staff and residents is prohibited and subject to administrative disciplinary sanctions and referred for prosecution."

Merrimac Center's Zero Tolerance Policy is also stated and published on its website, in the resident handbook, in the facility's PREA brochure, and in posters that are displayed throughout the facility.

The website states, "Merrimac Center maintains a zero-tolerance policy for resident-on resident sexual assault, staff sexual misconduct and sexual harassment towards residents (115.311). Every allegation of sexual assault, misconduct and harassment is thoroughly investigated, and all reports of sexual assault are referred to the James City County Police Department for criminal investigation."

In the Merrimac Center Residents' Guide to Identifying and Addressing Sexual Misconduct, it states, "Merrimac Center cannot and will not tolerate any form of sexual misconduct. The Center recognizes the worth of each resident and strives to treat residents humanely. State statute prohibits resident abuse, which includes sexual contact by a staff member and accordingly, the Center maintains a zero tolerance policy with regard to sexual misconduct." Later in the Guide, the subject of resident-on-resident sexual abuse and sexual harassment is addressed.

The facility's brochure which is given to all residents, parents, guests, visitors, contractors, and volunteers is titled, "End the Silence. Zero Tolerance for Sexual Abuse and Sexual Harassment: Prison Rape Elimination Act (PREA)." In the brochure it states, "Merrimac Juvenile Detention Center has a zero tolerance policy for sexual abuse and sexual harassment. What does this really mean? It means that YOU have the right to be free from sexual abuse and sexual harassment by anyone at the facility, including residents, staff members, volunteers, or contractors. No one has the right to sexually abuse or sexually harass you. No one."

Posters that are displayed throughout the facility state, "Merrimac Center has ZERO-TOLERANCE towards all forms of sex abuse & sexual harassment."

The Quality Assurance (QA) and Operations Manager serves as the facility's PREA Coordinator. The position is identified on the MC Organizational Chart. The auditor interviewed the PREA Coordinator. The PREA Coordinator said he had enough time to do all of his PREA responsibilities and his duties as the QA/ Operations Manager, as well. The PREA Coordinator also serves as one of the facility's PREA investigators. The PREA Coordinator is also a dual-Certified PREA Auditor. The auditor found that the PREA Coordinator has provided great leadership in institutionalizing PREA into the day-to-day operations of the facility.

The Middle Peninsula Juvenile Detention Commission is only responsible for this one facility.

MC has made its Zero-Tolerance Policy widely known throughout the facility to residents, staff, parents, visitors, volunteers and contractors. The PREA Coordinator is highly qualified for this position. For these reasons, the auditor finds that the MC exceeds the requirements of the standard.

Standard

§ 115.312 Contracting with other entities for the confinement of residents.

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

MC does not contract with other public or private entities for the confinement of its residents.

Standard

§ 115.313 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)

MC has a Staffing Plan that is very thorough and complies with each element of the standard. The facility's staffing ratios exceed the requirements of the Virginia Board of Juvenile Justice (BJJ). There have been no findings of inadequacy from any judicial, federal, or state agency or other oversight body. The plan includes a review of the facility's physical plant, noting any blind spots or areas where staff or residents could be isolated. The plan describes the resident population, the number and placement of supervisory staff, and the programming that is available to the residents. As stated earlier, MC operates under the standards of the Board of Juvenile Justice. The facility's practices are reviewed annually by the Virginia Department of Juvenile Justice (DJJ) to measure compliance with applicable standards, practices, and laws for juvenile detention facilities in the Commonwealth of Virginia. This includes a three-year certification audit, annual monitoring visits by DJJ staff, and self-audits that are reported to DJJ. Any findings of inadequacy are immediately addressed.

The plan states, "These minimum ratios are met at all times except in the case of unforeseen temporary circumstances. Merrimac Center uses a 'Staff Draft' to ensure that the facility meets all minimum ratio requirements at all times. Anytime that the minimum staffing ratios are not met, the circumstances must be documented in an incident report that lists the reason(s) and the duration that the minimum staff-to-resident ratio was not met and any actions taken to correct the situation."

The staffing plan also includes a statement about the video monitoring capability at the facility.

The staffing plan states: "This staffing plan will be reviewed no less frequently than once annually by facility administration in collaboration with the PREA Coordinator. The staffing plan review will be documented and recommendations for modifications to the staffing plan implemented as applicable and appropriate." The staffing plan is signed and dated by the Director and the PREA Coordinator. The auditor was impressed by the Middle Peninsula Juvenile Detention Commission's commitment to meet the PREA Juvenile Facility Standards staffing ratio requirement more than a year ahead of the effective date. This demonstrates the Commission's commitment to provide the resources necessary resources to meet PREA standards.

The MC PREA Supervisory Rounds/SOD (Supervisor on Duty) Checks procedure states "This SOP is designed for shift supervisors and/or counselor III's to conduct and document unannounced rounds to

identify and deter staff and residents from sexual abuse and sexual harassment. This policy shall be conducted on all shifts to coincide with the SOD Checks.”

The procedure is described as follows:

“Guidelines/Steps/Checklist

No staff will alert another staff of the Supervisor’s “Unannounced Supervisory Rounds.”

1. An “Unannounced SOD / PREA Check” will be conducted in all areas where residents are located twice per assigned shift. These checks are in addition to the announced SOD Checks.
2. Each SOD must log into a hand Held Computer to conduct their random and unannounced checks. If the all hand-helds are not working; the rounds shall be documented in the Shift Supervisor’s Daily Log.
3. Scan the barcode in each area of the facility. Select “SOD Check” in the drop down box.
4. The SOD and the Control Room Operator will not announce that their checks / rounds are being conducted.

Areas to be checked: Housing Units, Multi-purpose Floor, Clinic, Intake, Classrooms, Dining Hall, Attorney / PO Room, Courtyard hallway, Gym and the Gym hallway.”

The auditor finds the facility has met all the requirements of standard.

Standard

§ 115.315 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)

Center’s policy prohibits cross-gender strip searches or cross-gender visual body cavity searches except in exigent circumstances or when performed by medical practitioners.

MC Policy “#48 Strip Searches” states:

“Guidelines/Steps/Checklist

Staff shall not 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.

Staff shall document and justify all cross-gender strip searches, cross-gender visual body cavity searches, and cross-gender pat-down searches.

Staff shall not search or physically examine a transgender or intersex resident for the sole purpose of determining the resident’s genital status. If the resident’s genital status is unknown, it may be determined during conversations with the resident, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

Merrimac Center will train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex residents, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

Counselor will stand in the doorway of the multi-purpose/ intake restroom, in camera view at all times and ensuring the resident's privacy from others. Staff conducts searches on same sex residents only. All searches will be in the presence of one or more witnesses, which may include video witness by the control room operator of the staff conducting the search at the door to the room used for searching, and not the actual juvenile being searched.

Residents should be searched by a staff member of the same gender as that listed on the resident's court paperwork or in MAC, unless the resident identifies as transgender or intersex.

If the resident identifies as transgender or intersex, they will be provided the opportunity to request a gender specific staff to conduct pat-down and/or strip searches of their person throughout their stay. In this instance, a "Search Preference Form for Transgender/Intersex Residents" will be completed by staff with input/consent from the resident and signed by the resident prior to conducting any searches.

All searches of residents shall be done in a respectful and professional manner.

Upon admission, return from temporary release, visitation, other visits, and/or facility contraband searches, staff shall conduct a strip search of residents. The counselor will stand in camera view at all times to conduct the pat down search.

Begin strip search from Pat down Search SOP #28.

1. Resident will remove all clothing one item at a time
2. Clothing items will be handed to staff for inspection
3. Intake:
 - o Items will be inventories and placed in personal property.
 - o Resident will squat and cough
 - o Staff will observe Resident for cuts, bruises or other marks and document
 - o Resident will then shower, dress and receive further direction for whatever activity is next.
4. Professional Visit, Visitation or suspicion of contraband
5. Have resident remove sweatshirts and shake out
6. Have residents lift up shirts and t-shirts and shake; females lift up bras and turn around
7. Remove shoes and shake
8. Remove socks, turn inside out and shake
9. Drop pants and undergarment, squat & cough
10. Inform them that the search is complete and give them further direction for whatever activity is next."

All the residents told the auditor that both male and female staff announce their presence when entering a resident housing unit.

Facility policy #97 Knock and Announce states: "Staff enters a housing unit or an area where residents are housed, showering, or using the restroom, must knock and announce their presence verbally." In addition, the Controller logs all security checks done by staff of the opposite gender from the residents on the unit into the Merrimac Activity Center.

During the site review, the auditor went into the control room and observed that there were two, single occupancy, Special Purpose Cells (observation rooms) adjacent to the control room for youth in danger of hurting themselves or for youth who were having behavioral issues. These rooms had camera coverage, but the area where the toilet was located was distorted by a patch. There were also

two large view panels (windows) in the control room that were covered by blinds. These view panels permitted the staff member in the control room to see into the Special Purpose Rooms. The staff said there were no special procedures for notifying the resident when the staff member would raise the blinds or look into the room. Since it was possible that the staff member in the Control Room and the resident in the Special Purpose Cell would be different genders, the auditor found the facility did not meet the standard. The standard states, "The facility shall implement policies and procedures that enable residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering a resident housing unit."

The MC wrote a corrective action plan that was approved by the auditor and implemented by the administration. MC revised the Program Manual Section, 5.14, Room Checks which now states, "In the event the cameras are obstructed in Special Purpose Cells 507/509 and the Control Room staff cannot complete a room check, the privacy blinds may be raised to view the resident. If the privacy blinds in the Control Room have to be raised, the Supervisor on Duty will be informed and the check will be documented. The 'Knock and Announce' rule will apply in this situation to all the residents to cover himself or herself up." The administration stated the staff were trained on the updated policy, which was effective immediately.

MC now meets the standard.

Standard

§ 115.316 Residents with disabilities and residents who are limited English proficient.

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

In Section 9.10 of the Policy Manual, it is stated:

"(a) Merrimac Center shall take appropriate steps to ensure that residents with disabilities (including, for example, residents 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. Such steps shall include, when necessary to ensure effective communication with residents 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, Merrimac Center shall ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities, including residents who have intellectual disabilities, limited reading skills, or who are blind or have low vision. Merrimac Center is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans With Disabilities Act, 28 CFR 35.164.

(b) Merrimac Center shall take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to residents 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.

(c) Merrimac Center shall not rely on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident’s safety, the performance of first-response duties under § 115.364, or the investigation of the resident’s allegations.”

During the site review, the auditor observed numerous bi-lingual signs throughout the facility that informed the reader of the MC Zero Tolerance Policy, how to report an allegation of sexual abuse or sexual harassment, how a visitor or third party could report any allegation of sexual abuse or sexual harassment (multiple ways of reporting were listed), and how a resident victim of sexual abuse or sexual harassment could receive emotional support. The facility stated they use the services of The Language Group, LLC if an interpreter is needed. This is an agency that provides language services to several municipalities in Virginia.

Standard

§ 115.317 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)

The MC Policy regarding hiring and promotion procedures and decisions states:

“a) Merrimac Center shall not hire or promote anyone who may have contact with residents, and shall not enlist the services of any contractor who may have contact with residents, who—

(1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);

(2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or

(3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.

(b) Merrimac Center shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents.

(c) Before hiring new employees who may have contact with residents, Merrimac Center shall:

(1) Perform a criminal background records check;

(2) Consult any child abuse registry maintained by the State or locality in which the employee would work; and

(3) Consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

(d) Merrimac Center shall also perform a criminal background records check, and consult applicable child abuse registries, before enlisting the services of any contractor who may have contact with residents.

(e) Merrimac Center shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with residents or have in place a system for otherwise capturing such information for current employees.

(f) Merrimac Center shall also ask all applicants and employees who may have contact with residents directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. Merrimac Center shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.

(g) Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

(h) Unless prohibited by law, Merrimac Center shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work."

The auditor examined six personnel and found that the background checks and child abuse checks had been completed for employees, contractors and volunteers. All were current within the last five years. At the time of the audit, however, the auditor found that new and current employees and contractors had not signed a form stating they had not:

(1) engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);

(2) been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or

(3) been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section."

In addition, the MC policy did not require that employees sign this acknowledgement at the time of their annual evaluations and whenever an employee was promoted.

The Executive Director stated that the facility has created a new form titled "Disclosure of PREA Employment Standards Violation." All employees, volunteers, education staff, and contractors have signed the form. The PREA Policy Program Manual, Chapter 9, page 10, now states that all new job candidates and regular employees complete the new form during their annual evaluations and whenever an employee is promoted. All future applicants and any staff promoted will complete the form.

Documentation was provided to the auditor that the forms had been signed.

MC now meets the standard.

Standard

§ 115.318 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).

As previously stated, at the time of the audit, the facility had 36 cameras that provide high quality images. In addition, five (5) new cameras had been ordered to further enhance sexual safety by addressing identified blind spots. The retention period for the videos is 10 days. In addition to viewing the videos in the Control Room, the Executive Director and supervisors can watch what the cameras are seeing from their individual offices/work stations. The auditor review videos from the previous several days.

The facility also documents its unannounced rounds electronically. Supervisors have a hand-held device that scans a bar code and documents the date and time the bar code is scanned.

MC is a paperless facility. All documentation is completed by digital devices.

Standard Responsive Planning

§ 115.321 Evidence protocol and forensic medical examinations.

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

The PREA Policy Program Manual, Section 9.5 states, "For purposes of investigation, MERRIMAC CENTER will only conduct initial inquiries of all reported incidents of sexual abuse, neglect and misconduct. Investigations may be completed by any combination of the following agencies: James City County Police Department, James City County Department of Social Services, Department of Juvenile Justice, Virginia State Police, and Office of the Inspector General, Federal Bureau of Investigation and Williamsburg / James City County Commonwealth Attorney. In the event of a reported incident of sexual abuse, MERRIMAC CENTER will coordinate actions among staff first responders, medical and mental health practitioners, investigators and facility leadership. (PREA § 115.371)."

MC has a Memorandum of Understanding (MOU) with the James City County Police Department (JCCPD) that confirms the police department will investigate allegations of sexual abuse/assault occurring at the facility. The JCCPD also will use the protocol based on the Department of Justice, Office on Violence Against Women publication "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents, of similarly comprehensive and authoritative protocols developed after 2011. The auditor interviewed the James City County Police Chief by phone. The Chief confirmed the MOU and said the Department has officers who have been trained to conduct sexual abuse investigations and that these officers are familiar with PREA.

The facility also has a MOU with James City County Social Services Child Protective Services (CPS) which states that CPS will investigate allegations of sexual abuse.

With regard to forensic exams, the MC has a MOU with Riverside Health Systems. "Riverside Health Systems will provide examination by a Sexual Assault Nurse Examiner (SANE) when possible. If SANE is not available, the exam can be performed by a qualified medical practitioner. The attending (Emergency Department) ED physician will decide if transfer to a facility that has a SANE is warranted. All reasonable efforts will be made to provide SANE at the hospital."

MC also has a MOU with Avalon Center in Williamsburg. Under this MOU, the Avalon Center will "provide advocacy when youth are brought to Riverside Hospital for sexual assault forensic exams." Avalon will also "Respond to calls from the Merrimac Center's youth in reference to sexual assault" and "Provide follow-up services and crisis intervention contacts to victims of sexual assault at the Merrimac Center, as resources allow."

The MC also has a MOU with the Williamsburg-James City County Victim-Witness Program. Under this MOU, the Victim-Witness Program will respond to calls from the Merrimac Center's youth in reference to sexual assault and provide follow-up services and crisis intervention contacts to victims of sexual assault at MC, as resources will allow.

Standard

§ 115.322 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)

The PREA Policy Program Manual, Section 9.5 states, "For purposes of investigation, MERRIMAC CENTER will only conduct initial inquiries of all reported incidents of sexual abuse, neglect and misconduct. Investigations may be completed by any combination of the following agencies: James City County Police Department, James City County Department of Social Services, Department of Juvenile Justice, Virginia State Police, and Office of the Inspector General, Federal Bureau of Investigation and Williamsburg / James City County Commonwealth Attorney. In the event of a reported incident of sexual abuse, MERRIMAC CENTER will coordinate actions among staff first responders, medical and mental health practitioners, investigators and facility leadership. (PREA § 115.371)."

As previously stated, MC has MOUs with the JJCPD and the JCCDSS (CPS) that state these agencies will conduct investigations of allegations of sexual abuse. The facility's website states, "Every allegation of sexual assault, misconduct and harassment is thoroughly investigated, and all reports of sexual assault are referred to the James City County Police Department for criminal investigation. "

The auditor interviewed the PREA Investigator (PREA Coordinator) and reviewed five (5) investigations. Three (3) of the allegations involved resident-on-resident sexual harassment. Two were determined to be unsubstantiated. The third was substantiated. The fourth investigation alleged a staff-on-resident sexual abuse. That investigation found the allegation to be unfounded. The fifth investigation was a recent allegation of resident-on-resident sexual harassment and was pending the outcome of the investigation. The auditor found the investigations to be well written and completed in a timely fashion.

Standard – TRAINING AND EDUCATION
§ 115.331 Employee training.

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

The PREA Policy Program Manual, Section 9.7, "Employee Training." States:

A comprehensive training program is provided for all staff to emphasize the importance of preventing sexual assault towards residents and promotes awareness of the serious impact of sexual victimization within a residential setting.

A. All employees, contract staff, volunteers, and interns receive instruction related to the prevention, detection, response, reporting and investigation of sexual assault.

1. All employees receive this training as part of their orientation training.
2. All employees and volunteers with resident contact will receive annual training.
3. Contract staff, whose primary duties include teaching, training or supervising residents, receive a training program to emphasize the importance of preventing sexual assault towards residents. This training promotes awareness of the serious impact of sexual victimization within a residential setting.

B. Specialized training is offered to those employees designated as victim support persons. (PREA § 115.335)

C. Specialized training is provided for employees who may respond, as part of their job duties, to reported incidents of sexual assault. This training may include, but is not limited to: crime scene management, elimination of contamination/exposure in accordance with (Blood borne Pathogen Exposure/Universal Procedures), evidence collection protocol and crisis intervention. (PREA § 115.335)

D. The Executive Director ensures the facility has access to the services of a mental health professional that has a scope of practice, training and/or experience in trauma counseling. (PREA § 115.331)

E. All lesson plans or materials utilized for orientation and in-service training on sexual assaults are developed in consultation with the Administration and are approved by the Executive Director. (PREA § 115.331)

F. The handbook "Sexual Misconduct and Harassment for Staff" will be made available to all staff. Upon initial training/hire/service, employees/volunteers will acknowledge receipt of the handbook during initial orientation. This documentation will be retained in the employee/volunteer training file. (PREA § 115.331)

G. All employees will receive a copy of this procedure at orientation and employees that have routine resident contact will receive this at annual in-service training. (PREA § 115.331)"

All the staff interviewed by the auditor acknowledged they had received PREA training on a regular basis and understand the material that is presented. All the areas noted in the standard are covered in the facility's PREA curriculum.

At the time of the audit, however, the form that documented that the employees received the training did not include the statement that the employees understand the training they received and therefore the facility did not meet the standard. Shortly after the on-site audit, the Deputy Director sent the auditor a revised form which was signed by employees that confirmed they received and comprehended the training.

The facility meets the standard.

Standard

§ 115.332 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)

As stated in the previous standard, Section 9.7 of the PREA Policy Program Manual applies to volunteers and contractors. The form that documents the volunteers and contractors received and comprehended the training has been amended.

The auditor interviewed a contractual substance abuse counselor. The contractor reported that the training he received from the PREA Coordinator took about four to five hours and was very comprehensive in scope. He provided several examples of material that was covered and said he understood the training he received.

The auditor also interviewed the contractual physician. The physician said he has been coming to MC for approximately one month. He stated he was provided an overview of PREA and training specifically for medical and mental health providers. He stated he received and understood the training. A Physician's Assistant (PA) comes to the facility on Tuesdays for a clinic. The physician and the PA are part of Riverside Health System/Medical Group. The facility provided documentation they had received the specialized training.

Standard

§ 115.333 Resident education.

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

The auditor interviewed 12 randomly selected residents. Every resident reported that he/she had received a PREA orientation at the time of intake, usually immediately after the resident had showered. The residents also reported that the staff show all the residents the PREA video every Saturday, usually following lunch. The video MC uses was adapted from the video that was developed by the Idaho Department of Juvenile Corrections and is regarded as one of the better resident education videos.

Every resident confirmed that he/she had received a copy of the "Merrimac Center Resident Orientation Handbook," including the "Resident's Guide to Identifying and Addressing Sexual Misconduct." Listed in the Guide are the names and addresses of agencies a resident can call or write to report sexual abuse or sexual harassment or to request emotional support if he/she is sexually abused or harassed. Residents are also given the brochure "End the Silence" which also states the Center's Zero Tolerance Policy and how and where to report sexual abuse and sexual harassment and request emotional support. The MC also has signs posted throughout the facility that provide the names and addresses of these same agencies.

The auditor was very impressed by the resident education program. It was obvious the residents are well informed about PREA.

Standard

§ 115.334 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)

The PREA Coordinator stated that he is also the PREA Investigator and he has completed the PREA Investigator Training that is offered on the National Institute of Corrections website and PREA Investigator Training what is provided on the PREA website. Documentation was provided to the auditor.

Standard

§ 115.335 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)

As previously stated, the physician was interviewed and confirmed that he had received the basic PREA training and the specialized training required.

The auditor interviewed the registered nurse and the mental health therapist. Both of these staff confirmed that they received the basic PREA training all staff, contractors, and volunteers receive and the specialized training for medical and mental health provider. The nurse and the mental health therapist gave specific examples of what their training included.

The facility provided documentation that the physician, the PA, the registered nurse, and the mental health therapist received the required training.

Standard Screening for Risk of Sexual Victimization and Abusiveness

§ 115.341 Obtaining information from residents.

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

Does Not Meet Standard (requires corrective action)

Section 9.14 D. "Screening and History of Sexual Abuse (PREA §115.341) in the PREA Policy Manual, states:

1. " MERRIMAC CENTER will ask residents about prior sexual victimization during the intake process or classification screenings.
2. If a resident discloses prior sexual victimization, whether it occurred in an institutional setting or in the community, MERRIMAC CENTER will ensure that the resident is offered a follow-up reception with a medical or mental health practitioner within 14 days of the intake screening and documented in Chronological notes.
3. Unless such intake or classification screening precedes adjudication, the facility shall also ask residents about prior sexual abusiveness.
4. Subject to mandatory reporting laws, any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as required by MERRIMAC CENTER and Federal, State, or local law, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments.
5. Medical and mental health practitioners shall obtain informed consent from residents before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the resident is under the age of 18. (PREA §115.381)"

The auditor interviewed two staff who screen new residents for risk of victimization and abusiveness. The staff reported that the screening is done as part of the intake process, normally within the first hour. The nurse has also been trained to complete the survey if other staff are not available. At the time of audit, the staff reported that they had not made observations on the assessment form that would indicate if the new resident was gender non-conforming. The staff did report that the information on the risk assessment is confidential and available only to the administration, the medical and mental health professionals and other staff on a need-to-know basis. Risk assessments are administered to residents who are moved from the pre-dispositional program to the post-dispositional program or the CCP program.

The auditor also reviewed five randomly selected resident files. The auditor noted that the assessments were completed at the time of intake. Reassessments were done every six months according to the facility's procedures. The auditor noted that the average length of stay is less than six months. Given that the standards do not define "periodically thereafter," the auditor felt that reassessments should be completed at least every four months or anytime new information or an incident could change a resident's risk of victimization or abusiveness score.

Because the assessment did not include the observation statement from staff as to gender non-conformity and because six months between assessments would not meet the "periodic" threshold, the auditor found that the facility did not meet the standard. The MC immediately amended the assessment form to include the staff observation of gender non-conformity and performed reassessments on all residents who had been in the facility four months or longer. The facility sent the

auditor appropriate documentation for new admissions and reassessments. The MC now meets the requirements of the standard.

Standard

§ 115.342 Placement of residents in housing, bed, program, education, and work assignments.

- 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)

Section 9.14 D. "Screening and History of Sexual Abuse (PREA §115.341) in the PREA Policy Manual, states:

"Merrimac Center has a policy that residents who allege to have suffered sexual abuse may only be placed in isolation as a last resort if less restrictive measures are inadequate to keep them and other residents safe, and only until an alternative means of keeping all residents safe can be arranged. A 30 day review by the PREA Coordinator and Mental Health staff will determine the continued need for isolation. This policy requires that residents who are placed in isolation because they allege to have suffered sexual abuse have access to legally required educational programming, special education services, and daily large-muscle exercise. Merrimac Center prohibits placing lesbian, gay, bisexual, transgender, or intersex residents in particular housing, bed, or other assignments solely on the basis of such identification or status. Merrimac Center prohibits considering lesbian, gay, bisexual, transgender, or intersex identification or status as an indicator of likelihood of being sexually abusive. The agency or facility makes housing and program assignments for transgender or intersex residents in a facility on a case-by-case basis. Merrimac Center does not isolate victims of potential sexual abuse. (PREA § 115.342-368)"

The auditor was told that there have not been any cases in which a resident was placed in an observation room as a result of being a victim of sexual abuse. No victim of sexual abuse or sexual harassment would be in an observation room for 30 days under any circumstances.

The results of assessment for victimization and abusiveness, the mental health and suicide assessments and other information provided by the Court Service Unit or other sources are considered when residents are assigned to a specific housing unit or when program, education or work assignments are made with the goal being to keep residents safe and free from sexual abuse and sexual harassment.

The nurse and the mental health therapist said that they visit youth who are in room confinement, but added that a youth is rarely ever in his/her room longer than four continuous hours.

A gay, lesbian, bisexual, transgender, or intersex resident would be assigned to living unit based on his/her risk assessment, age, and program status (i.e., pre-disposition, post-disposition, and CCP). All residents shower separately. If a transgender or intersex resident was in the facility, his/her feelings about personal safety would be given serious consideration in housing, program, and education placements. Placement and programming assignments for transgender or intersex residents will be reassessed at least every four months to review any threats to safety experienced by the resident.

The auditor interviewed one resident who identified as bi-sexual and one resident who identified as being lesbian. Both residents said other residents and staff were aware of their orientation. Both said they are treated respectfully and that they feel safe in the MC.

Standard Reporting**§ 115.351 Resident reporting.**

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

MC provides numerous ways for residents to report sexual abuse or sexual harassment. Residents can tell as trusted staff member, the PREA Coordinator or the Executive Director, or write a note to them. Residents can also write or call the Certification Manager at the Department of Juvenile Justice, the James City County Children's Protective Services, the James City County Police Department, the Avalon Center for Women and Children, Williamsburg Victim Witness Assistance program, or the Riverside Doctors' Hospital in Williamsburg. Addresses and phone numbers are found on the posters that are displayed throughout the facility, in the brochure the residents are given at intake, titled "End the Silence," and in the PREA section of the Merrimac Center Resident Orientation Handbook, in the PREA section, titled "Residents' Guide to Identifying and Addressing Sexual Misconduct." Residents are told they can also fill-out a sick call slip, write a grievance, or tell a parent or probation officer. The facility also uses a PREA Video (adapted from the Idaho Department of Juvenile Corrections' video) that informs residents how to report sexual abuse and sexual harassment.

Staff are aware that they can accept reports from residents verbally, in writing, anonymously, and from third parties. All the random staff interviewed said they would write an incident report as soon as possible (most said "within an hour") after a resident reported any sexual abuse or sexual harassment.

Residents and staff said residents have access to writing tools.

All random staff interviewed said they can report sexual abuse or sexual harassment of residents by calling or texting the PREA Coordinator or by calling James City County Children's Protective Services. Staff are aware of the posters that inform residents how to report. They said they could call any of those agencies.

Because the MC has multiple ways of reporting sexual abuse and sexual harassment and makes these known to residents through the handbook, posters, a brochure, and the PREA vide and because the residents know several of these ways to report the auditor finds that the facility exceeds the standard.

Standard**§ 115.352 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)

Section 9.11. I, "Exhaustion of Administrative Remedies. (PREA § 115.352)of the MC procedures explains the grievance procedure. The grievance procedure meets all the requirements of the standard. The auditor was told that if a resident made an allegation of sexual abuse or sexual harassment through the grievance procedure, the allegation would be immediately removed from the grievance procedure and the James City County Children's Protective Services and James City County Police Department would be notified (as required) and a PREA investigation would begin immediately."

Interviews with residents confirmed that the residents are aware of the grievance procedure and that this procedure can be used for reporting sexual abuse and sexual harassment.

Standard

§ 115.353 Resident access to outside support services and legal representation.

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

The facility has a MOU (Memorandum of Understanding) with Williamsburg-James City County Victim-Witness Program that ensures any resident victim at MC would receive follow-up services and crisis intervention services.

The MC also has a MOU with Avalon, which is very similar to the previously mentioned MOU with the Williamsburg-James City County Victim-Witness Program and states:

"AVALON agrees to:

- 1) Coordinate contact with MERRIMAC CENTER to provide advocacy when youth are brought to Riverside Hospital for sexual assault forensic exams.
- 2) Respond to calls from the MERRIMAC CENTER's youth in reference to sexual assault.
- 3) Provide follow-up services and crisis intervention contacts to victims of sexual assault at MERRIMAC CENTER, as resources allow.
- 4) Work with designated MERRIMAC CENTER officials to obtain security clearance and follow all facility guidelines for safety and security, as necessary.
- 5) Maintain confidentiality of communications with clients detained at MERRIMAC CENTER."

The auditor was very impressed with how well the residents knew that outside support services were available. While a few residents could not remember the names of the agencies the majority of the residents said they know the names are on the poster that are displayed throughout the facility. Some residents even noted that many of the signs were created by the residents themselves. This is an excellent way for residents to learn of the services. In addition, MC has a MOU with two agencies that provide support and help to victims of sexual abuse. The auditor finds the facility exceeds the standard.

Standard

§ 115.354 Third-party reporting.

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

The MC has an easily identifiable PREA page on the facility's website. Included on that page are instructions on how parents and third-parties (i.e., staff members, family members, attorneys, fellow residents, or any other interested party) can report an allegation of sexual abuse or sexual assault. Five options are listed, including a fillable form that a parent or third party can complete and email directly to the PREA Coordinator. The auditor completed the form and found it easy to complete. Because this facility has several options for third party reporting and an easy to use PREA reporting form on its website, the auditor finds that this facility exceeds the requirements of the standard.

**Standard Official Response Following a Resident Report
§ 115.361 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)

Section 9.14.H. Initial Report and Separation (PREA §115.351) in the PREA Policy Manual, states:

1. "Any resident may report acts of sexual assault to any employee, contract employee or volunteer using available methods of communication, including but not limited to: verbal reports, Grievances, and/or medical/mental health slip/sick call and/or third party reporting.
2. Anyone that receives a report of an alleged sexual assault, whether verbally or in writing will immediately notify the Shift Supervisor. The Shift Supervisor and any staff with knowledge of the alleged assault shall complete the PREA Incident Report before the end of their shift and submit to the PREA Coordinator. The Shift Supervisor will inform Administration and the PREA Coordinator.
3. The shift supervisor ensures the alleged victim and alleged suspect are physically separated and placed on different units until the matter is resolved. In the case of staff involvement, the staff will be placed in a non-resident contact duty status where he/she is taken completely out of the facility's resident population area until the matter is resolved. Once separated, designated staff or Supervisors will conduct preliminary inquiries with residents or staff regarding resident on resident or staff on resident alleged sexual assaults.
4. The alleged victim is immediately taken to the Clinic for initial evaluation and any immediate first aid treatment."

All the random staff interviewed by the auditor described how they would report any allegation of sexual abuse or sexual harassment. They also acknowledged that they are mandatory reporters under the laws of Virginia. A review of the investigation files confirmed that the staff had promptly reported allegations of resident-on-resident sexual abuse and staff-on-resident sexual abuse.

Medical and mental health practitioners stated they would immediately report any allegation or evidence of sexual abuse to the Shift Supervisor and the PREA Coordinator and call James City County Social Services, Child Protective Services. The mental health therapist stated she had reported an allegation of sexual abuse to the PREA Coordinator the week before the audit. The practitioners also stated they inform residents of the practitioners' duty to report any allegations of sexual abuse or sexual harassment and the limitations of confidentiality.

MC immediately notifies James City County Social Services Child Protective Services, the Court Services Unit, the Virginia Department of Juvenile Justice, and the James City County Police Department of any allegation of sexual abuse. The notification to parents, caseworkers, and attorneys is normally done within 24-hours of the allegation.

**Standard
§ 115.362 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)

Every staff member interviewed by the auditor provided specific information on what he/she would do if he/she learned that a resident was at substantial risk of imminent sexual abuse. The auditor was told that the first step would be to immediately remove the resident from the threat, keep the resident with the staff member and notify the shift supervisor. All the staff reported that they have been trained on these procedures.

Standard

§ 115.363 Reporting to other confinement facilities.

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

The MC PREA Policy Manual states:

"Reporting to other confinement facilities. (PREA § 115.363)

(a) Upon receiving an allegation that a resident was sexually abused while confined at another facility, the Executive Director (head of the facility) that receives the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred and shall also notify the appropriate investigative agency.

(b) Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.

(c) The Merrimac Center shall document that it has provided such notification.

(d) The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards."

There have no allegations made by any resident at MC that he/she was sexually abused while confined at another facility.

Standard

§ 115.364 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)

The MC PREA Policy Manual states:

"Section 9.11 Reporting/First Response to Sexual Assaults (PREA §115.365)

An initial administrative inquiry is conducted by the PREA Coordinator and documented in Incident Report form whenever an allegation of sexual assault is reported. Allegations of sexual assault threats will be reviewed by the Executive Director or Designee. Such allegations are treated with discretion and, to the extent permitted by law, confidentially. The "Sexual Assault Report" (Part A, B and C) is completed for all allegations of sexual assault.

H. Initial Report and Separation (PREA §115.351)

5. Any resident may report acts of sexual assault to any employee, contract employee or volunteer using available methods of communication, including but not limited to: verbal reports, Grievances, and/or medical/mental health slip/sick call and/or third party reporting.
6. Anyone that receives a report of an alleged sexual assault, whether verbally or in writing will immediately notify the Shift Supervisor. The Shift Supervisor and any staff with knowledge of the alleged assault shall complete the PREA Incident Report before the end of their shift and submit to the PREA Coordinator. The Shift Supervisor will inform Administration and the PREA Coordinator.
7. The shift supervisor ensures the alleged victim and alleged suspect are physically separated and placed on different units until the matter is resolved. In the case of staff involvement, the staff will be placed in a non-resident contact duty status where he/she is taken completely out of the facility's resident population area until the matter is resolved. Once separated, designated staff or Supervisors will conduct preliminary inquiries with residents or staff regarding resident on resident or staff on resident alleged sexual assaults.
8. The alleged victim is immediately taken to the Clinic for initial evaluation and any immediate first aid treatment.
9. Follow the Coordinated Response to a Sexual Assault."

During the interviews, every randomly selected staff member provided specific information on how he/she would respond to an allegation of sexual abuse. The first step would be to separate the victim from the abuser. The supervisor would be immediately notified. The crime scene would be sealed off to preserve and protect any evidence. The resident would be instructed not to wash, use the toilet facilities or change clothes. The victim would be taken to the nurse. If the nurse was not available, the victim would be transported to the hospital. The non-security staff member interviewed described the same procedures.

In the two allegations of sexual abuse that were investigated, it was determined early in the investigation that the nature of the allegations did not require the preservation of evidence other than maintaining the video recordings.

Standard

§ 115.365 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)

Chapter 5 of the MC Program Procedures Manual states:

"Coordinated Response to Sexual Abuse. (PREA § 115.365)

The Merrimac Center will implement the S.A.R.T. institutional plan to coordinate actions taken in response to an incident of sexual abuse among staff. A S.A.R.T. team includes first responders, medical and mental health practitioners, facility investigators, law enforcement, sexual assault advocates, Riverside Hospital S.A.N.E. nurses, Williamsburg/James City County Victim Witness program staff and facility leadership."

The Coordinated Response Plan/S.A.R.T is stated in the PREA Policy Manual in Section 9 as follows:

"Upon learning of an allegation that a resident was sexually abused, the first staff member to respond to the report shall be required to:

- (1) Separate the alleged victim and abuser; if the abuser is a staff member the Supervisor on Duty with consultation from an Administrator will determine if an employee's inappropriate behavior poses an immediate threat to the safety or discipline of other employees or to detained youth, he / she will immediately suspend the employee.
- (2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;
- (3) If the abuse occurred within a time period (120 Hours / 5 Days) that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
- (4) If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.

From this point forward the PREA Coordinator will continue the Coordinated Response to Sexual Assault, by completing the following actions:

- (5) James City County Police will be called by the SOD or the PREA Coordinator during business hours and asked to respond to an investigation of an alleged sexual assault in accordance with our (M.O.U.).
- (6) Notify Administration during normal business hours and the On-call Administrator after hours. The PREA Coordinator will be notified immediately.
- (7) The victim-Resident will be required to be transported to Riverside Hospital and be seen by a Sexual Assault Nurse Examiner (S.A.N.E.). Call ahead at (757)-594-3983 or page the on-call (SANE) at (757)-881-3375.
- (8) The PREA Coordinator will call a rape crisis counselor from Avalon (757) 258-5022 and an advocate from Williamsburg-James City County Victim-Witness Program (757) 564-2299. Per M.O.U. these service providers will come to the facility only.
- (9) If a staff member is the alleged abuser the PREA Coordinator will call the James City County Social Services (CPS). If the call is made during normal hours call (757-259-3210) or the state hotline at 1-800-552-7096 after hours.
- (10) Merrimac Center also has certified Sexual Assault Advocates that can respond to facility or hospital and perform advocacy services.
- (11) Parents, legal guardians, Attorney for the resident-victim, CSU and the Department of Juvenile Justice will be notified by the PREA Coordinator and / or Executive Director.
- (12) All steps are to be fully documented.
- (13) Merrimac Center will ensure that an administrative and / or criminal investigation is completed within 90 days for all allegations of sexual abuse and sexual harassment and that no staff or resident will face retaliation for their reporting of sexual abuse or harassment. The facility may claim an extension of an additional 70 days and the victim-resident will be informed of the findings."

The auditor was told that the victim would also be seen by the mental health therapist upon returning to the facility. If the therapist is not on duty, the facility would call the Colonial Behavioral Health to request a crisis intervention worker to see the victim.

As previously noted, while the two allegations of sexual abuse did not require any forensic tests, the staff did follow the Coordinated Response Plan in all other respects.

Standard

§ 115.366 Preservation of ability to protect residents from contact with abusers.

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

■ Not Applicable

Employees are not in a collective bargaining unit and there is no contract. The Commonwealth of Virginia is a Right-to-Work state.

Standard

§ 115.367 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)

The MC PREA Policy Manual states:

"Section 9.23 Protection Against Retaliation: (PREA §115.367)

A. MERRIMAC CENTER will protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff.

B. MERRIMAC CENTER will employ multiple protection measures, including housing changes or transfers for resident victims or abusers, removal of alleged staff or resident abusers from contact with victims, and emotional support services for residents or staff that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

C. MERRIMAC CENTER will monitor the conduct or treatment of residents or staff who have reported sexual abuse or cooperated with investigations, including any resident disciplinary reports, housing, or program changes, for at least 90 days following their report or cooperation, to see if there are changes that may suggest possible retaliation by residents or staff, and shall act promptly to remedy any such retaliation. MERRIMAC CENTER will continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need."

The PREA Coordinator is the staff member responsible for monitoring for retaliation against residents and staff who report sexual abuse or sexual harassment or who participate in a PREA investigation.

The PREA Coordinator stated that he would meet with the staff member or resident who reported a sexual abuse incident to inform the person that he will be responsible for protecting them from any possible retaliation. He said for staff he would monitor any increase in absences, shift changes, and performance behavior issues. The PREA Coordinator would have direct conversations with the staff member at least every other day. If necessary, the PREA Coordinator said he would refer the employee to the Employee Assistance Program in the County. He said he would monitor for retaliation for several months to ensure it does not become an issue.

Regarding residents, the PREA Coordinator said he would monitor the resident's behavior, signs of trauma, disciplinary reports (i.e., point sheets), and the resident's participation in activities. The PREA Coordinator said the mental health therapist would also assist in monitoring for retaliation. Monitoring of the resident would continue until the resident was released from the facility.

The auditor reviewed four closed PREA investigations. There was documentation in the files that confirmed the residents who reported the allegations (three resident-on-resident sexual harassment and one staff-on-resident sexual abuse) were monitored according to the facility's procedures.

Standard

§ 115.368 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)

The auditor was told that there have not been any cases in which a resident was placed in an observation room as a result of being a victim of sexual abuse. No victim of sexual abuse or sexual harassment would be in an observation room for 30 days under any circumstances.

If a resident who was a victim of an alleged sexual abuse was in an observation for any period, MC would follow the requirements of Standard 115.342

Standard Investigations

§ 115.371 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)

The MC PREA Policy Manual references investigation procedures in three sections, as follows:

"Section 9.5 PREA §115.321,115.322 Evidence Protocol Policies to ensure referrals of allegations for investigations

1. For purposes of investigation, MERRIMAC CENTER will only conduct initial inquiries of all reported incidents of sexual abuse, neglect and misconduct. Investigations may be completed by any combination of the following agencies: James City County Police Department, James City County Department of Social Services, Department of Juvenile Justice, Virginia State Police, and Office of the Inspector General, Federal Bureau of Investigation and Williamsburg / James City County Commonwealth Attorney. In the event of a reported incident of sexual abuse, MERRIMAC CENTER will coordinate actions among staff first responders, medical and mental health practitioners, investigators and facility leadership. (PREA § 115.371)
2. Substantiated allegations of conduct that appears to be criminal will be referred for prosecution. (PREA § 115.371)
3. MERRIMAC CENTER will retain such investigative records for as long as the alleged abuser is placed or employed by MERRIMAC CENTER, plus five years. (PREA § 115.371)
4. The departure of the alleged abuser or victim from the employment or control of the facility will not provide a basis for terminating an investigation. (PREA § 115.371)
5. Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to § 115.371, must meet the specialized training requirements pursuant to § 115.334, and must follow uniform forensic evidence protocol pursuant to § 115.321. (PREA § 115.371)

6. When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation. (PREA § 115.371)

7. MERRIMAC CENTER will impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated. (PREA § 115.372)”

“Section 9.12 General Administrative Inquiry Guidelines (PREA §115.387, 388, 389)

All records associated with claims of sexual assault including incident reports, investigation reports, resident information, case disposition, medical and counseling evaluative findings and recommendations for pre and post-release treatment and counseling are retained in the residents medical and program case file record.

1. A “PREA Incident Report” will be completed by the Executive Director or Designee upon completion of the investigation and is included in the administrative report, along with PREA Preliminary Inquiry Interview Form. The “PREA Incident Report” is retained by administration for reporting purposes.

A. Inquiry Techniques (PREA §115.371)

Interviews are conducted in a thorough, professional, non-abusive and non-threatening manner. Action and exploration of findings consistent with acceptable practice are employed to help potentially traumatized victims of sex crimes.

B. Inquiring of Sexual Assaults

Staff will consult with, and have available during interviews, a mental health support staff/advocate. Allegations which include intercourse, sodomy or physical force will require consultation with medical and mental health staff.

C. Preservation of Evidence in Recent Sexual Assault (PREA §115.364)

a. Physical Evidence – Victim

(1) In preparation for transporting the alleged victim to the hospital’s emergency room the resident is provided and instructed to undress over a clean sheet to collect any potential forensic evidence that may fall from the person. The sheet along with the resident’s clothing is collected as evidence and placed in a paper bag with an appropriate chain of evidence form.

(2) Forensic evidence collected by the hospital emergency staff is gathered and delivered to investigating agency through appropriate protocol(s). When the alleged victim returns from off-site emergency medical care, treatment, safety and security is used to determine placement.

b. Physical Evidence – Resident Suspect: (PREA §115.364)

(1) Immediately upon being identified as the alleged suspect, the resident will be instructed to undress over a clean sheet to collect any potential forensic evidence that may fall from the person. The sheet along with the alleged suspect’s clothing is collected as evidence and placed in a paper bag with an appropriate chain of evidence form attached.

(2) Thereafter, the alleged suspect under investigation is held in confinement in accordance with the behavior management program.

(3) During the course of the inquiry and/or investigation, the alleged victim and alleged suspect remain separated.

c. Physical Evidence - Crime Scene: (PREA §115.364)

- (1) Based upon the amount of time passed since the alleged incident and other factors, a determination is made to assess whether there is a possibility of evidence still existing at the crime scene. If determined that a possibility of evidence still exists, and if possible, the crime scene is secured and any potential evidence remains for the investigating agency examination.
- (2) If the crime scene cannot be secured, the crime scene is photographed and/or video-taped and if any evidence exists, placed in a paper bag with a chain of evidence form attached.
- (3) If a potential crime scene is established, limited access is authorized and a log maintained.

2. Inquiry of Sexual Assaults Occurring More than 96 Hours Prior

If the alleged sexual assault is reported or discovered more than 96 hours after the incident, in addition to applicable provisions in Section VIII. Item D., the following steps are taken by the Supervisor in charge:

- a. If feasible, secure the alleged crime scene, as forensic evidence may exist.
- b. Place the alleged victim in an environment to assure safety and security.
- c. Place the alleged resident suspect, if known, in confinement or if a staff member, ensure separation from the victim.
- d. Notify the Executive Director and / or PREA Coordinator and the Mental Health Clinician. If the Mental Health Clinician is not on-site, he/she is notified by phone.

2. Interviewing and Reporting Guidelines (PREA §115.353)

- a. A clinician, case manager and/or child advocate is permitted to sit in on any victim interviews if requested by the victim.
- b. An incident report to the Executive Director will document the incident and treatment of the alleged victim.

The investigative report completed by CPS, DJJ and Law Enforcement indicates whether the evidence substantiates that a sexual assault has occurred or the allegations are unsubstantiated or unfounded.

The Executive Director or Designee will complete the "PREA Incident Report" and include it with the investigative report. If there is a substantiated finding of sexual assault, which violates state statute, a copy of the report and supporting documentation/ evidence is forwarded to the appropriate jurisdiction for possible criminal prosecution.

c. Prosecutions

The Executive Director or Designee thoroughly documents each case to assure evidence in the event of criminal prosecution of sexual assault.

d. Tracking of Confirmed Sexual Assault Perpetrators

The Executive Director or Designee will gather information regarding sexual assault. The information will be obtained from the "PREA Incident Report" and completed investigations.

- (1) Information gathered will be entered into the sexual assault spreadsheet and confirmed predators will be entered into the Juvenile Tracking System (JTS).
- (2) Confirmed sexual perpetrators will also be entered into the Merrimac Center's data management system and alert flags will be utilized to monitor the movements of such residents.
- (3) The Executive Director or Designee will submit information regarding sexual assault to the United States Census Bureau as required by PREA."

Lastly, Section 9.25 Sexual Contact - Staff first responder duties. (PREA § 115.364) states:

"Merrimac Center will ensure that an administrative and / or criminal investigation is completed within 90 days for all allegations of sexual abuse and sexual harassment and that no staff or resident will face retaliation for their reporting of sexual abuse or harassment. The facility may claim an extension of an additional 70 days and the victim-resident will be informed of the findings."

MC has a MOU with the James City County Police Department (JCCPD). The JCCPD will investigate allegations of sexual abuse at MC. The JCCPD agrees to follow the training and protocol requirements of the PREA Juvenile Facility Standards.

As previously mentioned, the auditor reviewed the four closed investigations and a recent open investigation. Each of the investigations was conducted by the PREA Coordinator who is one of the trained PREA investigators in the facility. The auditor found that all the investigations were done promptly, thoroughly, and objectively. Three (3) of the investigations involved allegations of resident-on-resident sexual harassment. Of these, one allegation was substantiated and two were unsubstantiated. One investigation alleged staff-on-resident sexual abuse. This investigation finding was unfounded. The resident in the alleged sexual abuse incident had complained about the way a search was conducted. The resident was informed of the outcome of the investigation. A fifth allegation was still in the investigative stages. This was an allegation of resident-on-resident sexual harassment.

All of the staff who are PREA investigators have received PREA Investigator Training and PREA basic training that all employees receive.

Standard

§ 115.372 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)

The PREA Policy Manual states:

"MERRIMAC CENTER will impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated. (PREA § 115.372)"

Standard

§ 115.373 Reporting to residents.

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

Section 9.13 Reporting to Residents (PREA §115.373) states

a. "Following an investigation into a resident's allegation of sexual abuse suffered in the facility, MERRIMAC CENTER will inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

- b. MERRIMAC CENTER will request all relevant information from the investigative agency in order to inform the resident.
- c. Following a resident’s allegation that a staff member has committed sexual abuse, MERRIMAC CENTER will subsequently inform the resident whenever:
- (1) The staff member is no longer posted within the resident’s unit;
 - (2) The staff member is no longer employed at the facility;
 - (3) MERRIMAC CENTER learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
 - (4) MERRIMAC CENTER learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

This requirement shall not apply to allegations that have been determined to be unfounded.”

In the investigation of the allegation of staff-on-resident sexual abuse there was confirmation that the resident had received the written disposition of the investigation.

Standard Discipline
§ 115.376 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)

MC PREA Policy Manual, Section 9.20, Staff Sanctions: (PREA § 115.376) states:

- A. Staff will be subject to disciplinary sanctions up to and including termination for violating MERRIMAC CENTER PREA and/or Harassment Policies.
- B. Termination will be the presumptive disciplinary sanction for staff who has engaged in sexual touching.
- C. Sanctions will be commensurate with the nature and circumstances of the acts committed, the staff member’s disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
- D. All determinations for violations of MERRIMAC CENTER PREA and/or Harassment Policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.”

No MC employees have been disciplined for any allegations of sexual abuse or sexual harassment.

Standard
§ 115.377 Corrective action for contractors and volunteers.

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

The facility's policy regarding prohibited conduct on the part of staff, volunteers, and contractors states, "The prohibited conduct identified below applies to all employees, volunteers and contract staff of MERRIMAC CENTER. Sexual conduct between staff and residents is prohibited and subject to administrative disciplinary sanctions and referred for prosecution."

The auditor interviewed the MC Executive Director who informed the auditor that any contractor or volunteer who engages in sexual abuse would be immediately removed from the facility and reported to the James City County Police Department and to relevant licensing bodies, unless the activity was clearly not criminal. The Executive Director added that the facility would take appropriate remedial measures, and consider whether to prohibit further contact with residents, in the case of any other violation of MC sexual abuse or sexual harassment policies by a contractor.

The Executive Director said no MC volunteers or contractors have been disciplined for any allegations of sexual abuse or sexual harassment policies.

Standard

§ 115.378 Interventions and disciplinary sanctions for residents.

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

Section 9.21 Disciplinary Sanctions for Residents: (PREA § 115.378) in the MC PREA Policy Manual states:

- A. "Residents will be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse or following a criminal finding of guilt for resident-on-resident sexual abuse.
- B. Sanctions will be commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories.
- C. The disciplinary process shall consider whether a resident's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
- D. MERRIMAC CENTER will offer therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, and consider whether to require the offending resident to participate in such interventions as a condition of access to programming or other benefits.
- E. MERRIMAC CENTER will discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
- F. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.
- G. Due to the resident's custody or supervision status, no prohibited act of sexual misconduct or harassment between a staff member and a resident can have as an affirmative defense, a claim of consent."

The facility has not had a substantiated case of resident-on-resident sexual abuse during the audit cycle. There was one substantiated case of resident-on-resident sexual harassment. In that case the resident did receive sanctions consistent with the facility's behavior management program.

Standard Medical and Mental Care

§ 115.381 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)

In Section 9.10 Screening and Assessment of the PREA Policy Manual, it states:

“All residents receive a mental health and Vulnerability Assessment screening at within 72 hours of initial intake. These screenings include potential vulnerabilities or tendencies related to sexually aggressive behavior. As determined appropriate and whenever possible, a single occupancy cell will be assigned. (PREA § 115.341)

Any housing concerns noted during the screenings regarding a resident's history of sexual abuse-victimization or sexual predatory behavior is communicated to the facility administrators and recorded in the resident's file. (PREA § 115.342)

A. Any resident who at any time displays predatory behavior or the potential for victimization will be referred for appropriate mental health evaluation. (PREA § 115.341)

B. Once a resident is identified as a High Risk Sexual Predator (HRSP) or as a victim/potential victim (Vulnerable Population) at any time during his/her placement, the resident is evaluated for appropriate assignment and programs. (PREA § 115.342)

C. Residents with a history of sexually violent behavior are identified, monitored and counseled. (PREA § 115.341)

C. Residents at risk for sexual victimization is identified, monitored and counseled (Vulnerable Populations.) Residents included in this category may be younger, of small stature, first time offenders or perceived by other residents as weak. The Risk Level will be reviewed periodically. (PREA § 115.341)

D. All residents at this facility who have disclosed any prior sexual victimization during a screening pursuant to §115.341 are offered a follow-up meeting with a medical or mental health practitioner. This follow up meeting will be within 14 days. (PREA § 115.381)”

Subsection D of Section 9.14 of the PREA Policy Manual, Medical Services Responsibilities (PREA §115.382, 383), states:

“A. Screening and History of Sexual Abuse (PREA §115.341)

1. MERRIMAC CENTER will ask residents about prior sexual victimization during the intake process or classification screenings.
2. If a resident discloses prior sexual victimization, whether it occurred in an institutional setting or in the community, MERRIMAC CENTER will ensure that the resident is offered a follow-up reception with a medical or mental health practitioner within 14 days of the intake screening and documented in Chronological notes.
3. Unless such intake or classification screening precedes adjudication, the facility shall also ask residents about prior sexual abusiveness.

4. Subject to mandatory reporting laws, any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as required by MERRIMAC CENTER and Federal, State, or local law, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments.

Medical and mental health practitioners shall obtain informed consent from residents before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the resident is under the age of 18. (PREA §115.381)“

The auditor interviewed two (2) females residents who disclosed prior sexual victimization during screening. The two residents said they were asked if they wanted to see the nurse or doctor and the mental health therapist. One resident said she did not want to talk about it anymore because it happened when she was much younger and she received counseling in the past. The second resident said she does not recall if she was asked this time because she was under the influence of drugs at the time of admission. She stated that she does remember being asked if she wanted to see the doctor, nurse, or mental health therapist the last time she was admitted to the facility. She said that the sexual abuse incident happened earlier in her life. She said the PREA Coordinator also asked her about it and she felt the staff were very helpful, but she did not need to see the nurse or the therapist. A third female resident reported being physically abused. The MC staff reported the allegation to James City County Child Protective Services. The resident said she was asked if she wanted to see the mental health therapist and she said she did. She stated the therapist saw her within two days. She is still seeing the mental health therapist.

Standard

§ 115.382 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)

Section 9.14 of the PREA Policy Manual, Medical Services Responsibilities (PREA §115.382, 383), states“

A. “Medical Care for MERRIMAC CENTER Residents (Alleged Victims and Alleged Suspects)

Medical Services follows established protocol, which includes provisions for initial examination, documentation, transport to local emergency medical care when appropriate, testing for sexually transmitted diseases (including an HIV test) with counseling as appropriate, prophylactic treatment, follow up and mental health counseling and support.

A. Guidelines for Medical Care and Investigations at Community Medical Facilities

Victims of sexual assault are referred under appropriate security provisions to a community-based health care provider or hospital. MERRIMAC CENTER medical staff will not conduct forensic examinations.

B. Mental Health Care Provider (PREA §115.383)

The qualified mental health provider (QMHP), Medical Director and Child Advocate Agency is notified as soon as possible, but no later than the next business day of all alleged sexual assaults. After providing mental health counseling, the QMHP consults with the investigator regarding the investigation. Appropriate assistance/mental health services will be available to the resident victim(s) of sexual assault.

Subsection E states:

E. "Access to Emergency Medical and Mental Health Services (PREA §115.382)

1. Resident victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.
2. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser.
3. If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, staff first responders shall take preliminary steps to protect the victim and shall immediately notify the appropriate medical and mental health practitioners.
4. Resident victims of sexual abuse while in placement shall be offered timely information about and access to all pregnancy-related medical services that are lawful in the community and sexually transmitted infections prophylaxis, where appropriate."

MC has a MOU with Riverside Health Systems (Riverside Doctors' Hospital Williamsburg) to treat any resident of the facility who is a victim of sexual abuse including providing forensic exams by a Sexual Assault Nurse Examiner. MC has not had to have any resident treated for a sexual assault nor has any resident needed a forensic exam.

Standard

§ 115.383 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)

Section 9.14. F. of the PREA Policy Manual (PREA §115.382, 383), states:

F. "Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers (PREA §115.383)

1. MERRIMAC CENTER will offer ongoing medical and mental health evaluation and treatment to all residents who, during their present term of placement, have been victimized by sexual abuse.
2. The evaluation and treatment of sexual abuse victims shall include appropriate follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. Merrimac Center will assist the child victim with this service.
3. MERRIMAC CENTER will provide resident victims of sexual abuse with medical and mental health services consistent with the community level of care.
4. MERRIMAC CENTER will conduct a mental health evaluation of all known resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by qualified mental health practitioners.
5. Resident victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests."

If pregnancy results, such victims shall receive timely information about and access to all pregnancy-

related medical services that are lawful in the community.”

The MC has not had any resident of the facility who has needed on-going medical and mental health care as a result of sexual abuse.

As previously stated, MC has a MOU with Riverside Health Systems. The Riverside Doctors’ Hospital Williamsburg would treat a resident needing this level of care if the services could not be provided at the facility.

Standard Data Collection and Review
§ 115.386 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)

In Section 9.16. Sexual Abuse Incident Reviews (PREA §115.386) of the PREA Policy Manual it states:

- A. MERRIMAC CENTER will conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.
- B. The review will include administrators, investigators, and medical or mental health practitioners.
- C. The review team shall:
 - 1. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
 - 2. Consider whether the incident or allegation was motivated or otherwise caused by the perpetrator or victim’s race, ethnicity, sexual orientation, gang affiliation, or other group dynamics at the facility;
 - 3. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
 - 4. Assess the adequacy of staffing levels in that area during different shifts;
 - 5. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
 - 6. Prepare a report of its findings and any recommendations for improvement and submit such report to the licensing authority.”

The auditor reviewed four (4) completed PREA investigations and one pending investigation. Three of the four completed investigations did not require a Sexual Abuse Review Team meeting because the allegation was for sexual harassment and two of the three were found unsubstantiated. The third was substantiated. The fourth completed investigation was for an allegation of staff-on-resident sexual abuse and was determined to be unfounded.

The incident review team members include the Executive Director, the Deputy Director, the Operations Manager/PREA Coordinator, a nurse, and the mental health therapist. Additional members of the management team (i.e., shift supervisors) can be added as needed.

Standard

§ 115.387 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)

In the PREA Policy Manual, Section 9.15 Merrimac Center Reporting/ Database Requirements (PREA §115.387) it states:

"MERRIMAC CENTER will maintain a record of all reported incidences of sexual assault.(PREA §115.387)

A. Records

The following categories are designated by Bureau of Justice Uniform Crime Reports. Records document the following:

1. Victim Information

- a. Date of incident(s);
- b. Facility;
- c. Number of victims;
- d. Gender of victim(s);
- e. Age category of victim(s);
- e. Race/ethnic origin of victim(s);
- f. Location and time of incident(s);
- g. Injuries sustained by the victim(s) during the incident(s);
- h. Medical treatment, counseling or mental health treatment, testing for HIV/AIDS or other sexually transmitted diseases, or rape kit provided or administered to the victim(s);
- j. Person(s) who reported the incident;
- k. Steps taken to protect the victim(s); and
- l. Type of sexual assault (resident-on-resident nonconsensual sexual act or abusive sexual contact or staff sexual misconduct or harassment).

2. Resident-on-Resident Perpetrator Information

- a. Number of perpetrators;
- b. Gender of perpetrator(s);
- c. Age category of perpetrator(s);
- d. Race/ethnic origin of perpetrator(s);
- e. Nature of the incident;
- f. Type of pressure or physical forces used by the perpetrator(s) on the victim(s); and
- g. Sanctions imposed on the perpetrator(s).

3. Staff-on-Resident Perpetrator Information

- a. Nature of the incident;
- b. Number of staff involved;
- c. Gender of the staff member(s);
- d. Race/ethnic origin of staff member(s);
- e. Staff classification (i.e. full- or part-time employee, contract employee, vendor, etc);
- f. Primary position description of staff member(s); and

g. Sanctions imposed on the staff member(s).”

The Executive Director and the PREA Coordinator reported that the data is carefully reviewed at least annually to identify trends or areas that need corrective actions. The Merrimac Center may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, and will indicate the nature of the material redacted.

Standard

§ 115.388 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)

In the PREA Policy Manual, Section 9.17 Annual Data Review for Corrective Action (PREA §115.388) it states:

A. “MERRIMAC CENTER will review data collected from all reports of sexual abuse in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:

1. Identifying problem areas;
2. Taking corrective action on an ongoing basis; and
3. Preparing an annual report of its findings and corrective actions.

B. Such report shall include a comparison of the current year’s data and corrective actions with those from prior years and shall provide an assessment of MERRIMAC CENTER progress in addressing sexual abuse.

C. The report shall be approved by the Executive Director and made readily available to the public through its website or, if it does not have one, through other means.

D. The Merrimac Center may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.”

The PREA Coordinator showed the auditor how he uses the data in order to improve the sexual abuse policies and procedures. He also said the information is used to strengthen employee PREA training.

Standard

§ 115.389 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)

Section 9.18 Data Storage, Publication, and Destruction (PREA §115.389)

A. MERRIMAC CENTER will ensure that data collected on all reports of sexual abuse is securely retained.

B. MERRIMAC CENTER will make all aggregated sexual abuse data readily available to the public at least annually through its website or, if it does not have one, through other means.

C. Before making aggregated sexual abuse data publicly available, MERRIMAC CENTER will remove all personal identifiers.

D. MERRIMAC CENTER will maintain sexual abuse data for at least 10 years after the date of its initial collection unless Federal, State, or local law requires otherwise.”

The PREA Coordinator is responsible for ensuring that the data collected pursuant to Standard 115.387 is securely retained. The PREA Coordinator told the auditor the data is securely maintained on the computer in his office. Access is limited to only those who have a need to know.

AUDITOR CERTIFICATION:

The auditor certifies that the contents of the report are accurate to the best of his knowledge and no conflict of interest exists with respect to his ability to conduct an audit of the agency under review. The auditor finds that as of August 19, 2016, the Merrimac Center in Williamsburg, Virginia meets the requirements of the Prison Rape Elimination Act, Juvenile Facility Standards.



Auditor Signature

July 4, 2017

Date