

STATE OF MONTANA BOARD OF PARDONS AND PAROLE



POLICY MANUAL

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TABLE OF CONTENTS

POLICY PREAMBLE – BOPP OPERATION PROCEDURES MANUAL, MISSION STATEMENT, STATUTORY AUTHORITY, & GLOSSARY 2

CHAPTER 1: ADMINISTRATION AND MANAGEMENT

1.1 Department of Corrections Coordination..... 11

1.2 Media Relations 13

1.3 Legal Assistance for Staff..... 17

1.4 Tribal Government Relations..... 20

1.5 Employee Dress Uniform and Hygiene 22

1.6 Social Media 24

1.7 Public Communication 27

1.8 Prison Rape Elimination Act of 2003 (PREA)..... 30

CHAPTER 2: FISCAL MANAGEMENT

2.1 Accounting Procedures 48

2.2 Inventories and Public Records Management 50

2.3 Procurement 52

2.4 Employee Travel 55

2.5 Fleet Vehicle Operation & Management 57

CHAPTER 3: HUMAN RESOURCES

3.1 Performance and Conduct 67

3.2 Worker’s Compensation/Early Return to Work..... 72

3.3 Employee Time Management 76

3.4 Staff Association and Conduct with Offenders..... 78

3.5 Americans with Disabilities Act (ADA) 82

3.6 Performance Evaluations..... 85

3.7 Workplace Family Relationships..... 87

3.8 Criminal Conviction in Employment 89

CHAPTER 4: OPERATIONAL PROCEDURE

4.1 Conditional Discharge from Supervision 94

4.2 Victim Services 97

4.3 Institutional Screening..... 101

4.4 Public participation in Hearing from BOPP Office..... 105

BOPP OPERATION PROCEDURES MANUAL

The Board of Pardons and Parole, as an essential part of the criminal justice process, serves all Montana Citizens by administering a parole system that is balanced with public safety, offender accountability and rehabilitation, as well as, protecting the interests of victims and communities, with the goal of successfully reintegrating merited offenders back into society through a reentry process. All employees and members of the Board of Pardons and Parole are committed to securing the effective application of and improvements to the clemency and release system, as well as the laws upon which they are based. The parole process is carried out in an effective, fair, safe, and efficient fashion.

MISSION STATEMENT

The Montana Board of Pardons and Parole is committed to a parole and pardon system that promotes fair and consistent decisions based on public safety, victim concerns, successful inmate re-entry and sensible use of state resources. Further, evidence-based strategies and technologies in decision-making to promote risk reduction. Collaborate with available community and state stakeholders to promote positive reintegration. Implement policies and procedures that best promote best professional practices.

STATUTORY AUTHORITY

2-15-121, MCA:

Defines the administrative attachment of the Board of Pardons and Parole. Define the requirements of quasi-judicial boards.

2-15-124, MCA:

Define the requirements of quasi-judicial boards

2-15-Part 23, MCA:

Montana Board of Pardons and Parole. Composition and qualifications.

46-23-Part 1, MCA:

Establishes and defines the general provisions of the Board of Pardons and Parole.

46-23-Part 2, MCA:

Establishes the general provisions for granting parole and defines the authority and responsibilities of the Board of Pardons and Parole.

46-23-Part 3, MCA:

Establishes and defines the conditions, authorities, and responsibilities of the Board of Pardons and Parole for Executive Clemency.

46-23-Part 10, MCA:

Establishes and defines the conditions, authority, and responsibilities for supervision and revocation

GLOSSARY

Administrative Decision - an action by the Board on an inmate/offender/parolee that is undertaken without the offender being present such as addition of special conditions for a parolee already in the community.

Administrative Review Cases - offenders previously seen and heard by the Board whose cases are scheduled for an administrative progress review.

Adult Offender - any offender incarcerated in a Department of Corrections facility such as Montana State Prison, Montana Women's Prison, regional and private prisons.

Adult Pre-Release Center - a residential facility for adult offenders, located in a community, which offers room and board, supervision, counseling, and treatment.

Alpha - the pre-release center located in Billings, Montana, which houses male offenders.

Assisted Living - residential or supportive services which provide help with day-to-day tasks, without which services an offender could not successfully be maintained in a community placement. Assisted Living Services are only considered for clinically necessary indications.

Bloodborne Pathogens - pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, Hepatitis B virus (HBV) and Human Immunodeficiency Virus (HIV).

Board - the Board of Pardons and Parole as authorized in 2-15-2302 and 46-23-104, MCA and are appointed by the governor. Board members shall serve staggered 6-year terms. The terms of board members run with the position, and if a vacancy occurs, the governor shall appoint a person to fill the unexpired portion of the term.

Butte Pre-Release Center - the pre-release center in Butte, Montana, housing both men and women offenders, abbreviated-BPRC.

Capital Offense - an offense for which the District Court imposed the death penalty.

Case Continued - If an inmate refuses to waive due to their misconduct, (the Board cannot accept an unsigned waiver if they refuse), the case manager notifies the Board. In turn, the Board will send an inmate "Case continued" disposition articulating the reason and nature of circumstances. At that time, an inmate will automatically be scheduled for a hearing in 6 months. If an inmate would like to see the Board prior to said 6 months, a request can be made to the Board. Inmates may request to see the Board with legal counsel present during the scheduled hearing. The hearing will be case continued until legal counsel can be present (in most cases, legal counsel will notify the Board in advance) A continued disposition is rendered.

Chronic Care - identification, monitoring and appropriate treatment for illnesses and conditions which have been diagnosed as chronic by the offender's primary care physician. Typically, in correctional medicine, the following diseases are designated for chronic care clinics: hypertension, cardiovascular problems, pulmonary disease, diabetes, seizure disorder, infectious diseases, and psychiatric problems.

Commitment Paper - a document signed by the committing Judge, and certified by the Clerk of Court, placing an offender under the jurisdiction of the Department.

Commutation - the mitigation of a criminal punishment through the substitution of a lesser sentence for a greater one.

Commencement of Sentence - to begin service of a consecutive sentence which was imposed

Conditional Release - the release to the community of an inmate under the auspices of the Department of Corrections and subject to their rules. This release is not parole release. These inmates will no longer remain eligible for parole consideration during their release. Should a Conditional Release inmate violate the conditions of his/her release and be designated to the MSP/MWP, they would then become eligible for parole when prison records advise the minimum time has been served on their sentence.

Connections Corrections Program (CCP) - a 90-day residential chemical dependency treatment program for male offenders, with two locations, in Butte and Warm Springs, Montana.

Consecutive Sentence - at least two terms are to be served one after the other. Note: If an inmate has appeared before the parole board for any action on one sentence and then is convicted of another crime, the sentence is generally consecutive. The Board may allow service of that term at any time, this is referred to as commencement of a consecutive term.

Controlling Sentence - the sentence(s) that, based on a District Court Judgment, requires the longest period of time served to parole eligibility.

Criminal History Record Information - information about individuals collected by criminal justice agencies consisting of identifiable descriptions and notations of arrests; detentions; the filing of complaints, indictments, or information and dispositions arising therefrom; sentences; correctional status; and release. This information may include identification information such as fingerprint records or photographs unless the information is obtained for purposes other than the administration of criminal justice. (44-5-103, MCA).

Crossroad Correctional Center (CCC) - the privately run prison in Shelby, Montana, designed to hold 664 adult male offenders, abbreviated-CCC.

Dawson County Correctional Facility - the regional prison in Glendive, Montana, which holds both county jail offenders and prison inmates.

Day Reporting - service that is provided by the Department or a contractor to provide enhanced supervision that may include daily contact with assigned staff, BA/UA testing, and/or employment and counseling services.

Dead Time - the time from the issuing of the warrant to the date of the prisoner's return to the custody of Montana law enforcement, the department, or the department's agent and the determination whether this time should be counted as time under this term. This also includes time served in another state for a crime committed while on parole.

Department - the Department of Corrections as authorized in 2-15-230, MCA.

Department Head - as defined in 2-15-102, MCA, means a director, commission, board, commissioner, or constitutional officer in charge of a department created by this chapter.

Detention - placement of an inmate in a secure cell/unit because of being found guilty of a major category rule infraction.

Discharge Balance Suspended - an offender has completed the incarceration portion of their sentence, however, has a probationary term to follow.

Disciplinary Hearings Officer (DHO) - Department of Corrections staff member designated to conduct inmate disciplinary hearings.

Documentary Evidence - files, records, logs, etc. (helpful for corroboration of both physical and testimonial evidence).

Drug- any substance described in 50-32-101, MCA, et.seq., or any substance, taken through any means of administration, which alters the mood, the level of perception, or brain functioning. Such substances may range from prescription medications to illegal substances, as well as alcohol and solvents.

Electronic Offender Record - a record that is stored in a computer, disk, or other electronic medium.

Elkhorn - the methamphetamine treatment program for female offenders in Boulder, Montana.

Emergency Staff Services Coordinator - the person assigned by the Facility/Program Administrator to coordinate Emergency Staff Services.

Enhanced /Transitional Supervision Services (ETSS) - The Programs and Facilities Bureau coordinates Enhanced/Transitional Supervision Services (ETSS), focused on offenders integrating back into the community, or offenders who are not in compliance with their supervision conditions and require additional monitoring.

Executive Clemency - Reviewing requests for executive clemency, (including pardon; commutation; respite; or remission of fines or forfeitures) and making recommendations to the Governor. Montana Constitution vests sole authority to grant/deny clemency in the Governor. The Governor authority to review the Board's clemency recommendations and make a final, binding determination.

Extended Review - those offenders the Board has determined to be more appropriately reviewed over a longer period of time than annually/biennially.

Evidence - any item or information which is utilized in resolving an alleged infraction.

Flat Discharge - an offender has completed his/her sentence or term and does not have a probation term to follow their incarceration.

Gallatin County Pre-release Center - the pre-release center in Bozeman, Montana, which houses male offenders.

Great Falls Transition Center - the pre-release center in Great Falls, Montana, housing both men and women offenders, abbreviated - GFTC.

Hazardous Material - any element, chemical compound, or mixture of elements or compounds that may constitute a physical hazard, or health hazard, or constitutes a major environmental hazard as defined in statute.

Hearing - the personal appearance of an inmate before the Board for release consideration, Executive Clemency, revocation, and rescission.

Helena Pre-Release Center - the pre-release center located in Helena, Montana, abbreviated - HPRC.

Ineligible - The inmate has not completed court ordered treatment or satisfied restriction by the Court. In these cases, the inmate is not parole eligible until such programming or restriction has been satisfied, rendering the inmate not eligible for a parole hearing.

Independent Inspections - inspections conducted by non-Departmental federal, state, and local agencies.

Industry Programs - programs established to provide jobs and/or training for inmates during incarceration under the Department of Corrections.

Initial appearance - those offenders who have been certified by prison records to have served the minimum time necessary to be eligible for parole consideration on a term of imprisonment as directed by a District Court Judge.

Inmate/Prisoner/Offender - any person sentenced by a State District Court to a term of confinement in a State correctional institution or program.

Intensive Supervision Program (ISP) - administered by the Department including the use of electronic monitoring. This program is available in Missoula, Billings, Great Falls, Butte, and Bozeman.

Internal Inspection - an inspection conducted by Department staff on an ongoing basis.

Liberty Interest - the offender committed the crime prior to March 20, 1989.

Material Safety Data Sheets (MSDS)- are written precaution statements specific to a hazardous material with provisions for handling, storage, first aid, disposal, and decontamination. (3.2.5)

Medical Parole Hearing - Except for an inmate under sentence of death or of life imprisonment without the possibility of parole, a hearing panel may release an offender on medical parole in accordance with 46-23-210 Montana Code Annotated. The diagnosis must be reviewed and accepted by the Montana Department of Corrections medical director or designee before a hearing panel may hear the case for medical parole.

Medical Provider - an individual licensed in the State of Montana to evaluate, diagnose and recommend medical treatment to offenders.

Mental Health Professional - a licensed clinical social worker, licensed psychologist or other licensed professional counselor who is trained in the critical incident trauma debriefing model, and who has an understanding and experience with, both the role of a corrections employee and the Department.

Mental Health Reasons - actions taken for security reasons but in response to suicidal or other behavior by offenders with apparent mental illness.

Mental Health Service - clinical intervention deemed appropriate by a licensed clinician, and which is not otherwise provided by the Department of Public Health and Human Services.

Missoula Assessment and Sanction Center (MASC) - formerly the Missoula Regional Prison. This center will assess DOC commitments to determine appropriate placement, according to the DOC. It may also be used to house offenders as a sanction center.

Missoula Life Skills Center - the pre-release center in Missoula, Montana, housing both men and women offenders, abbreviated - MLSC.

Montana State Prison (MSP) - located in Deer Lodge, Montana, and houses approximately 1,560 inmates, who are classified into one of eight custody levels.

Montana Women's Prison (MWP) - located in Billings, Montana, and houses approximately 210 adult female offenders.

Nexus - an intensive, cognitive-behavioral based addictions treatment community assisting offenders and their family to develop the skills necessary to create pro-social change, reduce antisocial thinking, interrupt criminal behavior patterns, and address the negative effects of chemical addictions while integrating more fully into society. Located in Lewistown, Montana.

Nonexempt Employee - an employee subject 7 to the overtime provisions of the Federal Fair Labor Standards Act, and who shall receive premium pay for all hours worked or permitted to work

Objective Classification - a rational, consistent, and equitable method used to assess the needs and risks of each offender.

On Leave to Custody (OLTC)- is when an inmate is removed from Department custody and transported to a county facility by court order, for the purpose of making a court appearance in a civil or criminal matter.

Pardon - a declaration of record that an individual is to be relieved of all legal consequences of a prior conviction.

Parole - the release of an inmate into the community prior to the completion of a sentence subject to the orders and conditions of the Board and the supervision of the Department.

Parole Eligibility - the earliest possible date a person may be released from confinement to parole supervision.

Parole Violator at Large - an offender released on parole who has allegedly violated the terms and conditions of their parole by failing to report for which a warrant of arrest has been issued.

Parole upon completion - an offender must complete some form of programming, such as chemical dependency or pre-release, and would receive their parole when the Board receives confirmation of completion of the programming.

Passages - the women's pre-release and treatment center in Billings, Montana.

Passed to Discharge - an offender/inmate has been reviewed and his case has been continued until his/her term is completed.

Personal- in the context of personal economic interest, or personal interest, or similar context, includes all interests which are within the definition of private interest in 2-2-102, MCA, and all other interests of the employee which are of an economic benefit.

Physical Plant - any buildings or structures, grounds, and built-in equipment that is owned, leased and/or occupied by the Department.

Pine Hills- Pine Hills Correctional Facility located in Miles City, Montana. Plays a dual role for the Montana Department of Corrections. Long-term facility for adjudicated male youthful offenders (ages 10-17). Pine Hills is a fully functioning school. In addition, the facility serves as an assessment center for males on the eastern side of the state, with 44 adult treatment beds and 22 adult beds for residents awaiting transfer.

Pre-Hearing Confinement (PHC) - temporary placement of an inmate in a locked housing cell for the protection of staff, the inmate, and other inmates while an investigation is being conducted into an alleged incident.

Probation - the suspension or deferral of a prison or Department commitment by the District Court. The District Court retains jurisdiction, and the offender is placed under community supervision subject to the conditions imposed by the court.

Probation/Parole Officers - department staff who supervise adult or juvenile offenders on Probation and/or Parole status, and/or adult inmate status.

Professional Communication - conversation which relates to the workplace and is professional in nature and which will not compromise any aspect of the employee's workplace or the Department.

Reappearance - An inmate previously seen by the Board after an initial appearance hearing and is still in custody.

Rescission Hearing - an action of the Board that annuls or voids a prior disposition granting parole.

Request a return - an offender is generally advised to complete some type of programming, such as chemical dependency, sex offender, CPR, pre-release, and upon completion, the offender may request a return to the Board for parole consideration.

Review - the informal administrative process of considering the conduct and progress of an inmate/prisoner to determine if a reappearance or parole is appropriate.

Revocation Hearing - an action by the Board that officially removes a previously granted parole after a finding of guilty to violating the conditions of release.

Risk-Based Classification - a method upon which to make custody and supervision decisions by considering an assessment of the offender's security needs, criminal history, severity of offenses, behavior patterns, age, and other relevant factors. This initial assessment is completed upon an offender's admittance to a facility/program.

Rules - the conditions, limitations, and restrictions upon which parole is subject.

Sanction, Treatment, Assessment, Revocation, & Transition Center (START) - a highly structured, intensive treatment modality designed to return offenders to community placement in an effort to divert prison placements.

Sentence - the penalty imposed by a particular District Court for a specific felony offense.

Sentenced - means that a district court judge has pronounced judgment and formally signed and dated the sentencing order.

Severe Mental Health Problem - any organic, mental, or emotional impairment which has a substantial adverse effect on an offender's cognitive or volitional function.

Sex Offender - an offender convicted under MCA, 45-5-502(3), 45-5-503(3) or 45-5-507(4) or so identified by the sentencing court.

Term - the total period of time for which an inmate was ordered to serve in a State correctional institution or program.

Unit - a self-contained inmate living area, generally housing not more than 200 inmates, that includes both housing for inmates and office space for unit staff.

Victim - a person who suffers loss of property, bodily injury, or death as a result of: the commission of an offense; the good faith effort to prevent the commission of an offense; the good faith effort to apprehend a person reasonably suspected of committing an offense; the estate of the deceased or incapacitated victim or a member of the immediate family of a homicide victim; a governmental entity that suffers loss of property as a result of the commission of an offense in this state; or an insurer or surety with a right of subrogation to the extent it has reimbursed the victim of the offense for pecuniary loss. A victim does not include a person who is accountable for the crime arising from the same transaction.

Waiver - an offender will voluntarily postpone either a parole board appearance or their appearance at a final revocation hearing before the full Board. Waivers of appearance are usually only accepted twice and must have Board staff approval for any subsequent waivers. An inmate may waive their parole board appearance for a maximum of 6 months.

Warm Springs Addictions, Treatment, & Change Program (WATCH) - 6 month intensive cognitive/behavioral-based addictions treatment community for 4th or subsequent DUI offenders, with two locations, in Butte and Warm Springs, Montana.



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 1.1	Subject: DEPARTMENT OF CORRECTIONS COORDINATION
Chapter 1: ADMINISTRATION AND MANAGEMENT	Page 1 of 2
Section 1: General Administration	Effective Date: June 1, 2022
Signature: /s/ Joseph McElroy, Chief of Staff	Revised:

I. POLICY

The Department of Corrections and the Board of Pardons and Parole (BOPP) are separate entities with administrative ties. The BOPP hires its own personnel and exercises its quasi-judicial and policy making functions independent from the Department of Corrections (DOC). However, both the Department and the BOPP ensure that funding and offender populations are independent of parole decisions and do not compromise public safety. Because the two agencies have interdependent roles, it is necessary to have strong formal and informal communication and coordinate strategies to promote efficiency and effectiveness.

II. APPLICABILITY

BOPP and Department of Corrections.

III. DEFINITIONS:

Department - refers to Department of Corrections.

IV. DEPARTMENT DIRECTIVES

A. The Montana Department of Corrections will:

1. Assist in development and periodic review of a comprehensive resource manual to guide interdependent agency activities.
2. Identify management information and automation options for ongoing agency operations.
3. Coordinate the collection and sharing of management information.
4. Develop formal processes for coordinating interagency activities.
5. Assist in the establishment of rules and policy that do not conflict with BOPP authority.
6. Provide reasonable access to any offender over whom the BOPP has jurisdiction and ensure that eligible, in-state offenders are available for a hearing before the BOPP. Administrators will provide adequate security at all hearings conducted in secure custody facilities.
7. Furnish the BOPP with relevant reports regarding an offender’s suitability for parole.
8. Supervise all persons placed on parole in accordance with the conditions and orders imposed by the BOPP.
9. Allocate office space for Board staff.
10. Assist the BOPP in training, budgeting, record keeping, reporting, and related administrative and clerical functions.
11. Provide human resource support to assist with human resources functions.

Policy No. BOPP 1.1	Chapter 1: Administration and Management	Page 2 of 2
Subject: BOARD OF PARDONS AND PAROLE AND CORRECTIONS COORDINATION		

12. Provide a qualified attorney to act as a legal advisor and representative for the BOPP.
13. Disseminate any required notices, rules or orders adopted, amended, or repealed by the BOPP.
14. Provide an opportunity for the BOPP to respond to and participate in the review process of any mutually dependent policy or order adopted, repealed, or amended by the department.
15. Provide communications support through the Department's Director of Communications.

B. Department Meetings

1. The Director's Office will notify the BOPP’s Chair of the dates, times, and places of all department meetings that pertain to the interdependent roles and functions of the department and the board, including, but not limited to management team, legislative, and community corrections management meetings.

C. Semiannual Meetings

1. 1. A department meeting will occur semiannually with BOPP members, the Probation and Parole Division Administrator, or designee; the Clinical Services Division Administrator, or designee, Legal Counsel for the Director's Office; and select DOC staff as determined by the department director. The department director and wardens of the Montana Women's Prison and Montana State Prison, or their designees, will participate at least annually. The Director's Office, in coordination with the Board's executive director, will publish agendas and record and publish minutes of the meetings. The department director and BOPP Chair must be present simultaneously for at least one meeting per year.

V. CLOSING

Questions concerning this policy should be directed to Board Chair Chief of Staff

REFERENCES (list all applicable references in italics, for example)

- A. *2-15-112; 2-15-121; 2-15-124; 2-15-2302; 46-23-215; 46-23-202; 46-23-203; 46-23-1002; 46- 23-1021, MCA*
- B. *Performance Audit, Legislative Audit Division (November 2000, November 2003); Performance Audit Follow Up (November 2003)*
- C. *4-4011; ACA Standards for Adult Correctional Institutions, 4th Edition*

VI. ATTACHMENTS

None.



**STATE OF MONTANA BOARD OF
PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 1.2	Subject: MEDIA RELATIONS
Chapter 1: ADMINISTRATION AND MANAGEMENT	Page 1 of 4
Section 2: General Administration	Effective Date: July1, 2022
Signature: /s/ Joseph McElroy, Chief of Staff	Revised:

I. POLICY

The Board of Pardons and Parole (BOPP) will maintain positive and informative relationships with the public, the media, and other agencies with related functions. It will provide timely, complete, and accurate information on BOPP operations, accomplishments, critical incidents, and emergencies in compliance with all statutes that govern confidentiality and public information by balancing the public’s right to know with the individual’s right to privacy.

II. APPLICABILITY

All BOPP Departments.

III. DEFINITIONS

Facility/Program – Refers to any division, prison, secure care correctional facility, correctional or training program, or community-based program under Montana Department of Corrections (DOC) jurisdiction or contract. This term includes the facility building or residence, including property and land owned or leased and operated by the BOPP and DOC.

News Media Representatives – Properly credentialed representatives of any accredited news organization that reports news for a general circulation newspaper, news magazine, national or international news service, radio or television news program, and Internet news service. Authors and freelance journalists who are researching and/or writing about corrections or criminal justice issues must provide their credentials to verify their association with legitimate news or media organizations. Nothing in this definition is intended to remove from the BOPP Chairman, Chief of Staff, DOC Director and/or Deputy Director, Communications Director to the discretion to determine who constitutes news media representatives for purposes of access to offenders.

News Release – An official BOPP written statement distributed to the news media to inform the public and provide media coverage related to department business.

Offender – Any individual in the custody or under the supervision of the Department of Corrections or its contracted service providers.

Public Information Officer (PIO) – An official spokesperson is the Board Chair of BOPP. The Board Chair may designate an official representative to provide information to the public and news media.

Policy No. BOPP 1.2	Chapter 1: Administration and Management	Page 2 of 4
Subject: MEDIA RELATIONS		

Public Record for Adult Offenders – Information including, but not limited to name, date of birth, race, gender, eligibility for parole, execution of warrant or sentence, term expiration, court documents unless expressly sealed by court order, FBI number, fine(s) imposed, jail credit time, supervising facility or program, participation or non-participation in a court-ordered program, court docket number, and offense in accordance with *2-6-101, MCA*.

Public Record for Juvenile Offenders – Except as provided in *41-5-215, MCA*, youth court records on file with the clerk of court, including reports of preliminary inquiries, petitions, motions, other filed pleadings, court findings, verdicts, orders, and decrees are public information until the record is sealed in accordance with *41-5-216, MCA*.

IV. BOPP DIRECTIVES

A. General Requirements

1. The BOPP will operate in a transparent way that encourages better public understanding of goals and operational procedures, and will:
 - a. provide prompt, complete responses to correspondence and requests from the media
 - b. participate in organizations and meetings that assure cooperation with other criminal justice agencies in information gathering, exchange, and standardization, including strategic and contingency planning at federal, state, and local levels.
2. The BOPP will provide current and information in verbal and written form to the public and media unless the information release is limited by the confidentiality, safety, and security needs of a program, facility. This also applies to identified victims and dispositional hearing information in accordance with *46-23-110 MCA*.

B. Department Spokespersons

1. Designated spokesperson for the BOPP is the Board Chair or designee.
2. To ensure accuracy of information provided to the public, the BOPP does not authorize staff or contracted staff to comment to the news media as official department spokesperson, or to publish or release original printed materials developed by the BOPP without approval of the Chairman.
3. BOPP staff wishing to speak to the media as private citizens, not as representatives of the BOPP, will make such contacts during off-duty hours and make clear to the media they are representing personal views, not the views of the BOPP.

C. Responsibilities

1. The Board Chair of BOPP , or designee, is responsible for the following duties:
 - a. respond to media inquiries after normal duty hours; and
 - b. contact the DOC and appropriate administrator if an inquiry pertains to an issue that may affect the entire DOC or generate significant media coverage.

Policy No. BOPP 1.2	Chapter 1: Administration and Management	Page 3 of 4
Subject: MEDIA RELATIONS		

- c. promptly contact the DOC communications director if a local reporter's inquiry involves a controversial issue or may impact the DOC
 - d. forward, when necessary and available, copies of videotapes and newspaper clippings pertaining to the BOPP to the Chairman.
2. BOPP employees are responsible for the following duties:
- a. refer media inquiries to the Board Chair and/or designee depending on the nature of the inquiry.
 - b. refer media inquiries for staff information to the administrator; and
 - c. consult with the legal services with questions regarding confidentiality or the legitimacy of an inquiry.

D. Media Inquiries

1. The Board Chair or designee will ensure that media inquiries are promptly and accurately responded to in accordance with the following:
- a. inquiries that require a telephone response will be responded to during the working day in which the inquiry is received, or as soon thereafter as possible
 - b. written responses will be made within two weeks of receipt of the inquiry
 - c. when a response may be significantly delayed, an interim verbal or written response will be provided.
2. Information may be released from adult offender records except for information in which the offender or another person has a right to privacy that outweighs the public's right to know as demonstrated in the following circumstances:
- a. the information threatens the security or safety of a person or institution
 - b. medical or psychological information
 - c. the information is made confidential by law, e.g., the pre-sentence investigation report
 - d. investigative information
 - e. youth offender records maintained within an adult offender record in compliance with this policy.

E. Filmmaker and Writer Access to Programs

- 1. Filmmakers, writers for non-news magazines, and other related personnel will direct inquiries about access to correctional programs to the DOC communications director.
- 2. Filmmakers and writers will be subject to the established rules on offender confidentiality.

F. Denial of Media Access

- 1. The Board Chair of the BOPP may restrict access to records when it is determined such disclosure is jeopardizing the safety and security of DOC program, BOPP/DOC staff, or offenders. The Board Chair will independently weigh the privacy interest against the public's right to know to determine if the board should release the information (Rule 20.25.103)
- 2. During emergencies, and to the extent possible, regular briefings will be scheduled to ensure the flow of timely information to the media.

Policy No. BOPP 1.2	Chapter 1: Administration and Management	Page 4 of 4
Subject: MEDIA RELATIONS		

V. CLOSING

1. Questions concerning this policy should be directed to the Board Chair or Chief of Staff.

VI. REFERENCES

- A. 2-6-101, MCA; 2-6-102, MCA; 2-15-112, MCA; 41-5-215, MCA; 41-5-216, MCA; 46-23-504, MCA; 46-23-508, MCA 46,23,110, MCA
- B. *Art. Sec 9 and 10 of the Montana Constitution and Title 2, Chapter 3, Public Participation in Governmental Operations*
- C. 4-4019, 4-4020, 4-4021; *ACA Standards for Adult Correctional Institutions, 4th Edition*
- D. 3-JTS-1A-25, 3-JTS-1A-26; *ACA Standards for Juvenile Correctional Facilities, 2003*
- E. *DOC Policies 1.5.5 Case Records Management; 1.8.1 Victim Services; 3.3.4 Media Access to Offenders*

VII. ATTACHMENTS

None.



**STATE OF MONTANA BOARD OF
PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 1.3	Subject: LEGAL ASSISTANCE FOR STAFF
Chapter 1: ADMINISTRATION AND MANAGEMENT	Page 1 of 3
Section 3: General Administration	Effective Date: June 1, 2022
Signature: /s/ Joseph McElroy Chief of Staff	Revised:

I. POLICY

The Board of Pardons and Parole (BOPP) will provide the employees with legal advice to aid with the performance of BOPP duties and will provide legal defense for employees who are sued for acts they performed during the course and scope of their duties. This policy establishes procedures for obtaining legal assistance and defense and defines the scope of legal assistance provided in 46-23-105 MCA.

II. APPLICABILITY

All BOPP staff.

III. DEFINITIONS

None.

IV. BOPP DIRECTIVES

A. Scope of Representation and Indemnification

1. BOPP through Department of Justice and/or Montana Department of Corrections (legal appointed attorneys) are available to provide general legal advice in all areas of BOPP-related activities. Attorneys help ensure compliance with federal, state, and local laws, regulations, and court decisions.
2. Legal appointed attorneys also defend the BOPP and its employees when the BOPP, or its employees, are sued over actions they took while performing their duties.
3. Legal appointed attorneys may recommend to the BOPP Chairman not defend an employee if substantial evidence indicates the employee’s conduct was illegal or outside the scope and course of employment.
4. Legal appointed counsel, after consultation with the Department of Administration’s risk management and tort defense bureau, may refer the defense of BOPP litigation to the Attorney General’s Office, other state attorneys, or may retain private counsel after the chief has complied with the applicable executive order concerning outside legal services.
5. Employees who are sued may retain private counsel at their own expense. Employees who choose to retain private counsel will immediately notify the legal services bureau and will be responsible for the defense of the lawsuit thereafter.
6. If any court, arbitrator, or other agency orders an employee to pay a monetary award pursuant to a lawsuit concerning actions the employee took while performing his or her official duties, the Department of Corrections / BOPP will pay the award.

Policy No. BOPP 1.3	Chapter 1: Administration and Management	Page 2 of 3
Subject: LEGAL ASSISTANCE FOR STAFF		

B. Requests for General Counsel Assistance

1. A BOPP employee who needs legal assistance to perform his or her official duties should, under most circumstances, first contact his or her supervisor and discuss the situation with the supervisor. If the supervisor and the employee decide they need to contact the legal appointed attorneys, then the employee may contact the designated central point-of-contact for the legal services bureau.
2. The best way to contact the legal appointed attorney bureau designated central point-of-contact is via email with a copy to the employee’s supervisor. The attorney assigned to respond will provide a written email response with copies that can serve to notify others who also need to be aware of the response.

C. Receiving Complaints, Petitions, Summonses and Subpoenas

1. To prevent default or extra charges for service of lawsuits, an employee who receives a complaint, petition, summons or subpoena outside of routine offender court proceedings, must immediately contact the appointed legal services bureau.
2. When a process server gives a BOPP employee a complaint, petition, summons, or subpoena, the employee may sign that he or she has received the document but may not sign to accept the document(s) on behalf of any other employee unless specifically designated to do so.
3. An employee who receives a complaint outside of routine offender court proceedings, etc., by mail with a form entitled, “Acknowledgment of Service” must immediately forward the complaint and acknowledgment to the appointed legal services bureau. Under no circumstances should the employee ever sign and/or return the acknowledgment.
4. When an employee receives a complaint, petition, summons and/or subpoena concerning work-related issue outside of routine offender board proceedings, the employee must, as soon as practicable:
 - a. note the date, time, and method by which the employee received the document.
 - b. contact the legal services bureau to make them aware of the document.
 - c. make a personal copy of the document; and
 - d. forward all the documents to the legal services bureau office either at the Montana State Prison or in Helena.

D. Action After Receiving Legal Documents

1. The appointed legal services bureau will contact the employees named in a lawsuit.
2. The appointed legal services bureau will generally request that the employee named in a lawsuit:
 - a. put in writing for the attorneys any recollections the employee has about the incidents in the lawsuit.
 - b. request the employee gather available documents that relate to the lawsuit; and
 - c. preserve any relevant documents that might otherwise be destroyed.
3. Employees must cooperate fully with the attorneys who defend them.

Policy No. BOPP 1.3	Chapter 1: Administration and Management	Page 3 of 3
Subject: LEGAL ASSISTANCE FOR STAFF		

E. Subpoenas and Summonses to Appear and Testify

1. Employees who receive a summons or subpoena in a work-related case will notify their supervisor and immediately forward a copy of the summons or subpoena to the legal services bureau.
2. Legal staff will provide instructions to the summoned or subpoenaed employee.
3. Employees will respond to the subpoena in an on-duty status and submit all claims for necessary expenses in accordance with established procedures for travel costs except when the entity or person originating the subpoena prepays such expenses.
4. Employees will forward any witness fees received or state vehicle mileage allowance to the fiscal and accounting bureau.
5. Employees who are subpoenaed in a civil or criminal case to give testimony or evidence as a personal consultant (non-work related) or expert witness will respond to the subpoena on approved leave and at their own expense.

V. CLOSING

Questions concerning this policy should be directed to the Board Chair of the BOPP or Chief of Staff.

VI. REFERENCES

- A. 2-9-305 MCA 46-23-105 MCA
- B. Executive Order 05-93, *Outside Legal Services*
- C. 4-4023, *ACA Standards for Adult Correctional Institutions, 4th Edition*
- D. 3-JTS-1A-28, *ACA Standards for Juvenile Correctional Facilities, 2003*

VII. ATTACHMENTS

None.



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 1.4	Subject: TRIBAL GOVERNMENT RELATIONS
Chapter 1: ADMINISTRATION AND MANAGEMENT	Page 1 of 2
Section 4: General Administration	Effective Date: June 1, 2022
Signature: /s/ Joseph McElroy, Chief of Staff	Revised:

I. POLICY

The Board of Pardons and Parole (BOPP) and Department of Corrections (DOC) recognizes the distinct and unique cultural heritage of American Indians and is committed to maintaining the government-to-government relationship with the recognized tribal governments of Montana by inter-departmental communication, policy/procedure development and implementing programs for the greater good of the tribal members and all Montana citizens.

II. APPLICABILITY

All BOPP and DOC divisions, facilities, and programs

III. DEFINITIONS

Tribal Government – A state or federally-recognized Indian tribe within the State of Montana.

American Indian Liaison – The point of contact for American Indian offenders and their families who serves as the liaison between the BOPP and tribal entities.

IV. BOPP DIRECTIVES

A. General Requirements

1. The BOPP will consider impacts on tribal members and tribal governments when developing policy, procedures. The BOPP recognizes that communication between the BOPP and tribal governments in Montana enhances the BOPP’s ability to make reasoned parole decisions, particularly in cases involving American Indian offenders. To facilitate effective communication, the BOPP also recognizes the importance of BOPP member training in areas such as American Indian culture, social problems, family, and social structure.
2. The BOPP American Indian liaison will serve as the point of contact to provide ongoing culturally competent consultation and guidance to BOPP members and staff to serve as the primary point of contact between the BOPP, DOC, and tribal entities.
3. The BOPP will acquire cultural training in accordance with 46-23-218(2) on the unique nature of tribal culture and governments, including knowledge of, and sensitivity to, issues of tribal relations, and legal concerns.

V. CLOSING

1. Questions concerning this policy should be directed to the BOPP’s American Indian Liaison.

Policy No. BOPP 1.4	Chapter 1: Administration and Management	Page 2 of 2
Subject: DEPARTMENT AND TRIBAL GOVERNMENT RELATIONS		

VI. REFERENCES

- A. *18-11-101; 2-15-141; 2-15-142; 2-15-143; 53-30-302, 46-23-218(2) MCA*
- C. *DOC Policies 1.1.3, Organization and Responsibility; 1.1.4, Department and Board of Pardons and Parole Coordination*

VII. ATTACHMENTS

None.



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 1.5	Subject: EMPLOYEE DRESS UNIFORM AND HYGIENE
Chapter 1: ADMINISTRATION AND MANAGEMENT	Page 1 of 2
Section 5: General Administration	Effective Date: 9/01/ 2022
Signature: /s/ Joseph McElroy, Chief of Staff	Revised:

I. POLICY

To ensure the employees of Board of Pardons and Parole (BOPP) shall dress and maintain an appearance in a manner that will promote professionalism and project a professional image in the State of Montana.

II. APPLICABILITY

BOPP Staff

III. DEFINITIONS:

None.

IV. BOPP DIRECTIVES

A. General

1. In the interest of presenting a professional image to the public and serving as a positive role model for inmates and the public, all employees must observe good habits of grooming and personal hygiene.
2. Staff with wear professional attire and/or BOPP issued clothing while on duty and when representing BOPP during authorized functions in the community.
3. Staff must always wear their issued BOPP ID card in a conspicuous location on their outer clothing while at secure facilities. The ID must be attached to the clothing prior to entering the facility. The ID card must be kept as issued with no alterations.
4. Staff family members may not wear BOPP issued items whole or in part.
5. Staff who are on their way to work or returning home from work may not wear their BOPP issued items when purchasing alcohol or entering an establishment whose primary function is the sale of alcohol.
6. Staff must dress professionally and appropriately while on duty. Items not allowed to wear include, but are not limited to:
 - a) Dirty, wrinkled, worn, ripped, or faded clothing.
 - b) Clothing with designs that are not correctional related/BOPP approved.
7. At no time are staff allowed to bring or store unworn civilian clothing inside the fenced perimeter of secure facilities when conducting BOPP related business.

V. CLOSING

1. Questions concerning this policy should be directed to board chair or designee.

Policy No. BOPP 1.5	Chapter 1: Administration and Management	Page 2 of 2
Subject: EMPLOYEE DRESS UNIFORM AND HYGIENE		

VI. REFERENCES (list all applicable references in italics, for example)

- A. 53-1-203, MCA (2021) Powers and Duties of Department of Corrections,*
- B. 46-23-104 MCA (2021) Board of Pardons and Parole*
- C. 4-4012, 4-4013; ACA Standards for Adult Correctional Institutions, 4th Edition*

VII. ATTACHMENTS

None.



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 1.6	Subject: SOCIAL MEDIA
Chapter 1: ADMINISTRATION AND MANAGEMENT	Page 1 of 3
Section 6: General Administration	Effective Date: September 1, 2022
Signature: /s/ Joseph McElroy, Chief of Staff	Revised:

I. POLICY

The Board of Pardons and Parole (BOPP) utilizes controlled use of social media to improve communication with crime victims, and the public, and offenders to increase the BOPP’s transparency, and expand accessibility of the Department and its services to offenders, staff, and the public.

II. APPLICABILITY

All BOPP.

III. DEFINITIONS

Protected Personal Information (PPI) – A person’s social security number, or a person’s first name or first initial and last name combined with any of the following: a social security number, tax ID number, driver’s license number, state issued ID number pursuant to 61-12-501, MCA, a tribal ID or enrollment number, ID number issued by any state, district, or territory of the United States, a bank account number, or credit or debit card number in combination with a security code, access code, or password that would permit access to a financial account.

Social Media – Web-based technology that allows interactive dialogue and includes, but is not limited to, blogs, collaborative projects, content communities, and social networking sites.

IV. BOPP DIRECTIVES

A. General Requirements

1. The BOPP will use social media to achieve the following goals:
 - a. enhance public safety through fast and efficient communication to the public for hearing information and dispositional information (<http://bopp.mt.gov>).
 - b. provide the public accessible information related to statutes and administrative rules and other related subject matter.
 - c. state law (46-24-201, MCA) requires law enforcement personnel to ensure that a victim of a crime receives information about their rights, including the stages in the criminal justice process of significance to a crime victim and the way information about such stages may be obtained. 46-24-212, MCA, provides other victim rights information. Upon request of a victim of a felony offense, the Department of Corrections or the Board of Pardons and Parole, as applicable.
 - d. allow for collaboration with criminal justice providers to reintegrate offenders more successfully into the community and provide links to resources on the parole subject matter.

Policy No. BOPP 1.6	Chapter 1: Administration and Management	Page 2 of 3
Subject: SOCIAL MEDIA		

2. The BOPP chairperson, or designee, will:
 - a. approve, create, and maintain social media utilized by the BOPP that officially represent the BOPP.
 - b. approve any modification or expansion of utilized social media sites prior to implementation
 - c. moderate comments submitted and will not post comments that meet the following criteria:
 - 1) contain obscene language, personal attacks of any kind, or offensive terms that target specific individuals or groups
 - 2) unsupported accusations.
3. Users and visitors to social media sites will be notified that the intended purpose of the site is to serve as a mechanism for communication between the BOPP, DOC, criminal justice partners and members of the public.
4. Wherever possible, content posted by BOPP staff on social media sites will contain links directing users for in-depth information, forms, documents, or online services.

B. BOPP Employee Use of Social Media

1. When accessing BOPP authorized social media sites while on-duty, employees will use an established personal profile registered with a personal email address. BOPP defers and adopts applicable DOC policies and procedures including *DOC Policies 1.3.2 Performance and Conduct* and *1.7.9 Acceptable Use of IT Resources*.

C. Consent for Posting Images on Social Media

1. BOPP employees will not be photographed, or filmed, in a manner that allows individual identification without the employee's written consent. On each occasion an employee is filmed or photographed for social media, the employee must sign the Media Consent Form for Employees.
2. Offenders will not be photographed, or filmed, in a manner that allows individual identification without the offender's written consent. On each occasion an offender is filmed, or photographed, for social media, the offender must sign the Interview/Photo/Video Publication and Media Consent form.

V. CLOSING

1. Questions regarding this policy should be directed to BOPP chair or designee.

VI. REFERENCES

- A. *53-1-203, MCA; 61-12-501, MCA*
- B. *DOC Policies 1.3.2 Performance and Conduct; 1.4.1 Staff Development and Training; 1.7.9 Acceptable Use of IT Resources*

Policy No. BOPP 1.6	Chapter 1: Administration and Management	Page 3 of 3
Subject: SOCIAL MEDIA		

VII. ATTACHMENTS

Media Consent Form for Employees

Interview/Photo/Video Publication and Media Consent



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 1.7	Subject: PUBLIC COMMUNICATION
Chapter 1: ADMINISTRATION AND MANAGEMENT	Page 1 of 3
Section 7: General Administration	Effective Date: June 1, 2022
Signature: /s/ Joseph McElroy, Chief of Staff	Revised:

I. POLICY

It is the policy of the Board of Pardons and Parole (BOPP) to promote public trust and enhance accountability and openness through providing the public with access to the records and responding to public requests for services in an expeditious and professional manner.

II. APPLICABILITY

All BOPP Staff.

III. DEFINITIONS

Requester – A member of the public contacting the BOPP excluding incarcerated offenders, legislators, news media representatives, and employees of Montana or other state agencies contacting the department for business purposes.

Public Records – All documents kept by the department unless someone has a privacy interest in them and the privacy interest clearly exceeds the public’s right to know in accordance with 2-6-202, MCA.

IV. BOPP DIRECTIVES

A. General Requirements

1. The BOPP strives to provide resolution to public communication requests or comments within a 30-day period; however, additional time may be required to complete the following:
 - a. clarify public statements or requests
 - b. locate and assemble requested information
 - c. notify persons affected by request
 - d. determine whether response or information is exempt from disclosure.
2. The Board Chair, or designee, is expected to collaborate with subject matter experts or consult within his or her chain of command when responding to public communication requests or comments that may result in an escalating situation.
3. The Board Chair, or designee, is required to adhere to the following requirements:
 - a. maintain receipt and response records pertaining to public communication
 - b. to ensure consistency and accuracy of statistical information released. Any statistical information obtained by the Montana Department of Corrections (DOC) must be reviewed by the DOC Communications Director prior to the release of applicable information.

Policy No. BOPP 1.7	Chapter 1: Administration and Management	Page 2 of 3
Subject: PUBLIC COMMUNICATION		

4. The BOPP will maintain informative relationships with the news media and will release information to representatives in accordance with BOPP 1.2 and *DOC 1.1.8, Media Relations*.
5. If communication subject to the requirements set forth in *DOC 3.3.3, Offender Grievance Program* conflicts with requirements set forth in this policy, the Offender Grievance Program will take precedence.
6. The BOPP and DOC will work together in assisting research efforts of other government entities, academic institutions, and foundations by providing data and information to the extent possible. Research efforts must not compromise the security of DOC/BOPP facilities, programs, staff, and offenders.

B. Public Comments

1. Comments submitted by requestors electronically, through mail, or via telephone will be addressed by the BOPP using standard methods that encourage positive communication, enhance BOPP responsiveness to public concerns, and increase transparency.
2. The Board Chair or designees, is responsible for investigating circumstances alleged in submitted comments and responding to comments in ways that do not require inclusion of information related to the following:
 - a. confidential personnel matters
 - b. the security of an institution
 - c. violation of any citizen's right to privacy.

C. Requests for Public Information

1. The BOPP will adhere to applicable state statutes and administrative rules governing the release of BOPP and DOC records.
2. When release of public information will result in reproduction costs, the responding board member or designee, will determine the appropriate costs for reproduction and will notify the requestor of costs in advance.
3. The BOPP will consult DOC Legal Services Bureau for the purpose to analyze requests for information and identify exempt and nonexempt material prior to release.
4. If any requested record that is determined to be exempt contains any material that is not exempt, nonexempt material will be separated, copied, and forwarded to the requestor.
5. Requests to receive records may be granted, denied, or granted in part. If a request is denied, the BOPP and/or DOC will issue a written response that includes an explanation for appeal and specific reasons for denial including citations to applicable legal authority.
6. The BOPP may deny a request for records when it would be unduly burdensome to comply (See DOC Policy 3.3.5 Offender -Staff Communication). However, prior to denial, a BOPP representative will confer with the requestor in an attempt to narrow the request to more manageable proportions.

Policy No. BOPP 1.7	Chapter 1: Administration and Management	Page 3 of 3
Subject: PUBLIC COMMUNICATION		

7. Non-production of records due to the fact that a good faith search by the BOPP does not produce the requested documents is not a denial of access.

C. Research Activities

The BOPP working with DOC Communications Director will establish specific criteria for the review of research proposals submitted by outside entities. Those criteria are:

- a. the BOPP will consider the results of all BOPP/DOC-related research projects to be within the public domain
- b. when proposals are likely to interfere with BOPP operations, the Chairman, or designee may advise the requesting entity to alter elements that may negatively impact programs in which case approval may be contingent upon minimizing any negative program effects
- c. research requests will not be approved if the research data is unavailable to BOPP and /or DOC, unless the requesting entity gathers and processes all such data
- d. research requests that directly involve increased BOPP expenditures without benefit to the BOPP will not be approved
- e. BOPP employees may not receive compensation, remuneration, or payment of any kind beyond their normal salaries for participating or assisting in any research project
- f. The Board Chair, or designee, will serve as the final decision-maker regarding BOPP participation in any research effort
- g. if BOPP/DOC participation in a research effort is denied, a letter describing the reasons for denial will be provided to the requestor within 30 days of the decision.

V. CLOSING

1. Questions concerning this policy should be directed to the Board Chair.

VI. REFERENCES

- A. *Montana Constitution, Article II, Section 9*
- B. *Chapter 2, Title 6, Public Records, MCA*
- C. *1.1.8, DOC Media Relations; 3.3.3, DOC Offender Grievance Program*
- D. *3.3.3 DOC Offender Staff Communications*

VII. ATTACHMENT

None.



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 1.8	Subject: PRISON RAPE ELIMINATION ACT OF 2003 (PREA)
Chapter 1: ADMINISTRATION AND MANAGEMENT	Page 1 of 18
Section 8: General Administration	Effective Date: June 1, 2022
Signature: /s/ Joseph McElroy, Chief of Staff	Revised:

I. POLICY

The Board of Pardons and Parole (BOPP) has zero tolerance relating to all forms of sexual abuse and sexual harassment in accordance with the standards set forth in the *Prison Rape Elimination Act of 2003 (PREA)*. This policy is mimics Montana Department of Corrections (see BOPP 1.1) and is intended to serve as a resource and a guide when BOPP encounters PREA related matters.

II. APPLICABILITY

All BOPP, Montana Department of Corrections divisions, facilities, and programs.

III. DEFINITIONS

Administrative Investigation – Any agency investigation that is not conducted for the purpose of law enforcement or criminal prosecution.

Administrator – The official, regardless of local title (division or facility administrator, bureau chief, warden, superintendent, ultimately responsible for the division, facility, or program operation and management.

Confidential – Information to be shared only by order of a court or with those whose official capacity dictates their absolute need to know.

Criminal Investigation – A formal investigation by a law enforcement agency having jurisdiction (LEAJ) or by a Department of Corrections criminal investigator to discover whether there is probable cause to believe that criminal conduct has occurred.

Criminal Investigator – A Department of Corrections investigator in the Office of Investigations with sworn Peace Officer authority established through a Memorandum of Understanding with the Montana Department of Justice and Division of Criminal Investigations.

Department Employee – A person employed by the Department of Corrections who has attained permanent status or is eligible to attain permanent status, as provided in § 2-18-101(20) MCA, a volunteer, an intern, or a temporary or short-term worker. This term does not include service providers.

Garrity Warning – Formal advisement given to an individual during an administrative investigation when potential for criminal charges may exist. Neither the individual’s answers nor the fruits of those answers may be used against the individual in a subsequent or concurrent criminal prosecution.

Incarcerated Offender – Any individual detained in a department owned, operated, or contracted facility that is sentenced or committed to Department of Corrections supervision.

Policy No. BOPP 1.8	Chapter 1: Administration and Management	Page 2 of 18
Subject: PRISON RAPE ELIMINATION ACT OF 2003 (PREA)		

Intersex – A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

Investigation – A formal fact-finding activity for the specific purpose of addressing complaints or allegations. Investigations may include, but are not limited to interviews, surveillance, review of electronic and paper records, correspondence, and other information storage devices.

Investigator – The designated department employee assigned to conduct an official investigation of a complaint, incident, or report of sexual abuse or sexual harassment of an offender.

Law Enforcement Agency of Jurisdiction (LEAJ) – The government agency, i.e., sheriff’s office or local police department, operating within their defined area of responsibility.

PREA Coordinator – The department position responsible for administration and management of the department wide PREA program including but not limited to compliance, policy and procedure development, staff training, offender education, and records and statistical tracking.

Qualified Health Care Professionals – Physicians, physician assistants, nurses, nurse practitioners, dentists, mental health professionals and others who by virtue of their education, credentials, and experience are permitted by law to evaluate and care for offenders, including contracted or fee-for-service professionals.

Qualified Mental Health Professionals – Psychiatrists, psychologists, psychiatric social workers, psychiatric nurses, licensed professional counselors, and others who by virtue of their education, credentials, and experience are permitted by law to evaluate and care for the mental health needs of offenders.

Service Providers – This term includes contracted persons or other vendors providing service whose assignment is primarily on department premises, e.g., facility or program office.

Sexual Abuse of an Offender by Another Offender – Sexual acts, sexual contact or any other intentional touching, either directly, through the clothing or with an object, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation, in which the victim does not consent, is coerced by overt or implied threats of violence, or is unable to consent or refuse.

Sexual Abuse of an offender by an Employee or Service Provider – Sexual acts, sexual contact or any other intentional contact, either directly, through the clothing or with an object, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, any attempt, threat, or request by an employee or service provider to engage in these activities, any display by an employee or service provider of his or her uncovered genitalia, buttocks, or breast in the presence of an offender, or voyeurism by an employee or service provider, when these acts are unrelated to official duties or where the employee or service provider has the intent to abuse, arouse, or gratify sexual desire.

Sexual Harassment of an Offender by Another Offender – Repeated and unwelcomed sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one offender directed toward another offender.

Policy No. BOPP 1.8	Chapter 1: Administration and Management	Page 3 of 18
Subject: PRISON RAPE ELIMINATION ACT OF 2003 (PREA)		

Sexual Harassment of an Offender by an Employee or Service Provider – Repeated verbal comments or gestures of a sexual nature to an offender by an employee or service provider, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Substantiated – An event was investigated and determined to have occurred, based upon the preponderance of the evidence.

Transgender – A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person’s assigned sex at birth.

Unfounded – An event was determined not to have occurred.

Unsubstantiated – Evidence was insufficient to meet the preponderance of the evidence to make a final determination as to whether or not the event occurred.

Volunteer – Any person who has been approved to provide services for department programs without compensation.

Voyeurism – An invasion of privacy of an offender by an employee or service provider for reasons unrelated to official duties.

IV. DEPARTMENT DIRECTIVES

A. General Requirements

1. All department facilities will comply with all applicable standards under *28 CFR Part 115, Prison Rape Elimination Act of 2003*. Documentation of compliance with all standards will be maintained by the facility.
2. Administrators, or designees, will immediately respond to allegations of sexual abuse and sexual harassment, fully investigate reported incidents, pursue disciplinary action, and refer for investigation those who violate the requirements set forth in this policy.
3. The department director, or designee, will appoint a department PREA coordinator responsible for the following:
 - a. coordinating and developing policies and procedures to identify, monitor, and track sexual abuse and sexual harassment
 - b. conducting audits to ensure compliance with department policy, applicable state, or federal laws, and PREA standards
 - c. compiling records and reporting statistical data to the U.S Department of Justice on an annual basis as required by PREA standards.
4. Each administrator, or designee, will assign a PREA compliance manager responsible for the following:
 - a. coordinating facility PREA-related activities with the PREA coordinator
 - b. ensuring facility compliance with all PREA standards
 - c. ensuring facility compliance with PREA training requirements; and
 - d. tracking and reporting PREA allegations and statistics to the department PREA coordinator.

Policy No. BOPP 1.8	Chapter 1: Administration and Management	Page 4 of 18
Subject: PRISON RAPE ELIMINATION ACT OF 2003 (PREA)		

B. Prevention and Intervention

1. Employees must be alert to situations in which sexual abuse or sexual harassment might occur and be capable of identifying indicators of sexual abuse and sexual harassment.
2. Any new contract or contract renewal for the confinement of offenders will include the contract entity's obligation to adopt and comply with the PREA standards and a provision for the department to monitor the contract to ensure the contractor is complying with the PREA standards.
3. When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the facility and the department must consider the effect of the design, acquisition, expansion, or modification upon the facilities and department's ability to protect offenders from sexual abuse.
4. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the facility and department must consider how such technology may enhance the facilities and department's ability to protect offenders from sexual abuse.
5. The department will not enter or renew any collective bargaining agreement or other agreement that limits the department's ability to remove alleged staff sexual abusers from contact with any offender pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.
6. Administrators are required to develop, document, and make best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect offenders against abuse. In circumstances where the staffing plan is not complied with, facilities will document and justify all deviations from the plan.
7. The facility will review the staffing plan annually, in consultation with the PREA coordinator, to assess and document whether adjustments are needed.
8. Administrators will require intermediate-level and higher-level staff to conduct random unannounced rounds to identify and deter employee or service provider sexual abuse and sexual harassment. These rounds must be documented in an unannounced rounds log and cover all shifts and all areas of the facility. The facility must prohibit staff from alerting others of the conduct of such rounds.
9. All facilities will identify, assess, and manage offenders with special needs, including those who are potentially vulnerable or dangerous, to provide safe housing, adequate protection, and programmatic resources to meet their needs in accordance with *DOC Policy 4.2.2 Special Needs Offenders*.
10. Transgender and intersex offenders will be given the opportunity to shower separately from other offenders either through physical separation by separate shower stalls, or by time-phasing or scheduling of showers.
11. The department will not place lesbian, gay, bisexual, intersex, or transgender offenders in dedicated facilities, units, or wings solely based on such identification or status.

Policy No. BOPP 1.8	Chapter 1: Administration and Management	Page 5 of 18
Subject: PRISON RAPE ELIMINATION ACT OF 2003 (PREA)		

12. Victims of sexual abuse and offenders at high risk for sexual victimization will not be placed in segregated housing for protective purposes unless an assessment of all available alternatives has been made and a determination is made that there is no alternative means of separation. If a facility cannot conduct such an assessment immediately, the facility may hold the offender in segregated housing for up to 24 hours while completing the assessment. The facility will clearly document the basis for the facility's concern for the offender's safety and the reason no alternative means of separation could be arranged. The facility will review each offender placed in segregated housing for protective purposes every 30 days.
13. Offenders placed in segregated housing for protective purposes will have access to programs, privileges, education, and work opportunities to the extent possible. If access is restricted the facility will document what opportunities have been limited, the duration of the limitation and the reasons for such limitations.

C. Training

1. Prior to working with offenders, all department employees with direct and/or incidental contact with offenders, which includes visual, physical, or audio contact, must receive documented PREA training. If an employee is unable to attend comprehensive PREA classroom training prior to contact with offenders, they must receive pre-service training in the form of reviewing the PREA policy and a PREA brochure and signing an acknowledgment form. The employee must then attend the next available classroom training.
2. Comprehensive classroom training and pre-service training will include, but is not limited to:
 - a. review of this policy, *DOC Policy 1.3.12 Staff Association and Conduct with Offenders*, appropriate site-specific procedures, and any other applicable state or federal laws
 - b. the department's zero tolerance policy for sexual abuse and sexual harassment
 - c. how employees and service providers fulfill their responsibilities under the department's sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures
 - d. an offender's right to be free from sexual abuse and sexual harassment
 - e. offender and employee rights to be free from retaliation for reporting sexual abuse and harassment
 - f. the dynamics of sexual abuse and harassment in confinement
 - g. common reactions of sexual abuse and sexual harassment victims
 - h. how to detect and respond to signs of threatened and actual sexual abuse
 - i. how to avoid inappropriate relationships with offenders
 - j. how to communicate effectively and professionally with offenders who might be lesbian, gay, bisexual, transgender, intersex (LGBTI) or gender nonconforming
 - k. how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities
 - l. facility procedures on sharing confidential information
 - m. gender-specific information tailored to the gender of the offenders at the facility.
3. Each employee will attend refresher training in odd number years to cover the topics in C.2 above. In even number years, employees will receive refresher information on current sexual abuse and sexual harassment policies.

Policy No. BOPP 1.8	Chapter 1: Administration and Management	Page 6 of 18
Subject: PRISON RAPE ELIMINATION ACT OF 2003 (PREA)		

4. All volunteers and service providers who have visual, physical, or audio contact with offenders will be trained at a minimum on the department's zero tolerance policy concerning sexual abuse and harassment, prevention, detection, and response methods, and how to report such incidents. The level and type of training provided to volunteers and service providers will be based on the services they provide and the level of contact they have with offenders and could rise to the level of employee training referenced in C.2 above. Volunteers and service providers will sign a training acknowledgment form.
5. Medical and mental health providers will receive additional, specialized training relevant to their role in detecting and assessing signs of sexual abuse and sexual harassment, preservation of evidence, and responding effectively to victims of sexual abuse and sexual harassment.
6. Employees who conduct sexual abuse investigations will receive additional training in conducting such investigations in confinement settings, to include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collections, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.
7. All training will be documented, through signature or electronic verification, showing acknowledgement that the employee, volunteer, or service provider received and understood the training. For comprehensive training, staff will use the Comprehensive PREA Training Acknowledgment.

D. Offender Education

1. Within 72 hours of facility intake for adult offenders and during the intake process for residents at juvenile facilities, employees will communicate to offenders, verbally and in writing:
 - a. information about the department's zero tolerance of sexual abuse and sexual harassment
 - b. how to report incidents or suspicion of abuse or harassment; and
 - c. this policy, *1.3.12 Staff Association and Conduct with Offenders*, *3.3.3 Offender Grievance Program*, and corresponding site-specific procedures.
2. Within 30 days of intake for adult offenders, or within 10 days of intake for residents at juvenile facilities, the facility will provide education to offenders either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding facility procedures for reporting and responding to such incidents.
3. Offenders will receive education upon transfer to a different facility regarding any policies and procedures of the offender's new facility that differ from those of the previous facility.

Policy No. BOPP 1.8	Chapter 1: Administration and Management	Page 7 of 18
Subject: PRISON RAPE ELIMINATION ACT OF 2003 (PREA)		

4. Each facility must take appropriate steps to ensure offenders with 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 will include access to interpreters and written materials provided in formats or through methods that ensure effective communication. The facility will provide offender education in formats accessible to all offenders, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to offenders who have limited reading skills.
5. The facility will maintain documentation of offender participation in PREA education sessions and have offenders sign an acknowledgment form.
6. The facility will ensure that PREA information is continuously and readily available or visible to offenders through posters, offender handbooks, or other written formats.

E. Screening for Risk of Victimization or Abusiveness

1. Risk assessment of all offenders using an objective screening instrument for victimization or abusiveness will take place within 72 hours of intake into a facility.
2. Within 30 days of intake the facility will reassess the offender's risk of victimization or abusiveness, taking into consideration any additional relevant information received by the facility since the initial screening.
3. The facility will conduct additional screening assessments when warranted based on any new information, referral, request, or incident of sexual abuse.
4. The screening instrument will consider, at a minimum, the following criteria for risk of sexual victimization:
 - a. whether the offender has a mental, physical, or developmental disability
 - b. the age of the offender
 - c. the physical build of the offender
 - d. whether the offender has previously been incarcerated
 - e. whether the offender's criminal history is exclusively nonviolent
 - f. whether the offender has prior convictions for sex offenses against an adult or child
 - g. whether the offender is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming
 - h. whether the offender has previously experienced sexual victimization
 - i. the offender's own perception of vulnerability.
5. The screening will consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse in assessing the offender's risk for being sexually abusive.
6. Offenders will not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked during screening or reassessment.
7. When the risk assessment indicates an offender has experienced prior sexual victimization or previously perpetrated sexual abuse, whether it occurred in the community or in an institutional setting, the facility will ensure the offender is offered a follow-up meeting with a qualified mental health professional within 14 days of the assessment.

Policy No. BOPP 1.8	Chapter 1: Administration and Management	Page 8 of 18
Subject: PRISON RAPE ELIMINATION ACT OF 2003 (PREA)		

8. Information from the risk assessment for victimization or abusiveness will be provided on a need-to-know basis to individuals who make housing, bed, work, education, and program assignments and used with the goal of keeping separate those offenders at high risk of being sexually victimized from those at high risk of being sexually abusive.
9. In deciding whether to assign a transgender or intersex offender to a facility, and in making other housing and programming assignments, the department will consider on a case-by-case basis the placement's effect on the offender's safety, whether the placement would present management or security problems, and whether such placement would likely endanger the safety of other offenders.
10. A review committee consisting of a qualified health care professional, qualified mental health professional, PREA coordinator, chief legal counsel or designee, and the Montana State Prison and Montana Women's Prison wardens, or designees, will determine appropriate facility placement of transgender and intersex offenders based on their review of all relevant information.
 - a. The review committee will conduct an individual assessment of each transgender and intersex offender based upon their specific areas of expertise, knowledge, and control.
 - b. This assessment will occur as soon as possible following notification to the department that a transgender or intersex offender has been committed to a department secure facility but no later than 30 days after arrival at a facility.
 - c. The review committee may request information or participation from other subject matter experts as needed.
 - d. All documentation, information, and recommendations of the review committee are confidential and will be maintained in a secure location.
 - e. The recommendation for facility placement by the review committee will be given to the Director for final approval.
11. Placement and programming assignments for each transgender or intersex offender will be reassessed at least twice each year to review any threats to safety experienced by the offender. A transgender, or intersex, offender's own views with respect to his or her own safety will be given serious consideration.

F. Offender Reporting

1. Facilities will provide multiple internal ways for offenders to privately report sexual abuse and sexual harassment, retaliation by other offenders or employees for reporting sexual abuse and sexual harassment, and employee neglect or violation of responsibilities that may have contributed to such incidents.
2. Facilities must provide at least one way for offenders to report abuse or harassment to a public or private entity that is not part of the department, and that is able to receive and immediately forward any reports from offenders of any sexual abuse or harassment to facility or department officials, allowing the offender to remain anonymous upon request.

Policy No. BOPP 1.8	Chapter 1: Administration and Management	Page 9 of 18
Subject: PRISON RAPE ELIMINATION ACT OF 2003 (PREA)		

3. Offenders who are victims of or have knowledge of sexual abuse or sexual harassment should immediately report the incident by one of the following methods:
 - a. report the incident to an employee or service provider verbally, in writing, anonymously or through a third party
 - b. utilize the “locked box” formal grievance procedure in accordance with *DOC Policy 3.3.3 Offender Grievance Program*
 - c. contact the external agency listed on PREA posters and brochures that are posted and available throughout the facility
 - d. use the inmate phone system following the instructions on the phone to leave a message for a department employee.
4. Employees and service providers will accept reports verbally, in writing, anonymously, and from third parties and will immediately document any verbal reports.
5. Reports made in bad faith, which includes deliberately malicious reports by offenders or other parties, will result in disciplinary action and/or criminal charges.

G. First Responder Duties

1. Upon learning of an allegation that an offender was sexually abused, the first security staff to respond to the report will:
 - a. separate the alleged victim and alleged perpetrator
 - b. preserve and protect any crime scene until appropriate steps can be taken to collect any evidence, in accordance with *DOC 3.1.28 Crime Scene and Physical Evidence Preservation*
 - c. if the abuse allegedly occurred within a time period that allows for the collection of physical evidence, typically 72 hours, request that the alleged victim and ensure that the alleged abuser not take any actions that could destroy physical evidence such as washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
2. If the first employee or service provider to learn of an allegation that an offender was sexually abused is not security staff, the employee or service provider will request that the alleged victim not take any actions that could destroy physical evidence, take reasonable steps to ensure the victim’s safety, and immediately notify security staff.
3. Each facility will maintain a written institutional plan to coordinate actions taken in response to an incident of sexual abuse among employee and service provider first responders, medical and mental health practitioners, investigators, and facility leadership.

H. Employee and Service Provider Reporting

1. Department employees and service providers will report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the department; retaliation against offenders or employees who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

Policy No. BOPP 1.8	Chapter 1: Administration and Management	Page 10 of 18
Subject: PRISON RAPE ELIMINATION ACT OF 2003 (PREA)		

2. Employees and service providers may privately report sexual abuse or sexual harassment through their chain of command or by notifying the department PREA coordinator.
3. If the alleged victim is under the age of 18, the administrator, or designee, must report the allegation to:
 - a. the Director or Deputy Director immediately upon receipt of the allegation
 - b. the Department of Public Health and Human Services in accordance with *41-3-201, MCA*.
4. If the alleged victim is at least 60 years old or is a person with a developmental disability, the administrator, or designee, must report the allegation to the Department of Public Health and Human Services in accordance with *52-3-811, MCA*.
5. Apart from reporting to designated supervisors or officials, employees and service providers will not reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.
6. Unless otherwise precluded by law, medical and mental health practitioners will report sexual abuse according to facility procedures and will inform offenders of their duty to report, and the limitations of confidentiality, at the initiation of services.
7. Allegations that an offender was sexually abused while at another facility must be reported by the administrator to the administrator of the facility where the abuse occurred as soon as possible but no later than 72 hours after the initial report. For allegations involving a resident of a juvenile facility the administrator will also notify the appropriate investigative agency. Notifications will be documented.
8. Potential criminal conduct will be reported to the LEAJ first, immediately followed by the Office of Investigations. If the Office of Investigations has primary jurisdiction over a facility's criminal investigations, however, that facility will report potential criminal conduct only to the Office of Investigations.
9. Sexual abuse or harassment by an employee, service provider, or offender will be reported in accordance with *DOC Policy 1.1.6 Priority Incident Reporting and Acting Director*.
10. Reports of sexual abuse or sexual harassment by an employee, service provider, or offender will be forwarded to the Office of Investigations, facility PREA compliance manager and the Department PREA coordinator within one business day.
11. Any employee or service provider who fails to report an allegation, or coerces or threatens another person to submit inaccurate, incomplete, or untruthful information may face dismissal or other disciplinary action.

Policy No. BOPP 1.8	Chapter 1: Administration and Management	Page 11 of 18
Subject: PRISON RAPE ELIMINATION ACT OF 2003 (PREA)		

I. Retaliation Monitoring

1. The department will not tolerate retaliation against offenders, employees, or other parties for reporting sexual abuse or sexual harassment or cooperating with an investigation. Individuals that retaliate against any offender or witness are subject to disciplinary action.
2. Employees who report sexual abuse or sexual harassment of an offender will not be subjected to retaliation by anyone within or outside of their chain of command in accordance with DOC Policy 1.3.2 Employee Performance and Conduct.
3. Facilities will employ multiple protective measures, such as transfers or removals to separate victims from abusers, and emotional support services.
4. The facility will monitor, for at least 90 days, the conduct and treatment of offenders and employees who reported sexual abuse or sexual harassment and offenders who were reported to have suffered sexual abuse or sexual harassment to prevent retaliation. Monitoring will continue beyond 90 days if there is a continuing need.
5. Monitoring will include reviewing any offender disciplinary reports, housing or program changes, or negative performance reviews or reassignments of employees. For offenders, monitoring will also include periodic status checks.
6. If an offender is transferred from one department facility to another department facility during his or her monitoring, the transferring facility will notify the receiving facility of the offender's monitoring status and the receiving facility will continue the monitoring for the remainder of the 90 days, or beyond if there is a continuing need.
7. The facility will act promptly to remedy any detected retaliation.
8. Each facility will designate staff members responsible for retaliation monitoring.
9. The facility's obligation to monitor retaliation may be terminated if the allegation is determined to be unfounded.
10. If any other individual who cooperates with an investigation expresses a fear of retaliation, the department will take appropriate measures to protect that individual against retaliation.

J. Medical, Mental Health, and Victim Services

1. Medical and mental health services for victims will be consistent with the community level of care.
2. The administrator, or designee, will develop procedures for providing services to offenders alleged to be victims of sexual abuse or sexual harassment within a confinement setting. Services must be made available without financial cost to the victim and must include, at minimum:
 - a. access to medical examination and treatment to include follow up care and referrals
 - b. mental health crisis intervention and treatment
 - c. timely access to emergency contraception, STD prophylaxis, and all pregnancy-related tests and services

Policy No. BOPP 1.8	Chapter 1: Administration and Management	Page 12 of 18
Subject: PRISON RAPE ELIMINATION ACT OF 2003 (PREA)		

- d. access to a victim advocate or rape crisis center that can offer emotional support services throughout the investigative process, or access to a qualified employee or service provider.
3. Department employees and service providers will adhere to the following standards for examination of victims of sexual abuse or sexual harassment:
 - a. if the victim refuses medical or mental health attention, document the refusal on the Medical Treatment Refusal form
 - b. if reported within a time period which allows for collection of physical evidence, typically within 72 hours of the incident, and with the victim's permission, immediately transport the victim to a medical facility equipped with medical personnel certified as Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs), or if none are available, to a medical facility with other qualified medical practitioners, to evaluate and treat sexual assault/rape victims; and
 - c. if reported more than 72 hours after the incident, and with the victim's permission, adhere to the following:
 - i. refer the victim to appropriate health care providers responsible for treatment and follow up care for sexually transmitted or other communicable diseases who will complete a patient history, conduct an examination to document the extent of physical injury and determine whether referral to another medical facility is required
 - ii. upon request from law enforcement, transport the victim to a community medical facility for evidence collection.
4. Qualified mental health professionals will provide crisis intervention and ongoing services for victims of sexual abuse and sexual harassment and for other offenders affected.
5. Facilities will attempt to conduct a mental health evaluation of all known offender-on-offender abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by qualified mental health professionals.
6. Each facility will provide all offenders with access to outside victim advocates for emotional support services related to sexual abuse by giving offenders mailing addresses and telephone numbers of local, state, or national victim advocacy or rape crisis organizations. The facility will enable reasonable communication between offenders and these organizations in as confidential a manner as possible. The facility will inform offenders, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities.

K. Investigative Protocols

1. All reported incidents of sexual abuse and sexual harassment will be investigated promptly, thoroughly, and objectively. Criminal investigations will be conducted by either the LEAJ or by the Department's Office of Investigations in accordance with *DOC Policy 3.1.19 Investigations*.

Policy No. BOPP 1.8	Chapter 1: Administration and Management	Page 13 of 18
Subject: PRISON RAPE ELIMINATION ACT OF 2003 (PREA)		

2. Administrators, or designees, will ensure all staff follow appropriate evidence procedures outlined in *DOC Policy 3.1.28 Crime Scene and Physical Evidence Preservation*.
3. A Request for Investigation (RFI) for all allegations of sexual abuse and sexual harassment will be sent to the Office of Investigations to initiate an investigation.
4. The Office of Investigations will forward requests for investigation that do not rise to the level of a criminal investigation to the PREA compliance manager and/or the appropriate administrator, or designee, to open an administrative investigation. For cases involving employees, the Office of Investigations will also notify the Office of Human Resources.
5. All allegations of sexual abuse or sexual harassment that are criminally investigated will also be administratively investigated. The administrative investigation will begin when the Office of Investigations determines that the administrative investigation will not interfere with the criminal investigation.
6. Investigations of offender sexual abuse or sexual harassment will be conducted by department employees who have received specialized training in conducting sexual abuse and sexual harassment investigations in a confinement setting.
7. Investigators will gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data. Investigators will interview alleged victims, suspected perpetrators, and witnesses and will review prior complaints and reports of sexual abuse involving the suspected perpetrator.
8. When the quality of evidence appears to support criminal prosecution, compelled interviews will only be conducted after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
9. The credibility of an alleged victim, suspect, or witness will be assessed on an individual basis and will not be determined by the person's status as an inmate or employee.
10. Offenders who allege sexual abuse will not be required to submit to a polygraph examination as a condition for proceeding with the investigation of an allegation.
11. The facility will not rely on offender interpreters for investigations regarding sexual abuse or sexual harassment except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the offender's safety, the performance of first-response duties or the investigation of the offender's allegations.
12. Department employees are guaranteed constitutional and administrative protections; within the boundaries of those protections, employees will cooperate with any authorized investigation or inquiry and will relate fully and truthfully their knowledge of all issues pertaining to the alleged conduct under investigation. Material omissions or the provision of materially false information which the employee knows or suspects to be false will result in the employee being subject to disciplinary action in accordance with *DOC Policy 1.3.2 Employee Performance and Conduct*.

Policy No. BOPP 1.8	Chapter 1: Administration and Management	Page 14 of 18
Subject: PRISON RAPE ELIMINATION ACT OF 2003 (PREA)		

13. Administrative investigators will issue the Interviewee Administrative Investigation Warning to employees who are being interviewed as the subject of an investigation or witnesses in an investigation.
14. In cases of sexual abuse involving staff, the Separation Order Pending Investigation will be issued to the alleged staff member at the time of the allegation. The Return to Work – Case Closed form will be given to the staff member at the end of the investigation when the allegation is unfounded or unsubstantiated.
15. When a staff member reports an allegation involving another staff member, the administrative investigator assigned to the case will give the complainant the Investigation Notice for Complainant.
16. Information obtained during either a criminal or an administrative investigation may be jointly shared and utilized; however, a self-incriminating statement may not be utilized in a criminal investigation against an individual that has been provided with a Garrity Warning.
17. Investigators will not use a standard higher than preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated in administrative investigations.
18. Administrators must provide investigators with unrestricted access to department records including, but not limited to, documents; electronic recordings; and correspondence materials relevant to the investigation.
19. Administrative investigators must conduct fair and objective investigations, exercise professionalism during an investigation, and conduct investigations in such a manner that information is kept confidential.
20. Administrative investigations will include an effort to determine whether employee actions or failures to act contributed to abuse.
21. All investigations will be documented in a written report that includes a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
22. Investigative materials including, but not limited to incident reports, statements, and investigative reports will be stored in a criminal or administrative investigative case file. Criminal investigative case files must be submitted to the Investigations Manager. Administrative investigative case files must be submitted to the PREA compliance manager and the PREA coordinator.
23. All administrative and criminal investigation written reports will be retained for as long as the alleged abuser is incarcerated or employed by the department, plus five years.
24. Conduct that appears to be criminal will be referred by the Office of Investigations for prosecution.
25. The departure of the alleged abuser or victim from the employment or control of the facility or department will not provide a basis for terminating an investigation.

Policy No. BOPP 1.8	Chapter 1: Administration and Management	Page 15 of 18
Subject: PRISON RAPE ELIMINATION ACT OF 2003 (PREA)		

26. If an outside agency investigates sexual abuse, the facility will cooperate with outside investigators and will endeavor to remain informed about the progress of the investigation.

L. Reporting to Offenders

1. Following an investigation into an offender's allegation of sexual abuse or sexual harassment in a facility, the facility will inform the offender as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
2. If the investigation is conducted by a LEAJ, the department will request relevant information from the LEAJ to inform the offender.
3. Following an offender's allegation that an employee or service provider has committed sexual abuse against the offender, the facility will inform the offender, unless the allegation is unfounded, whenever:
 - a. The employee or service provider is no longer posted within the offender's unit
 - b. The employee or service provider is no longer employed at the facility
 - c. The department learns that the employee or service provider has been indicted on a charge related to sexual abuse within the facility
 - d. The department learns that the employee or service provider has been convicted on a charge related to sexual abuse within the facility
4. Following an offender's allegation that he or she has been sexually abused by another offender, the facility will inform the alleged victim whenever:
 - a. The facility learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility
 - b. The facility learns that the alleged abuser has been convicted on a charge related to sexual abuse within a facility.
5. All such notifications or attempted notifications will be documented.
6. A facility's obligation to report will terminate if the offender is released from the department's custody.

M. Incident Reviews

1. The facility 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. Such review will occur within thirty (30) days of the conclusion of the investigation.
2. The review team will include upper management from the facility, the facility's PREA compliance manager, line supervisors, investigators, qualified medical or mental health professionals, and other employees with direct involvement.

Policy No. BOPP 1.8	Chapter 1: Administration and Management	Page 16 of 18
Subject: PRISON RAPE ELIMINATION ACT OF 2003 (PREA)		

3. The review team will:
 - a. consider whether the allegation or investigation indicates a need to change policy or procedure to better prevent, detect or respond to sexual abuse
 - b. consider whether the incident or allegation was motivated by race, ethnicity, gender identity, LGBTI status or perceived status, STG affiliation or was motivated or caused by other group dynamics at the facility
 - c. examine the area where the incident allegedly occurred to assess whether the physical barriers in the area may enable abuse
 - d. assess the adequacy of staffing levels in that area during different shifts
 - e. assess whether monitoring technology should be deployed or augmented to supplement supervision by staff
 - f. prepare a report of its findings and any recommendations for improvement and submit the report to the facility administrator, the department PREA coordinator and facility PREA compliance manager.
4. The facility will implement the recommendations for improvement or document its reasons for not doing so.

N. Data Collection, Review, Storage, Publication and Destruction

1. There will be a system in place to collect data on incidents of sexual abuse or sexual harassment. Such data will be analyzed to determine possible corrective action or improvement.
2. The department will collect accurate, uniform data for every allegation of sexual abuse at facilities and programs under its direct control using a standardized instrument and definitions set forth in this policy.
3. The incident-based data collected will include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Victimization conducted by the Department of Justice.
4. The Department's Office of Investigations will maintain records of all criminal investigations of sexual abuse and sexual harassment conducted by that office or as provided by the LEAJ. Each facility will maintain records of all administrative investigations of sexual abuse and sexual harassment at that facility. Records will include information on the outcome of any criminal or disciplinary charges.
5. The department will aggregate the incident-based sexual abuse data at least annually. The department will maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
6. Each facility PREA compliance manager will maintain records of all allegations, investigations, and Incident Reviews and report such information to the PREA coordinator. Upon request, the department will provide all such data from the previous calendar year to the Department of Justice.

Policy No. BOPP 1.8	Chapter 1: Administration and Management	Page 17 of 18
Subject: PRISON RAPE ELIMINATION ACT OF 2003 (PREA)		

7. The department will make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, available to the public at least annually through the department website. All personal identifiers will be removed from this data prior to making it public. The department will maintain sexual abuse data for at least 10 years after the date of its initial collection.

O. Sanctions

1. Employees will be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. Termination is the presumptive disciplinary sanction for employees who have engaged in sexual abuse.
2. Disciplinary sanctions for violations of department policies relating to sexual abuse or sexual harassment (other than engaging in sexual abuse) will be commensurate with the nature and circumstances of the acts committed, the employee’s disciplinary history, and the sanctions imposed for comparable offenses by other employees with similar histories.
3. All terminations for violations of department sexual abuse or sexual harassment policies, or resignations by employees who would have been terminated if not for their resignation, will be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.
4. Service providers or volunteers who engage in sexual abuse will be prohibited from contact with offenders and will be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. The department will take appropriate remedial measures and will consider whether to prohibit further contact with offenders, in the case of any other violation of department sexual abuse or sexual harassment policies by a service provider.
5. Offenders are subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the offender engaged in offender-on-offender sexual abuse or following a criminal finding of guilt for offender-on-offender sexual abuse.
6. Sanctions will be commensurate with the nature and circumstances of the abuse committed, the offender’s disciplinary history, and the sanctions imposed for comparable offenses by other offenders with similar histories.
7. The disciplinary process will consider whether an offender’s mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
8. If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility will consider whether to require the offender to participate in such interventions as a condition of access to programming or other benefits.
9. The agency may discipline an offender for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

Policy No. BOPP 1.8	Chapter 1: Administration and Management	Page 18 of 18
Subject: PRISON RAPE ELIMINATION ACT OF 2003 (PREA)		

10. 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 will not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.
11. An offender may not engage in sexual acts, make sexual proposals, or threats, or engage in indecent exposure pursuant to *DOC 3.4.2 Prohibited Acts*, and is subject to disciplinary action for violations. The facility may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

V. CLOSING

1. Questions concerning this policy should be directed to the Department's PREA coordinator.

VI. REFERENCES

- A. 41-3-201, MCA; 45-5-501, MCA; 45-5-502, MCA; 45-5-503, MCA; 52-3-811, MCA
- B. 4-4281-1 through 4-4281-8; 2008 ACA Standards Supplement
- C. 28 CFR Part 115, Prison Rape Elimination Act of 2003
- D. DOC Policies 1.1.16 Priority Incident Reporting and Acting Director; 1.3.2 Employee Performance & Conduct; 1.3.12 Staff Association and Conduct with Offenders; 1.5.5 Case Records Management; 1.8.1 Victim Services; 3.1.19 Investigations; 3.1.28 Crime Scene and Physical Evidence Preservation; 3.3.3 Offender Grievance Program; 4.1.2 Offender Reception and Orientation; 4.2.1 Offender Classification System; 4.2.2 Special Needs Offenders
- E. *Garrity v. State of New Jersey*, 385 U.S. 493 (1967); *Gardner v. Broderick*, 392 U.S. 273 (1968); *Uniformed Sanitation Men Assoc., Inc. v. Commissioner of Sanitation of the City of New York*, 392 U.S. 280 (1968)
- F. P-F-06; National Commission on Correctional Health Services in Prisons, 2018
- G. MH-B-05; National Commission on Correctional Mental Health Services in Correctional Facilities, 2015

VII. ATTACHMENTS

Medical Treatment Refusal
Comprehensive PREA Training Acknowledgment
Garrity Warning
Interviewee Administrative Investigation Warning
Investigation Notice for Complainant
Return to Work – Case Closed
Separation Order Pending Investigation
DOC Policy 1.3.2 Employee Performance and Conduct.



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 2.1	Subject: ACCOUNTING PROCEDURES
Chapter 2: FISCAL MANAGEMENT	Page 1 of 2
Section 1: Fiscal Management	Effective Date: June 1, 2022
Signature: /s/ Joseph McElroy Chief of Staff	Revised:

I. POLICY

The Board of Pardons and Parole (BOPP) will follow and defer to all Montana Department of Corrections accounting procedures and be in compliance with generally accepted accounting principles, Montana State Statutes, Administrative Rules of Montana, Montana Operations Manuals, Volume I and II, and Department of Corrections Payroll Procedures Manual. See BOPP 1.1

II. APPLICABILITY

All BOPP.

III. DEFINITIONS

None.

IV. BOPP DIRECTIVES

A. Accounting Principles

The BOPP will adhere to Accounting Principles and State Accounting Policies as outlined in *Sections 17-1-101 through 17-6-512 and 17-8-101 through 17-8-311, Montana Codes Annotated (MCA), and Volume II, Chapter 200, Montana Operations Manual (MOM).*

B. Accounting Structure

The Department will utilize the accounting structure as outlined in *Title 17, MCA, and Volume II, Chapter 200, MOM.*

C. Receivables, Collectibles, and Deposits

Receivables, collectibles, and deposits will be accounted for as outlined in *Sections 17-4-101 through 17-4-111, and Sections 17-6-101 through 17-6-512, MCA, and Volume II, Chapters 1100 and 1200, MOM.*

D. Expenditures and Disbursements

Expenditures and disbursements will be accounted for as outlined in *Sections 17-8-101 through 17-8-311, and Sections 17-6-101 through 17-6-512, MCA, and Volume II, Chapters 1500 and 1600, MOM.*

E. Encumbrances

Encumbrances will be accounted for as outlined in *Sections 17-7-302 and 17-7-303, MCA, and Volume II, Chapter 1300, MOM.*

Policy No. BOPP 2.1	Chapter 2: Fiscal Management	Page 2 of 2
Subject: ACCOUNTING PROCEDURES		

F. Property Accounting

Property accounting will be accounted for as outlined in *Sections 2.5.701 through 2.5.801, Administrative Rules of Montana (ARM), and Volume II, Chapter 1700, MOM.*

G. Investment Accounting

Investment accounting will be accounted for as outlined in *Sections 17-6-101 through 17-6-512, MCA, and Volume II, Chapter 1800, MOM.*

H. Employee Travel

1. Employee travel will be accounted for as outlined in *Sections 2-18-501 through 2-18-512, MCA, and Sections 2.4.101 through 2.4.202, ARM, and Volume I, Chapter 300, MOM.*
2. Travel expenses will be reimbursed through payroll.
3. Employee travel using State Motor Pool and personal vehicles will be done in compliance with *Sections 2.4.112 through 2.4.116, ARM, and Volume I, Chapter 500, MOM.*

I. Payroll

Payroll will be accounted for as outlined in *Sections 2-18-401 through 2-18-412, MCA.*

J. Long-Term Debt

Long-term debt will be accounted for as outlined in *Volume II, Chapter 2200, MOM.*

K. Records Retention

Accounting document retention will be accounted for as outlined in *Volume I, Chapter 1-800, MOM.*

V. CLOSING

1. Questions concerning this policy should be directed to the Administrative and Financial Services Division.

VI. REFERENCES

- A. *2-18-401 through 2-18-412, MCA (2009) Payroll Systems; 2-18-501 through 2-18-512, MCA (2009) Travel, Meals, and Lodging; Title 17, MCA (2009) State Finance*
- B. *2.4.101 through 2.4.202; 2.5.701 through 2.5.801; Administrative Rules of Montana*
- C. *Volume I, Chapters 300, 500, 1-0800; Montana Operations Manual*
- D. *Volume II, Chapter 200, 1100 and 1200, 1300, 1500 and 1600, 1700, 1800, 2200; Montana Operations Manual*
- E. *Department of Corrections Payroll Procedures Manual*

VII. ATTACHMENTS

None.



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 2.2	Subject: INVENTORIES AND PUBLIC RECORDS MANAGEMENT
Chapter 2: FISCAL MANAGEMENT	Page 1 of 2
Section 2: Fiscal Management	Effective Date: September 1, 2022
Signature: /s/ Joseph McElroy, Chief of Staff	Revised:

I. POLICY

The Board of Pardons and Parole (BOPP) with the assistance of Department of Correction (DOC) will conduct inventories, manage capital assets, and maintain public records as required by Montana Statutes, Administrative Rules of Montana, and Montana Operations Manual.

II. APPLICABILITY

All BOPP. In accordance with BOPP 1.1, BOPP will work with Montana Department of Corrections (DOC) divisions, facilities, and programs.

III. DEFINITIONS

Capital Assets – Assets of a relatively permanent nature with a useful life of more than one year whose identity does not change with use.

Public Information – Information prepared, owned, used, or retained by any public agency relating to the transaction of official business, regardless of form, except for confidential information that must be protected against public disclosure under applicable law.

Public Record – Public information that is fixed in any medium and is retrievable in usable form for future reference and designated for retention by the state records committee, judicial branch, legislative branch, or local government records committee.

IV. DEPARTMENT DIRECTIVES

A. Inventories

1. The BOPP will coordinate with DOC and conduct inventories and manage capital assets in accordance with *Montana Operations Manual Policy 335 Capital Assets*.
2. The Business Management Services Division Administrator is the BOPP and DOC property coordinator.

B. Records Management

1. The BOPP will maintain public records in accordance with *Title 2, Chapter 6, MCA*.
2. The Business Management Services Division Administrator is the BOPP’s and DOC’s appointed public records manager and is responsible for the functions provided for in *2-6-1103, MCA*.
3. The public records manager will coordinate with other division administrators to ensure efficient and effective management of public records and public information.

Policy No. BOPP 2.2	Chapter 2: FISCAL MANAGEMENT	Page 2 of 2
Subject: INVENTORIES AND PUBLIC RECORDS MANAGEMENT		

V. CLOSING

1. Questions concerning this policy should be directed to the Board Chair or designee.

VI. REFERENCES

- A. Title 2, Chapter 6; Montana Code Annotated*
- B. Montana Operations Manual Policy; 335 Capital Assets*

VII. ATTACHMENTS

None.



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 2.3	Subject: PROCUREMENT
Chapter 2: FISCAL MANAGEMENT	Page 1 of 3
Section 3: Fiscal Management	Effective Date: June 1, 2022
Signature: /s/ Joseph McElroy, Chief of Staff	Revised:

I. POLICY

The Board of Pardons and Parole (BOPP) will coordinate with Montana Department of Corrections (DOC); (BOPP Policy 1.1) and administer the procurement of goods and services in accordance with the Montana Procurement Act and Montana Operations Manual ensuring the fair and equitable treatment of all parties involved in the procurement process.

II. APPLICABILITY

All BOPP.

III. DEFINITIONS

Procurement – An acquisition with or without cost, buying, purchasing, renting, leasing, or otherwise acquiring any supplies or services. It includes all functions that pertain to obtaining any supply or service, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration. It does not include the acquiring of supplies or services by gift.

Total Contract Value – The entire potential monetary worth of the project from the beginning to completion, including the initial contract period and any options to renew.

IV. BOPP DIRECTIVES

A. General Purchasing Requirements

1. The Board Chair of the BOPP will ensure operational procedures adhere to the Montana Department of Administration’s State Financial Services Division (SFSD) RFP Process.
2. The BOPP will adhere to DOC documentation of purchases will comply with applicable state statutes, the Purchasing Authority Agreement between the Department of Administration and the Department of Corrections, and the Purchasing Manual.
3. The DOC has several methods for purchasing supplies and services based on the total contract value of the item or service desired; a description of each method is located in the Purchasing Manual and the Purchasing Cardholder Standard Operations Procedure Guide.

Policy No. BOPP 2.3	Chapter 2: Fiscal Management	Page 2 of 3
Subject: PROCUREMENT		

4. Procurement documents will clearly indicate the evaluation methodology that will be used to determine contract award. Evaluations may include:
 - a. physical testing of products
 - b. review of manufacturer’s literature
 - c. mathematical calculations using vendor pricing and identified usage data
 - d. any other form of evaluation that serves the BOPP’s best interests and is specifically identified in the procurement document.
5. Special purchase authorization may be granted through an agreement between the Department of Administration and the DOC and BOPP.
6. In the event a contractor may use state-owned property or resources, the BOPP will coordinate with DOC and will state in the procurement document that such property or resource is available for the contractor’s use.

B. Request for Proposal (RFP) Evaluation Committees

1. An evaluation committee will provide a fair and unbiased evaluation of all RFP offers in accordance with the criteria established in the RFP document and will recommend contract award to the most responsible and responsive offeror.
2. The evaluation committee will be formed prior to the date set for receipt of proposals in order to ensure that there is no perception that the evaluation committee was formed to favor a particular offeror.
3. The evaluation committee may include individuals with knowledge or expertise of the goods or services requested in the RFP. If necessary, the evaluation committee may consult with other staff or experts regarding technical or specialized aspects of the RFP.
4. Only evaluation committee members may deliberate and participate in the evaluation process to recommend contract award.
5. Evaluation committee members are required to sign a “Non-Conflict of Interest” statement prior to serving on an evaluation committee; individuals that have a known or perceived possible conflict of interest with any potential offeror should not serve on the evaluation committee.
6. Responsibilities of evaluation committee members include the following:
 - a. maintaining knowledge of RFP requirements prior to the evaluation process
 - b. adherence to evaluation criteria set forth in the RFP
 - c. always maintaining a professional manner
 - d. remaining objective, impartial, unbiased, and fair in all aspects of the evaluation process
 - e. attending all evaluation committee meetings and vendor presentations
 - f. referring all vendor/public inquiries related to the submission and/or evaluation of proposals to the purchasing agent or procurement officer responsible for the RFP
 - g. immediately contacting the assigned purchasing agent or procurement officer if any real or perceived conflict of interest develops during the evaluation process
 - h. refraining from direct contact with an offeror during the RFP evaluation process

Policy No. BOPP 2.3	Chapter 2: Fiscal Management	Page 3 of 3
Subject: PROCUREMENT		

- unless absolutely required by job duties or functions
- i. recommending contract award.

C. Controlled Purchases

1. The SFSD retains control of specific purchases known as controlled items. Controlled items may be obtained through SFSD in the following ways:
 - a. requisition time schedule
 - b. exclusive or non-exclusive term contracts
 - c. Montana Acquisition and Contracting System (eMACS)
 - d. printing
 - e. vehicles
 - f. cooperative purchasing.
2. Purchases of cellular telephone service, computer hardware and software, telecommunications systems, and photocopiers require specific approval and/or assistance by designated individuals or programs.
3. Supplies and services purchased outside standard procedures due to unique requirements or unusual circumstances are provided an exception and may require additional justification and documentation as provided in 2.5.301, ARM and 18-4-132, MCA.

V. CLOSING

1. Questions concerning this policy should be directed to the Board Chair or designee, DOC Budget and Contracts Management Bureau chief, DOC purchasing agent (BOPP Policy 1.1).

VI. REFERENCES

- A. *Title 18, Chapter 4, MCA; 53-1-203, MCA*
- B. *2.5.101 through 2.5.801 ARM*
- C. *Purchasing Authority Delegation Agreement between the Departments of Administration and Corrections*
- D. *Purchasing Manual*
- E. *Purchasing Cardholder Procedure Operations Guide*
- F. *Montana Operations Manual, Chapter 1-0700*

VII. ATTACHMENTS

None.



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 2.4	Subject: EMPLOYEE TRAVEL
Chapter 2: FISCAL MANAGEMNT	Page 1 of 2
Section 4: Fiscal Management	Effective Date 9/01/2022
Signature: /s/ Joseph McElroy, Chief of Staff	Revised:

I. POLICY

The Board of Pardons and Parole (BOPP) will adopt the guidelines established in the Montana Operations Manual, Volume 1, Chapter 0300, Employee Travel.

II. APPLICABILITY

All BOPP.

III. DEFINITIONS

Facility/Program – Refers to any Montana Department of Corrections (DOC) division, prison, secure care correctional facility, correctional or training program, or community-based program under Department jurisdiction or contract. This term includes the facility building or residence, including property and land owned or leased and operated by the Department.

IV. BOPP DIRECTIVES

A. General Requirements

1. Employees who are authorized to travel will review the travel section in the Montana Operations Manual upon hire and at such times as changes are promulgated by the Department of Administration (see <https://doa.mt.gov/employee-travel>)
2. The Administrative Services Division will notify all facilities of changes in employee travel procedures and will modify this policy as needed.
3. Employees must submit travel expense vouchers for reimbursement of travel expenses. Travel Expense Vouchers may be completed electronically or manually; however, it must be signed manually by the employee and supervisor.
4. It is the responsibility of the employee to retain a copy of each expense voucher and attached receipts for the employee’s own records.

V. CLOSING

Questions concerning this policy should be directed to the Board Chair or designee. Questions can also be directed to DOC Administrative Services Division administrator.

VI. REFERENCES

- A. 2-15-112, MCA; 53-1-203, MCA
- B. Montana Operations Manual, Volume 1, Chapter 0300, Employee Travel

Policy No. BOPP 2.4.	Chapter 2: Fiscal Management	Page 2 of 2
Subject: EMPLOYEE TRAVEL		

VII. ATTACHMENT

None.



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 2.5	Subject: FLEET VEHICLE OPERATION & MANAGEMENT
Chapter 2: FISCAL MANAGEMENT	Page 1 of 10
Section 5: Fiscal Management	Effective Date: June 1, 2022
Signature: /s/ Joseph McElroy, Chief of Staff	Revised:

I. POLICY

The Board of Pardons and Parole (BOPP) through Department of Corrections (DOC) leases motor vehicles for the purpose of conducting department business. The BOPP requires all employees to comply with administrative rules, statutes, and policies governing the use and management of motor vehicles. See BOPP 1.1.

II. APPLICABILITY

All BOPP, DOC divisions, facilities, and programs department owned and contracted, as specified in contract.

III. DEFINITIONS

Administrator – The official, regardless of local title (division or facility administrator, bureau chief, warden, superintendent), ultimately responsible for the division, facility or program operation and management.

AgileAssets – The designated software program used by state agencies as a fleet management tool to track motor vehicle-related information such as odometer readings, fuel usage, and repairs.

Corporate Average Fuel Economy (CAFE) – The average fuel economy standard as provided in *49 U.S.C. 32904*.

Exempt Motor Vehicles – Those vehicles approved by the department director as not required to meet minimum mileage requirements.

Fleet Management Unit (FMU) – A centralized fleet unit located within the Department’s Contract Management Bureau, responsible for management of the agency-owned and leased motor vehicles.

Low Mileage Vehicle – A vehicle used less than 10,000 miles per fiscal year.

Motor Vehicle Maintenance (MVM) – The vehicle maintenance facility located on MSP grounds that uses inmate labor to service most MSP and MCE vehicles.

Personal Identification Number (PIN) – A unique number used for leased vehicles when purchasing fuel or for vehicle maintenance items with a fuel card.

Vehicle – A passenger motor vehicle owned or leased by the state that is designed for travel on maintained public roads and subject to motor vehicle registration, the term includes passenger cars, vans, buses, and light duty trucks.

Worksite – The work location designated by the employee’s supervisor that includes a state vehicle as an alternative, i.e., “in effect” worksite, depending on position responsibilities and working conditions.

Policy No. BOPP 2.5	Chapter 2: Fiscal Management	Page 2 of 10
Subject: FLEET VEHICLE OPERATION & MANAGEMENT		

Wright Express (WEX) – The fuel card company selected by the state to fuel agency owned and state-owned vehicles.

IV. DEPARTMENT DIRECTIVES

A. Authorized Vehicle Use

1. The Department of Administration Risk Management and Tort Defense Division (RMTD) must approve, in advance and in writing, any exception to authorized drivers, passengers, and/or vehicle use as defined in this policy.
2. Authorized drivers of department owned, or leased, vehicles include:
 - a. department employees conducting business on behalf of the state
 - b. authorized passengers relieving drivers due to illness, fatigue, or other physical or mental incapacity
 - c. aides for disabled employees subject to the prior written approval of the department director
 - d. independent contractors or temporary employment agency employees contracting with the state when a state employee is not available and subject to the prior written approval of the department director.
3. Authorized passengers of department owned, or leased, vehicles include:
 - a. department employees, independent contractors, guests, or clients while conducting business on behalf of the state
 - b. aides to employees with a disability with prior written approval of the department director
 - c. persons rendering or in need of assistance during a medical or other life-threatening emergency
 - d. offenders in transport currently under the care or supervision of the department
 - e. nursing infants if the parent is an authorized driver or passenger as provided in *MOM, 03-0101*.
4. Authorized daily vehicle operation includes:
 - a. parking a vehicle overnight at the home of a department employee in order to begin travel the next day
 - b. obtaining food, necessities, and lodging while in travel status
 - c. responding to medical or other life-threatening emergencies
 - d. conducting after-hours personal business, recreation, or leisure within a 30-mile radius of the department employee’s lodging when required to stay overnight at a location other than the established work location.
5. Requirements regarding use of personal vehicles to travel on behalf of the state include:
 - a. employees that require a vehicle must use a department owned or leased vehicle unless circumstances justify the use of a personal vehicle, prior written approval is obtained from a supervisor, and the Personal Vehicle Use Authorization form is completed
 - b. employees are not required to use personal vehicles and, in accordance with RMTD insurance agreements, are encouraged to use department owned or leased vehicles

Policy No. BOPP 2.5	Chapter 2: Fiscal Management	Page 3 of 10
Subject: FLEET VEHICLE OPERATION & MANAGEMENT		

- c. if department owned or leased vehicles are not available, reimbursement for personal vehicle use will be at the highest current rate determined by *2-18-503, MCA*
- d. if department owned or leased vehicle is available for use and/or the employee requests to conduct personal business while in travel status, reimbursement will be at the lowest current rate determined by *2-18-503, MCA*
- e. when requesting or approving personal vehicle use, the following criteria apply:
 - 1) employees assigned a permanent vehicle for commuting will not be approved to use a personal vehicle
 - 2) requests will be considered based on vehicle availability and/or the employees' desire to conduct personal business while on travel status
 - 3) employees requesting to use a personal vehicle regularly must obtain annual written approval from the administrator and the Department director.
- 6. Administrators requiring offender use of state vehicles as drivers must develop procedures authorizing such use and receive prior written approval of the RMTD as required per *ARM 2.6.203*.

B. Prohibited Vehicle Use

- 1. The following are prohibited while using a department owned, or leased, vehicle:
 - a. transporting unauthorized passengers
 - b. personal business use, e.g., shopping, medical appointments, lunch, and recreation when employee is not in travel status
 - c. attending wakes, funerals, or bereavement services, unless the deceased was a department employee killed in the line of duty
 - d. attending retirement functions
 - e. operating a vehicle within 8 hours of consuming or while under the influence of alcohol, illegal drugs, or prescription drugs that affect the person's ability to operate a vehicle safely
 - f. carrying or consuming an alcoholic beverage
 - g. smoking, in compliance with *50-40-104, MCA, Montana Clean Indoor Act*
 - h. using smokeless tobacco.

C. Disciplinary Actions

- 1. Supervisors are responsible for monitoring employee vehicle use and taking appropriate disciplinary action for noted violations. Employees who violate this policy, statute, or administrative rules are subject to disciplinary action up to and including discharge as provided in *2-17-421, MCA*. All department employees, responsible for the periodic operation of a department owned, or lease, vehicle, or an employee, who uses their own vehicle for department services, must sign the Vehicle Use Agreement. By signing this form, the employee agrees to abide by all conditions set forth within.

D. Agreements and Requirements

- 1. In order to operate a vehicle on behalf of the state and to ensure employees meet driver requirements specified in statute and administrative rules, employees that are new or employees who transfer from another State agency must complete the Vehicle Use

Policy No. BOPP 2.5	Chapter 2: Fiscal Management	Page 4 of 10
Subject: FLEET VEHICLE OPERATION & MANAGEMENT		

Agreement upon employee orientation and submit the agreement to Human Resources (HR).

2. In compliance with *61-5-103, MCA*, department employees possessing out of state driver's licenses must transfer or renew their driver's license in Montana within 60 consecutive days of residency.
3. HR will report driving record checks that reveal the accumulation of conviction points over 11 total points, as provided in *61-11-203, MCA* and may notify the employee's supervisor.
4. The department will conduct random motor vehicle driving record checks on a random 8% quarterly basis for all department employees.
5. Employees must always use seat belts and lock the vehicle when left parked.
6. While operating a department-owned or leased vehicle, employees are strongly encouraged not to use cellular phones or other mobile electronic devices while driving if the device is not already prohibited by local ordinance.
7. Employees using a Department of Transportation (MDT) State Motor Pool (State Motor Pool) leased vehicle must be familiar with the MDT lease packet and all applicable rules and procedures governing vehicle use.

E. Vehicle Accident and Driver Reporting

1. Employees who have an accident while conducting state business resulting in injury or death of any person or property damage shall immediately give notice of the accident to the appropriate law enforcement entity in accordance with *61-7-108, MCA*.
2. An employee who is involved in a vehicle accident or becomes aware of damage or vandalism to a department owned, or leased, vehicle must complete and submit the Report of Incident form to the FMU within 24 hours and notify the State Motor Pool if driving a leased vehicle reserved through State Motor Pool.
3. An employee involved in an accident in a department owned, or leased, vehicle that results in a claim or a citation will be required to attend a Distractive or Defensive Driving Course and will be subject to a current check of their motor vehicle driving record.
4. In accordance with *ARM 2.6.205* and *61-11-203, MCA*, employees authorized to operate a motor vehicle on state business that accumulate conviction points in a 36-month period must comply with the following:
 - a. if 5 or more conviction points are accumulated while driving a state vehicle or a personal vehicle for state business, the employee must report points to a supervisor within 10 days of conviction or forfeiture of bond
 - b. if 12 or more conviction points are accumulated while driving any motor vehicle for any purpose, the employee must report points to a supervisor within 10 days of conviction or forfeiture of bond and may not operate a motor vehicle for state

Policy No. BOPP 2.5	Chapter 2: Fiscal Management	Page 5 of 10
Subject: FLEET VEHICLE OPERATION & MANAGEMENT		

- business until a certified safe driver course approved by the RMTD is completed and written approval to drive from RMTD and the department director is received
- c. if 15 or more conviction points are accumulated, the employee must complete training and reporting requirements listed above and may not operate a motor vehicle for state business until total points accumulated within a 36-month period are less than 12
 - d. if 18 or more conviction points are accumulated, the employee must complete the training and reporting requirements listed above and may not operate a motor vehicle for state business until 2 years have passed without accumulating conviction points
 - e. if the employee fails to report convictions points within the structure detailed above, the employee is subject to disciplinary action up to, and including termination.

F. Permanent Vehicle Assignments

1. An employee may request a permanent vehicle assignment by completing and submitting the Request for Vehicle Assignment to his or her supervisor.
2. The administrator and department director may approve permanent vehicle assignments consistent with the department's mission, division or facility operational needs, and other department and state policies. Per *2-17-425, MCA*, copies of Request for Vehicle Assignment approvals must be submitted to the FMU who will forward the signed copy to the governor's office.
3. Employees approved for a permanent vehicle assignment and employees sharing or benefiting from an employee assigned a permanent vehicle for commuting must submit a State Vehicle Commuting form to FMU to ensure compliance with federal requirements outlined in *26 CFR § 1.61-21(f)(3)*, and *IRS Publication 15-B (2009) Commuting Rule*.
4. An employee that is approved a permanent vehicle assignment to commute to and from a residence must meet one of the following:
 - a. the employee is a department psychiatrist assigned to the Montana State Prison
 - b. 24-hour vehicle use is specifically authorized by law as an elected or appointed official and vehicle use is part of a compensation package
 - c. the vehicle used is in effect the employee's worksite and the employee is assigned one of the following positions:
 - 1) field-based Adult Probation and Parole Officer
 - 2) field-based Youth Parole Officer
 - 3) investigator assigned to the Office of Investigations
 - 4) Youth Services Division Transportation Officer
 - d. the employee's residence is less than 30 miles from his or her worksite, job duties include on-call responsibilities for quick response to an emergency threatening life or property, employees in the position have responded to more than one emergency call in the past six months, and the exception is approved by the department director. If an exception is provided, emergency response records must be submitted to the FMU to forward to the department director for review biannually.

Policy No. BOPP 2.5	Chapter 2: Fiscal Management	Page 6 of 10
Subject: FLEET VEHICLE OPERATION & MANAGEMENT		

5. A vehicle is in effect an employee's worksite when at least one of the following apply as necessary to the employee's job requirements and performance of duties:
 - a. use of a vehicle with safety and emergency response equipment, i.e., police radio, bullet-resistant vest, weapon, first-aid kit, search kit, or security partition
 - b. use of a vehicle during alternative work-schedule hours to conduct work functions in a variety of geographic locations and the employee is not required to report to a specific location for assignments or work shifts
 - c. use of a vehicle to meet with, interview, or detain offenders; secure evidence such as contraband seized in performing position duties; conduct offender searches; or investigate Interstate placement, parole, or conditional release plans.

G. Minimum Mileage Requirements

1. Department owned, or leased, vehicles should be driven at least 10,000 miles annually. For vehicles driven less than 10,000 miles in a fiscal year, a Low Mileage Vehicle Exemption form must be submitted to the FMU immediately following the conclusion of the fiscal year, if a vehicle is driven less than 5,000 miles, written justification not containing any exemption listed in Section IV.H.2 below must be included.
2. The department director may exempt vehicles from the minimum mileage requirement if three or more of the following conditions are met:
 - a. the vehicle is used daily for tasks, e.g., security checks, home visits, pickup/delivery
 - b. the facility cannot access the State Motor Pool or agency vehicles
 - c. liability or safety concerns render using a personal vehicle inappropriate
 - d. storage of specialized equipment in the vehicle is required
 - e. the vehicle is necessary for emergency response
 - f. the vehicle is used to transport offenders
 - g. an employee is not willing to use a personal vehicle for state business
 - h. more cost-effective than reimbursement for use of a personal vehicle
 - i. the vehicle is used primarily for one of the following:
 - 1) travel on non-maintained roads
 - 2) on facility property for maintenance, construction, or grounds-keeping
 - 3) moving and distributing large items or a large quantity of items.
3. The FMU will forward exemption forms to the department director annually, vehicles found to be not exempt will be disposed of through the State Surplus Property Program.

H. Vehicle Purchases and Transfers

1. To determine the impact of a new or used vehicle purchase with regard to the overall fleet mileage requirements, all requests for motor vehicle purchases must be submitted to the FMU, regardless of delegated purchasing authority. The FMU will determine if the vehicle is exempt or non-exempt from mileage requirements and forward the request to the State Procurement Bureau (SPB) or return it to the requesting agency as applicable. New vehicles are purchased annually in conjunction with the State of Montana "Requisition Time Schedule."

Policy No. BOPP 2.5	Chapter 2: Fiscal Management	Page 7 of 10
Subject: FLEET VEHICLE OPERATION & MANAGEMENT		

2. In accordance with 2-17-416, MCA, new vehicles purchased after January 1, 2008, must meet, or exceed, the CAFE standard unless an exemption is provided by the Department director and the vehicle meets any of the following conditions:
 - a. used primarily in off-road use or for moving and distributing large items or a large quantity of items
 - b. used for maintenance, construction, or grounds keeping
 - c. has a manufacturer-stated seating capacity of more than six persons
 - d. utilizes alternative fuels.
3. Administrators requesting to retain or acquire an SUV or large utility vehicle (for leased vehicles, a class 04 or class 11 vehicle) must complete and submit a SUV and Large Vehicle Justification form to the FMU. The FMU will forward the request to the department director to approve or deny the request.
4. The FMU must be notified prior to any transfer of a department owned, or leased, vehicle from one facility to another or from one party to another.

I. Maintenance and Repairs

1. The FMU will send designated responsible parties a Vehicle Condition Report annually to complete and return to the appropriate fleet staff by May 1 to evaluate the current condition of each department owned, or leased, vehicles. Fleet staff located at Montana State Prison (MSP) and Montana Correctional Enterprises (MCE) are responsible for collection and review of reports pertaining to vehicles under respective division responsibility.
2. Vehicle operators must ensure that department owned, or leased, vehicles are clean, mechanically maintained at all times, and not operated with any defect or problem that would prevent safe operation.
3. The administrator, or designee, will assign an individual to ensure non-exempt vehicles have a functional odometer or employ an alternative method for tracking mileage and maintenance.
4. The department utilizes maintenance intervals consistent with manufacturer's recommendations and has management information systems in place to ensure maintenance is completed as required.
5. Preventive maintenance (PM) is performed on vehicles as a part of a scheduled maintenance program performed at regular intervals based upon manufacturers recommended standards and vehicle driving conditions.
6. Department owned, or leased, vehicle repairs, maintenance, and vehicle-related purchases that are not part of a PM schedule or emergency must be pre-approved by submitting a Department-Owned Vehicle Repair form to the FMU or individuals designated at MSP or MCE to maintain the fleet, as applicable, in accordance with the following:
 - a. if estimated cost is over \$300 and not performed by Motor Vehicle Maintenance (MVM), the form must be submitted to the FMU
 - b. if estimated cost is over \$1,000 and performed by MVM on an MSP or MCE vehicle, the form must be submitted to the corresponding fleet staff

Policy No. BOPP 2.5	Chapter 2: Fiscal Management	Page 8 of 10
Subject: FLEET VEHICLE OPERATION & MANAGEMENT		

- c. if estimated cost is over \$1,000 and performed by MVM on a vehicle not under the supervision of MSP or MCE, the form must be submitted to the FMU.
- 7. Emergency repair is permissible if a department owned, or leased, vehicle breaks down after normal business hours, immediate vehicle use is necessary, and a reasonable alternative is not available; the FMU, MSP, or MCE fleet staff, as applicable, must be notified of the repair costs the next business day.
- 8. The assigned driver or responsible party should contact the dealer and check the vehicle owner's manual before scheduling repairs that may be covered under warranty. Warranty repairs must be performed by an authorized dealer. Warranty repair information must be submitted to the FMU for entry in the AgileAssets database.
- 9. Vehicle maintenance and repairs conducted by MVM must be entered on a monthly basis into the AgileAssets database by the FMU or a staff member at MSP or MCE licensed as an authorized user of AgileAssets. Vehicle maintenance and repairs not conducted by MVM and not obtained by using a WEX card will be entered to the AgileAssets data base by the FMU.

J. Vehicle Disposal

- 1. Department owned vehicles may not be transferred, sold, traded, or otherwise disposed of without written authorization of the Department of Administration, General Services Division, Property and Supply Bureau in accordance with 2.5.701, *ARM*.
- 2. Department vehicles will be disposed of and processed as surplus through the Property and Supply Bureau according to the following:
 - a. individuals designated at MSP or MCE to maintain the fleet will manage the disposal of vehicles under respective division responsibility that are wrecked, in need of costly repairs, or stored for parts and will notify the FMU upon removal from operation; and
 - b. remaining divisions, facilities, and programs will submit a written request for disposal to the FMU.

K. Insurance Coverage

- 1. The department will consider age, use, and retail value of vehicles when determining liability or comprehensive/collision coverage.
- 2. Employees approved to use a personal vehicle for department business must use personal insurance coverage and are responsible for deductibles and co-insurance payments.
- 3. The department will participate in the RMTD Automobile Insurance Premium Discount Program by completing all requirements and documentation required and ensuring that five percent (5%) of Department employees complete defensive driving, or other equivalent training, sponsored or approved by RMTD on an annual basis.

L. Fueling Cards

Policy No. BOPP 2.5	Chapter 2: Fiscal Management	Page 9 of 10
Subject: FLEET VEHICLE OPERATION & MANAGEMENT		

1. Employees authorized to operate a state vehicle must read the *MOM Fuel Card Policy 1-0790.00* and sign the DOC Fuel Card Use Employee Agreement form acknowledging responsibility for fuel card use.
2. A WEX fuel card will be assigned to each vehicle to be used by drivers when fueling a department owned vehicle. All department vehicles will be assigned a PIN that must be used when fueling the vehicles.
3. State Motor Pool vehicles will be fueled using a Wright Express (WEX) fuel card requiring that the driver enter an MDT assigned PIN issued to the vehicle and not a specific PIN issued to the employee. Employees using WEX fuel cards must follow the MDT General Lease Operator Requirements when fueling vehicles or purchasing other vehicle-related items.
4. In compliance with *MOM Fuel Card Policy 1-0790.00* the department will maintain internal controls on fuel card use which include:
 - a. a limited number of transactions during a time period, e.g., day, month, week
 - b. a limited dollar amount per transaction
 - c. a limit on merchant category codes
 - d. a required odometer reading at the point-of-sale, e.g., gas station.
5. Fuel cards assigned to department owned vehicles may only be used for purchases of petroleum products, new tires, tire and tube repair, automated car washes, maintenance items, and labor for services. Vehicles must be fueled using the least expensive grade from self-service pumps. Fuel card receipts for items other than fuel must be submitted monthly to the FMU with the State-Owned Vehicle Monthly Report.
6. Department employees must report fuel cards that are lost or stolen to the FMU.
7. Designated responsible parties will ensure that cards assigned to a vehicle that is transferred, sold, or surpluses, will be cancelled immediately.

M. Bulk Fuel Tank Use

1. The department will use state term contracts in compliance with the *MOM Bulk Fuel Policy 1547* to purchase fuel for bulk tanks, if term contracts are not available, the department will purchase fuel in accordance with *18-4-304* and *18-4-305, MCA*.
2. The department will maintain physical and internal controls on bulk tank use including:
 - a. installation of a bulk tank fuel dispensing meter and fuel card device
 - b. gates or fencing around bulk tanks to limit access
 - c. reconciling vehicle logbooks and/or monthly reports against bulk tank transaction logs or WEX monthly transaction statements
 - d. comparison of the bulk tank fuel gauge against the monthly transaction log or statement.

N. Fuel Transaction Review

1. Fuel transactions will be reviewed monthly and on a random basis to determine appropriateness of transactions in comparison to employee work hours and locations,

Subject: **FLEET VEHICLE OPERATION & MANAGEMENT**

duties, and normal expenses. Criteria may include date and time of transaction, number of transactions per vehicle and/or employee, merchant and/or location information, and odometer readings.

O. Vehicle Use Reporting

1. In accordance with 2-17-422, MCA, the department will maintain operating history records for motor vehicles under control of the department including the purchase price of the vehicle and the items of expense incurred in the operation of the vehicle. A complete summary of the operating cost and history record of all state-owned vehicles must be prepared for each fiscal year.
2. To maintain adequate records, equipment purchased for a vehicle must be reported to the FMU or entered in the AgileAssets database.

V. CLOSING

1. Questions concerning this policy should be directed to the Administrative Services Division Administrator or Human Resources.

VI. REFERENCES

- A. Title 2, Chapter 17, Part 4, MCA; 2-18-503, MCA; 18-4-304, MCA; 18-4-305, MCA; Title 19, MCA; 50-40-104, MCA; 61-7-108, MCA; 61-11-203, MCA
- B. Volume 1, Chapter 1-0500; Montana Operations Manual
- C. Volume 111, 3-01-1; Montana Operations Manual
- D. 1-0500, MOM; 1-0790.00, MOM; 1-0795.00, MOM
- E. 2.6.201-214; Administrative Rules of Montana; State Vehicle Use
- F. 26 CFR, § 1.61-21(f)(3) Internal Revenue Service Regulation

VII. ATTACHMENTS

DOC Fuel Card Use Employee Agreement
State Motor Pool
Personal Vehicle Use Authorization
State-Owned Vehicle Monthly Report
Vehicle Use Agreement



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 3.1	Subject: PERFORMANCE AND CONDUCT
Chapter 3: HUMAN RESOURCES	Page 1 of 5
Section 1: Human Resources	Effective Date: June 1, 2022
Signature: /s/ Joseph McElroy, Chief of Staff	Revised:

I. POLICY

The Board of Pardons and Parole (BOPP) protects the rights of employees, enforces high standards of professional conduct, and provides guidelines of performance and conduct for BOPP employees. The Montana Department of Corrections (DOC) pursuant to (DOC) Policy 1.1.4, The DOC will:

1. Assist in development and periodic review of a comprehensive resource manual to guide interdependent agency activities.
2. Identify management information and automation options for ongoing agency operations.
3. Coordinate the collection and sharing of management information.
4. Develop formal processes for coordinating interagency activities.
5. Assist in the establishment of rules and policy that do not conflict with board authority.
6. Provide reasonable access to any offender over whom the board has jurisdiction and ensure that eligible, in-state offenders are available for a hearing before the board. Administrators will provide adequate security at all hearings conducted in secure custody facilities.
7. Furnish the board with relevant reports regarding an offender’s suitability for parole.
8. Supervise all persons placed on parole in accordance with the conditions and orders imposed by the board.
9. Allocate office space for board staff.
10. Assist the board in training, budgeting, record keeping, reporting, and related administrative and clerical functions.
11. Provide human resource support to assist with human resources functions.
12. Provide a qualified attorney to act as a legal advisor and representative for the board.
13. Disseminate any required notices, rules or orders adopted, amended, or repealed by the board.
14. Provide an opportunity for the board to respond to and participate in the review process of any mutually dependent policy or order adopted, repealed, or amended by the department.
15. Provide communications support through the Department's Director of Communications.

II. APPLICABILITY

All BOPP.

III. DEFINITIONS:

Contraband – Any item possessed by an offender or found within the facility that is illegal by law, prohibited by policy or procedure, or unauthorized by those legally charged with the administration and operation of the facility.

Policy No. BOPP 3.1	Chapter 3: Human Resources	Page 2 of 5
Subject: PERFORMANCE AND CONDUCT		

Criminal Conduct – A charge or conviction of a violation of city, county, state, or federal law including all felonies and misdemeanors, including but not limited to assault, sexual assault, traffic violations, i.e., hit and run, driving under the influence (DUI), reckless driving, or other violations by staff that could result in the imposition of a jail sentence and/or suspension or revocation of the violator's driver license

Department Employee – A person employed by the BOPP and DOC who has attained permanent status or is eligible to attain permanent status, as provided in *2-18-601, MCA*; volunteers, interns, temporary and short-term workers; this term does not include service providers.

HIPAA – The Health Insurance Portability and Accountability Act (1996) which defines nationally recognized regulations for the use and disclosure of an individual’s health information.

Service Providers - This term includes contracted persons or other vendors providing service whose assignment is primarily on BOPP or DOC premises, e.g., facility or program office.

IV. DEPARTMENT DIRECTIVES

A. On-the-Job Performance

1. Employees are responsible for performing duties as specifically assigned either orally or in writing, and as guided by the attached Code of Ethics and DOC policies.
2. Employees and service providers with access to protected health information must read and sign the HIPAA Confidentiality Agreement.

B. Off-the-Job Conduct

1. Employees will maintain ethical standards that contribute to public safety and trust, and do not reflect negatively on the reputation of corrections professionals.
2. Employees and service providers are expected to comply with all laws and inform the BOPP of any criminal charges that may affect BOPP or DOC personal credibility or affect a person’s ability to perform in his or her assigned capacity.
3. Employees and service providers who have been arrested for any criminal offenses (including DUI’s) must notify their supervisor and provide information on their status through final disposition. The exception to this rule would be minor traffic offenses.
4. If an employee is incarcerated or detained and unable to report for work, he or she must contact the immediate supervisor to request a leave of absence for each scheduled shift; failure to request a leave of absence will be considered absence without approval and may result in disciplinary action up to and including dismissal.
5. The supervisor will conduct an inquiry upon notification of an employee’s involvement in criminal conduct including gathering facts and consulting DOC Human Resources.

C. Gun Control Act

1. The BOPP is prohibited from providing firearms or ammunition to any employee.

Policy No. BOPP 3.1	Chapter 3: Human Resources	Page 3 of 5
Subject: PERFORMANCE AND CONDUCT		

D. Unacceptable Performance and Conduct

1. Performance and conduct behavior unacceptable for BOPP employees includes, but is not limited to, the following:
 - a. violation of law
 - b. violation of policy, directives, or other employer regulations
 - c. neglect or failure to carry out assigned duties and responsibilities
 - d. assaulting, injuring, abusing, intimidating, threatening, endangering, or withholding
 - e. reasonable necessities from an offender
 - f. committing theft, damage, or unauthorized use or possession of state property or property of any offender
 - g. assaulting, endangering, stalking, or maliciously intimidating or harassing another person
 - h. falsifying any BOPP/DOC record
 - i. unauthorized dissemination of confidential information
 - j. abuse of sick leave or excessive tardiness
 - k. unauthorized use of state time, equipment, or facilities for private business or personal use
 - l. failure to remain alert and vigilant while on the job
 - m. failure to follow applicable dress codes
 - n. employee negligence resulting in damage or loss of state property
 - o. using, possessing, controlling, or transferring tobacco in unauthorized areas
 - p. loaning, duplicating, or other use of keys that breach the security of the workplace
 - q. failure to maintain a courteous, productive, and otherwise acceptable working relationship with fellow workers and the public
 - r. use of any illegal drugs
 - s. use of any prescription medications not prescribed by a medical professional
 - t. use or misuse of any prescribed or over-the-counter substance that may impact the effective performance of duties and responsibilities not reported in advance to the appropriate supervisor
 - u. unauthorized use, possession, control, or transfer of contraband in violation of specific division or facility policy and procedures
 - v. sabotaging, impeding, interfering, or failing to cooperate with any authorized Department or law enforcement investigation
 - w. failure to timely report policy violations, or job-related illegal or unethical behavior to the appropriate authority
 - x. failure to timely self-report an arrest, conviction, or professional disciplinary action against a professional license required by the position
 - y. failure to self-report potential conflicts of interest to the appropriate administrator prior to acting in possible violation of this policy.

2. **Standards of Conduct**
 1. The BOPP and DOC abides by all applicable laws, regulations, and policies related to state employee Standards of Conduct, including those linked below.
 - a. State Ethics Policy
 - b. Employee's Guide to Standards of Conduct in Montana State Government
 - c. Political Activity of Public Officers and Employees

Policy No. BOPP 3.1	Chapter 3: Human Resources	Page 4 of 5
Subject: PERFORMANCE AND CONDUCT		

F. Disclosure Requirements

1. You may not solicit or accept employment or engage in negotiations or meetings to consider employment with a person whom you regulate in your official duties without first giving written notice from Board Chair.
2. As a board member of a quasi-judicial board with rulemaking authority, and have a conflict created by a personal or private interest that gives rise to the appearance of impropriety, you must disclose the interest creating the conflict prior to participating in official actions.
3. Prior to acting in a manner that may affect your public duty, including the award of a permit, contract, or license, you must disclose the nature of the private interest that creates the conflict. This disclosure must be in writing to the Secretary of State and must list the amount of private interest, the purpose and duration of your services, any compensation you have received, and other relevant information. If you perform the act involved, you must publicly declare and record the nature of the conflict including all the elements required previously for the Secretary of State.

G. Code of Ethics and HIPAA Confidentiality Agreement

1. BOPP will ensure that all employees read and sign the attached Code of Ethics, incorporated fully herein, and return the form to Human Resources.
2. Employees and service providers with access to protected health information will read and sign the HIPAA Confidentiality Agreement and return the form to Human Resources.

V. CLOSING

Two main principles apply to your conduct in your job: public trust and public duty. By keeping these in mind as you do your job on a day-to-day basis, you will be able to carry out your duties for the benefit of the people of the state and avoid taking actions that would cause you to depart from your public duty and violate the public's trust.

Provisions of this policy not required by statute will be followed unless they conflict with negotiated labor contracts which will take precedence to the extent applicable.

Questions concerning this policy should be directed to Human Resources.

VI. REFERENCES

- A. 2-2-101 through 2-2-304, MCA; 45-7-307, MCA
- B. Title 18 U.S.C. Chapter 44, Gun Control Act of 1968
- C. Montana Operations Manual, Ethics Policy
- D. Ethics - Standards of Conduct for State Employees; Department of Administration
- E. 4-4069; ACA Standards Supplement, 2008
- F. 3-JTS-1C-23, ACA Standards for Juvenile Correctional Facilities, 2003
- G. 3-3068, ACA Standards for Adult Probation & Parole Field Services, 3rd Edition
- H. DOC Policies 1.3.12 Staff Association and Conduct with Offenders; 1.1.17 Prison Rape Elimination Act (PREA); 3.1.17 Searches and Contraband Control; 3.1.19 Investigations

Policy No. BOPP 3.1	Chapter 3: Human Resources	Page 5 of 5
Subject: PERFORMANCE AND CONDUCT		

VII. ATTACHMENTS

Code of Ethics

HIPAA Confidentiality Agreement

State Ethics Policy

Employee's Guide to Standards of Conduct in Montana State Government

Political Activity of Public Officers and Employees



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 3.2	Subject: WORKER’S COMPENSATION/EARLY RETURN TO WORK
Chapter 3: HUMAN RESOURCES	Page 1 of 4
Section 2. Human Resources	Effective Date: June 1, 2022
Signature: /s/ Joseph McElroy, Chief of Staff	Revised:

I. POLICY

The Montana Board of Pardons and Parole (BOPP) through Montana Department of Corrections (DOC) maintains workers’ compensation insurance through the Montana State Fund to ensure that in the event of workplace injuries or occupational illnesses, BOPP workers will receive reasonable care costs and wage-loss payments in accordance with the State of Montana’s medical fee schedule and applicable statutes and rules to establish wage- loss payments and medical care cost benefits. The BOPP is committed to assisting injured employees return to work as soon as medically appropriate. Also refer to DOC policy BOPP 1.1 and 1.1.3

II. APPLICABILITY

All BOPP.

III. DEFINITIONS

Accident – As defined in *Mont. Code Ann. § 39-71-119(2)(a-d) (2014)*, an accident is (a) an unexpected traumatic incident or unusual strain; (b) identifiable by time and place of occurrence. (c) identifiable by member or part of the body affected; and (d) caused by a specific event on a single day or during a single work shift.

Injury – As defined in *Mont. Code Ann. § 39-71-119(1)(a-c)(2) (2014)*, (a) internal or external physical harm to the body that is established by objective medical findings; (b) damage to prosthetic devices or appliances, except for damage to eyeglasses, contact lenses, dentures, or hearing aids; or (c) death. (2) An injury is caused by an accident.

Occupational Disease – Harm, damage, or death arising out of or contracted in the course and scope of employment caused by events occurring on more than a single day or work shift.

Recordable Injuries – Injuries which go beyond minor injuries requiring only first aid treatment, and may involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

State Fund – The workers’ compensation policy holder for state government.

Transitional Duty – Modified, temporary work assigned by a state agency to an injured worker that allows the injured worker to return to the workplace prior to the time when he or she can perform all normal job functions; fosters fast, more complete recovery.

Transitional Duty Team – A team of individuals consisting of the injured employee, their immediate supervisor, the division, program, or facility Human Resource Generalist, and as needed or requested a member of the Department of Administration’s Health Care and Benefits Division, Workers Compensation Management Bureau to administer its Return-to-Work Program.

Policy No. BOPP 3.2	Chapter 3: Human Resources	Page 2 of 4
Subject: WORKER'S COMPENSATION/EARLY RETURN TO WORK		

Transitional Duty Team Coordinator – The Department’s Human Resources Generalist appointed by management to participate in every Early return to Work team meeting regarding an injured employee.

IV. BOPP DIRECTIVES

A. BOPP Responsibilities

1. The BOPP in conjunction with DOC will:
 - a. immediately address any employee-related injuries or occupational diseases
 - b. investigate conditions, and implement environmental and/or procedural changes as necessary to reduce the number of occupational injuries and workers’ compensation costs
 - c. ensure that injured employees resume work as soon as possible and are provided transitional modified duty assignments until a release to full duty is advised or until it has been determined the employee cannot perform the essential duties of the position with or without appropriate accommodations.
2. Office of Human Resources (OHR) staff members will finalize the First Report form for recordable injuries, establish tracking, and submit the form to State Fund within two days of the accident.

B. Reporting an Injury or Occupational Disease

1. Employees will report all work-related injuries or occupational diseases to their immediate supervisor as soon as practical.
2. If medical care is necessary, the supervisor should encourage and assist the employee to obtain the required care.
3. The employee and supervisor will complete the First Report form prior to the end of the assigned shift unless precluded by reasonable circumstances. However, all injuries must be reported no later than twenty-four (24) hours after occurrence.
4. The First Report form will be forwarded to OHR for reporting to State Fund.
5. The supervisor will analyze the accident, utilizing the Accident Investigation Report, within five business days to determine what, if any, action will be taken to prevent future safety issues. The Accident Investigation Report will be submitted to OHR and the local safety committee for review.

C. Compensation for Lost Time

1. State Fund will provide wage loss benefits (temporary total disability) only when the wage loss exceeds four days or 32 hours. Employees may request use of other available leave or leave without pay for the lost time prior to receipt of State Fund benefits. Should an injury cause an employee to be off work beyond 21 days, they may be eligible to apply for retroactive benefits lost during this initial 32-hour period, unless sick leave benefits were used to provide compensation during this time.

Policy No. BOPP 3.2	Chapter 3: Human Resources	Page 3 of 4
Subject: WORKER'S COMPENSATION/EARLY RETURN TO WORK		

2. Sick leave and temporary total disability benefits from the workers' compensation insurance carrier may not be paid concurrently unless provided within a collective bargaining agreement.
3. Leave, other than sick leave, may be used concurrently with State Fund wage loss benefits, i.e., annual, and compensatory time.
4. OHR will work closely with the state's Workers' Compensation Management Bureau, State Fund, and department employees to address concerns and questions about employee workers' compensation rights, payments, and other issues of coordinated employee benefits.

D. Requesting Leave of Absence

1. Employees must request a leave of absence due to a work-related injury or occupational disease covered by workers' compensation. Failure to request leave may result in disciplinary action.
2. Supervisors who question the need for employee leave requests because of a workers' compensation injury may consult with the OHR to seek medical certification.
3. A member of the Transitional Duty Team will maintain weekly communications with employees on workers' compensation leave, either in person or by phone. These communications will allow employees to update the team on their progress and request assistance, where necessary.
4. An employee will submit a completed and signed medical status from their medical provider to the OHR after each medical appointment.

E. Worker's Compensation Leave of Absence and FMLA.

1. Leaves of absence taken in connection with a workers' compensation injury or illness will run concurrently with any FMLA leave entitlement for all eligible employees. Once FMLA leave expires, employees will need to be in a pay status for 40 hours a pay period or be responsible for self-paying the state share in order to maintain health benefit eligibility.

F. Transitional Work

1. The BOPP is committed to implementing the state's Early Return to Work Program which involves working closely with injured workers and their health care providers to return injured employees to work as soon as medically appropriate.
2. The Transitional Duty Team will identify and coordinate transitional or light-duty work assignments when possible, depending on a particular position and the employee's circumstances, including work limitations.
3. Employee's pay during a transitional work assignment will be maintained at its current rate.
4. The Transitional Duty Team will review current work ability and progress toward the time of injury duties at least once a month.

Policy No. BOPP 3.2	Chapter 3: Human Resources	Page 4 of 4
Subject: WORKER'S COMPENSATION/EARLY RETURN TO WORK		

5. An employee who returns to work in a transitional work status will have his or her job retained for a reasonable amount of time, which will be determined based on BOPP needs, medical prognosis for full-time release, or until a medical decision establishes that the employee will not be able to perform the essential duties of the employee's job.
6. Transitional duty positions are not considered permanent.
7. Employees must provide a signed medical status form indicating there are no restrictions before returning to regular duty.

G. Reemployment to Time-of-Injury Position

1. Employees will be returned to the time-of-injury positions according to Department needs.
2. During an employee's absence, his or her position may be temporarily filled.
3. Employees who return to work for a brief period (30 calendar days or less) and suffer a recurrence of injuries will be considered on cumulative leave from the date of the original injury.
4. Injured employees who have been terminated and then released to regular duty by attending physicians will be given preference over other applicants for the same or another comparable vacant position for a period of two years from the date of injury.

H. Retirement

1. Employees covered by a Montana Public Employees Retiree Administration (MPERA) or Teachers Retirement Administration (TRA) retirement system who are absent from work because of a compensated job-related injury may elect to qualify the absence for retirement credit.

V. CLOSING

1. Provisions of this policy not required by statute will be followed.
2. Questions concerning this policy should be directed to the Board Chair or designee and/or DOC Office of Human Resources.

VI. REFERENCES

- A. 19-3-504, MCA; 19-20-411, MCA; 39-71-119, MCA
- B. 24.29.101 through 24.29.213; *Administrative Rules of Montana*
- C. *Work Comp Benefits Summary (Department of Labor & Industry)*

VII. ATTACHMENTS

- First Report
- Accident Investigation Report
- Early Return to Work Funding Request



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 3.3	Subject: EMPLOYEE TIME MANAGEMENT
Chapter 3: HUMAN RESOURCES	Page 1 of 2
Section 3: Human Resources	Effective Date: June 1, 2022
Signature: /s/ Joseph McElroy, Chief of Staff	Revised:

I. POLICY

The Montana Board of Pardons (BOPP) follows uniform procedures for administering leave, overtime compensation, and nonexempt compensatory time, and complies with the Fair Labor Standards Act (FLSA), Montana’s Wage and Hour Laws, and applicable Montana Operations Manual standards, administrative rules, and state statutes.

II. APPLICABILITY

All BOPP.

III. DEFINITIONS

Overtime – Hours worked by a nonexempt employee which exceed forty (40) hours within the established workweek beginning at 12:01 a.m. Saturday and ending at midnight Friday and subject to a premium rate which is one and one-half (1-1/2) times the employee’s regular hourly rate of compensation.

IV. BOPP DIRECTIVES

A. General Timekeeping Requirements

1. All employees are required to record time worked on the MINE system after the last shift of the pay period, employees without access to the MINE system will record time on a time sheet issued by the payroll office.
2. Supervisors are responsible for the following:
 - a. submit time records based on the supervisor’s knowledge of hours worked, if an employee fails to submit a time record, the employee is responsible for notifying the agency of necessary corrections after submission
 - b. verify employee’s hours worked prior to approving time records; and
 - c. approve or deny requests for leave in writing; e-mail responses are acceptable.
3. BOPP employees who wish to apply for any type of leave must request it from their immediate supervisor or Board Chair in advance, according to the practice established.

B. Overtime and Nonexempt Compensatory Time

1. Board Chair or designee must consider the following prior to approving overtime/compensatory time:

Policy No. BOPP 3.3	Chapter 3. Human Resources	Page 2 of 2
Subject: EMPLOYEE TIME MANAGEMENT		

- a. the employee’s exempt or nonexempt classification under the FLSA
 - b. the first 40 hours of paid time in any workweek between 12:01 a.m. Saturday and midnight Friday are regular hours; and
 - c. a supervisor may, according to *MOM Overtime and Nonexempt Compensatory Time Policy*, adjust an employee’s work schedule or require an employee to take time off without pay to maintain a 40-hour week.
2. Due to unfunded liability, employees are limited to 60 hours of accrued nonexempt compensatory time. If an employee will exceed accrual limits in a payroll period, overtime is paid unless the supervisor and employee have agreed upon larger accrual limits in a written and signed agreement submitted to Payroll, the agreement must include the following:
 - a. justification for accrual beyond 60 hours
 - b. the maximum limit of accrual approved is 120 hours
 - c. the balance will be reduced to or below 60 hours within the current biennium
 - d. language allowing the department to pay out the accrued balance or modify the agreement at any time.
 3. Employees will request and obtain approval for any hours worked outside the regularly scheduled shift in advance.
 4. Prior to an employee transferring or promoting to a FLSA exempt position all non-exempt compensatory time will be paid out at the employee’s current rate of pay.
 5. A supervisor will administer FLSA exempt and non-exempt compensatory time in accordance with *MOM Overtime and Nonexempt Compensatory Time Policy*.

V. CLOSING

1. Provisions of this policy not required by statute will be followed.
2. Questions concerning this policy should be directed Board Chair or designee and/or to Department of Corrections payroll specialist or Human Resources.

VI. REFERENCES

- A. *The Fair Labor Standards Act of 1938, Title 29 U.S.C, Chapter 8, Sections 201-219, as amended*
- B. *Montana Operations Manual (MOM)*
- C. *Department of Administration, State Human Resource Division Guides: Paid Military Leave in Montana Guide and Family and Medical Leave Act Guide*
- D. *FMLA, USSERRA, MTSERRA and the State of Montana Military Leave Guide FMLA Federal Regulations Part 825*

VII. ATTACHMENT

None.



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 3.4	Subject: STAFF ASSOCIATION AND CONDUCT WITH OFFENDERS
Chapter 1: HUMAN RESOURCES	Page 1 of 4
Section 4. Staff Association and Conduct with Offenders	Effective Date: June 1, 2022
Signature: /s/ Joseph McElroy, Chief of Staff	Revised:

I. POLICY

The Board of Pardons and Parole (BOPP) requires employees to limit their association with offenders, offender’s immediate family members, and close associates of offenders to a professional relationship. The BOPP further maintains zero tolerance for misconduct by its employees toward or with any individual in the custody or under the supervision of the Department of Corrections (DOC).

II. APPLICABILITY

All BOPP.

III. DEFINITIONS

Board Chair – The official ultimately responsible operation and management.

Close Associate – Persons, other than immediate family members, who may be considered friends or business partners through known associations.

BOPP Employee – A person employed by the BOPP, who has attained permanent status or is eligible to attain permanent status, as provided in *2-18-601, MCA*; volunteers, interns, temporary and short-term workers; this term does not include service providers.

Facility/Program – Refers to any division, prison, secure care correctional facility, correctional or training program, or community-based program under DOC jurisdiction or contract. This term includes the facility building or residence, including property and land owned or leased and operated by the Department of Corrections

Immediate Family Member – A legal spouse, natural or adoptive parents and children, siblings, grandchildren, grandparents, corresponding in-law, person verified as being primarily responsible for raising the offender in the absence of a parent and any other member of the offender’s household.

Mistreatment – Actions that violate the human rights of offenders including unwarranted physical acts and acts that adversely affect offender mental or emotional well-being including abusive treatment such as threats, harassment, cursing, and shouting.

Offender – Any individual in the custody or under the supervision of the Department of Corrections or its contracted service providers. The term includes former offenders for whom less than one year has elapsed since discharge from Department custody or supervision.

Professional Relationship – A staff relationship with offenders maintained through well-defined professional boundaries and the highest ethical standards of honesty, integrity, and impartiality pursuant to the *Department of Corrections Code of Ethics*.

Policy No. BOPP 3.4	Chapter 3: Human Resources	Page 3 of 4
Subject: STAFF ASSOCIATION AND CONDUCT WITH OFFENDERS		

Service Providers – This term includes contracted persons or other vendors providing service whose assignment is primarily on DOC premises, e.g., facility or program office.

Sexual Misconduct – Behavior or misconduct as defined in *DOC Policy 1.1.17 Prison Rape Elimination Act (PREA)*.

IV. BOPP DIRECTIVES

A. General Requirements

1. The Board Chair, or designee, is responsible for ensuring the following:
 - a. BOPP employees review and comply with the provisions of this policy
 - b. offenders under the custody or supervision of the DOC review and understand the procedures for reporting alleged staff misconduct toward offenders
 - c. staff misconduct is reported and followed up on with the assistance of Human Resources
 - d. operational procedures are established and maintained that provide effective policy communication and guidance for the following:
 - 1) confidential reporting procedures regarding alleged staff misconduct toward offenders and availability of these procedures to department employees, service providers, offenders, visitors, offender’s immediate families, and offenders’ close associates
 - 2) ensure offenders have the opportunity to promptly file a complaint anonymously, through third parties, verbally or in writing using the facility’s formal grievance process, if applicable
 - 3) investigation and response to misconduct allegations is a high priority and conducted as provided in law and all applicable State, BOPP, and DOC policies.
2. After consultation with Human Resources (HR) and Legal Services Bureau, and upon approval of the Chairman or designee, may approve limited exceptions to this policy on a case-by-case basis to allow limited contacts between employees, offenders, offender’s immediate family members, and close associates of offenders. BOPP must include documentation of the circumstances supporting the exception and a written plan outlining the permissible contact.
3. BOPP employees and service providers who violate this policy are subject to disciplinary action, up to and including termination of their employment.
4. BOPP employees entrusted with confidential records will adhere to requirements outlined in BOPP 2.2 and *DOC Policy 1.5.5 Offender Records Management, Access, & Release* and report breaches of confidentiality appropriately.
5. BOPP employees and service providers will not retaliate against the complainant, the victim, the accused, the witnesses, or the informants involved in the filing and investigation of misconduct allegations.

B. Required Conduct

1. BOPP employees must exhibit the following conduct:
 - a. always maintain a professional relationship with offenders
 - b. provide offender services without regard to race, color, age, gender, physical or mental disability, marital status, creed, sex, political beliefs, genetic information, veteran's status, culture, social origin or condition or ancestry, national origin, religious preference, or sexual orientation, or any other protected class.
 - c. not display favoritism toward, or discrimination against, any offender or group of offenders
 - d. limit relationships with offenders, offender's immediate family members and close associates to officially authorized activities
 - e. avoid conflicts of interest or situations, such as engaging in personal or business relationships, that may compromise professional integrity, compromise security, or cause embarrassment to the BOPP or DOC and the State of Montana.

C. Prohibited Conduct

1. Employees who assault, injure, intimidate, threaten, endanger, or withhold reasonable necessities from an offender, or violate any civil right of an offender are subject to felony and misdemeanor criminal penalty as well as disciplinary action, up to and including termination from employment pursuant to all applicable regulations and State and DOC policies.
2. BOPP employees who commit staff sexual misconduct are subject to felony and misdemeanor criminal penalties as well as disciplinary action up to and including termination from employment as outlined in applicable regulations and State and Department policies.
3. BOPP employees and service providers will not engage in inappropriate behaviors with offenders, offender's immediate family members, or close associates; inappropriate behavior includes, but is not limited to, the following:
 - a. using profane, indecent, or discriminatory language or references
 - b. giving or receiving gifts, favors, or services that exceed Department requirements
 - c. engaging in any type of business or fiduciary relationship including trading, selling, or buying from an offender excluding purchases in accordance with *DOC Policy 5.5.4 Hobby Programs for Adult Facilities*
 - d. interaction that is unnecessary, not a part of the employee's duties, and related to a personal relationship or purpose rather than a legitimate correctional purpose including, but not limited to:
 - 1) engaging in horseplay
 - 2) socializing
 - 3) sharing personal information, e.g., family member names, ages, schools, etc.
 - 4) contacting offender's immediate family members for matters unrelated to the employee's official duties
 - 5) exchanging written correspondence

Policy No. BOPP 3.4	Chapter 3: Human Resources	Page 4 of 4
Subject: STAFF ASSOCIATION AND CONDUCT WITH OFFENDERS		

- 6) developing a relationship with an offender that is anything other than a professional relationship.

D. BOPP Employee and Service Provider Reporting Requirements

1. BOPP employees must immediately disclose any of the following events to a supervisor. In consultation with HR, the supervisor will instruct the employee on the appropriate course of action:
 - a. intentional or repeated attempts to contact the employee by an offender, an offender's immediate family members or close associates
 - b. the employee engaged in prohibited conduct described in section IV.C. above
 - c. an employee's immediate family member or a close associate has been committed to the custody or supervision of the department and/or is assigned to the facility/program in which the employee is employed using the Staff Association Disclosure form.
2. BOPP employees who receive information regarding, or have personal knowledge of, staff misconduct involving sexual misconduct and/or misconduct that causes bodily injury or reasonable apprehension of bodily injury to an offender must immediately report the misconduct to the division administrator and HR.

V. CLOSING

1. Provisions of this policy not required by statute will be followed.
2. Questions concerning this policy should be directed to Board Chair/or DOC Human Resources.

VI. REFERENCES

- A. 45-5-204, 45-5-501, 45-5-502, 45-5-503, 45-7-203, 45-7-307; MCA
- B. 4-4069, 4-4281; ACA Standards for Adult Correctional Institutions, 4th Edition
- C. 3-JTS-1C-23, 3-JTS-3D-06; ACA Standards for Juvenile Correctional Facilities, 2003
- D. 4-4084, 4-4084-1, 4-4281-6, 7; 2008 ACA Standards Supplement
- E. DOC Policies 1.1.17 Prison Rape Elimination Act (PREA); 1.5.5 Case Records Management. 3.1.19 Investigations; 5.5.4 Hobby Programs for Adult Facilities Department of Corrections Code of Ethics

VII. ATTACHMENT

Staff Association Disclosure



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 3.5	Subject: AMERICANS WITH DISABILITIES ACT (ADA)
Chapter 3: HUMAN RESOURCES	Page 1 of 3
Section 5: ADA	Effective Date: June 1, 2022
Signature: /s/ Joseph McElroy, Chief of Staff	Revised:

I. POLICY

The Board of Pardons and Parole (BOPP) will make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual, employee, or member of the public, with a disability unless to do so would result in an undue financial or administrative burden, constitute a direct threat, endanger the health or safety of any person, or fundamentally alter the inherent nature of the BOPP’s business.

II. APPLICABILITY

All BOPP.

III. DEFINITIONS

Administrator – The Department of Corrections (DOC) official, regardless of local title (division or facility administrator, bureau chief, warden, superintendent), ultimately responsible for the division, facility or program operation and management.

Americans with Disabilities Act (ADA) Coordinator – The DOC individual assigned from the Human Resources to facilitate ADA compliance for employees and the public.

Disability – A physical or mental impairment that substantially limits one or more of a person’s major life activities, a person who has a history of such an impairment, or a person who is perceived by others as having such an impairment.

IV. DEPARTMENT DIRECTIVES

A. General Requirements

1. The BOPP and DOC, as an employer, will provide equal opportunity in hiring and all other aspects of employment and reasonable workplace accommodations to qualified applicants and employees with disabilities.
2. The BOPP and DOC will provide visitors access to all public areas, services, and programs.

B. Responsibility

1. The Americans with Disabilities Act (ADA) coordinator will assist facility and program administrators’ compliance with the ADA and Montana Human Rights Act (MHRA). The ADA coordinator will be assigned from Human Resources to work with employees and the public.

Policy No. BOPP 3.5	Chapter 3: HUMAN RESOURCES	Page 2 of 3
Subject: AMERICANS WITH DISABILITIES ACT (ADA)		

2. The ADA coordinator will have training in the Americans with Disabilities Act, Title I, affecting employment; and Title II, which requires equal access to state programs and facilities by individuals with disabilities.
3. The ADA coordinator, in coordination with the facility or program administrator, may designate a staff member at each facility or program to assist with the implementation of this policy.
4. All BOPP employees must recognize and take seriously all requests for disability accommodation, and any complaints or grievances involving disability discrimination or accessibility.

C. Requests for Reasonable Accommodations

1. An employee or member of the public may request information or an accommodation by contacting the ADA coordinator verbally or in writing.
2. A request for accommodation is the first step in an interactive process between the individual and the ADA coordinator, or designee, to clarify the individual’s request and to identify any appropriate reasonable accommodation.
3. When the disability is not obvious, the ADA coordinator, or designee, may request reasonable documentation of the disability. Reasonable documentation is information necessary to establish that an individual has a qualified disability. The individual may be asked to sign a release of information allowing the medical caregiver to respond to the department. If the individual refuses to provide reasonable documentation, his or her request cannot be processed, and a disability determination cannot be assessed.
4. Upon receipt of the necessary documentation establishing that the individual has a qualified disability, the individual and the ADA coordinator, or designee, will determine what accommodation(s) would be most effective and reasonable. The BOPP through DOC will make the final determination of the reasonableness of an accommodation.

D. Complaints of Disability Discrimination

1. When an employee, visitor, or other recipient of services provided by the BOPP believes that he or she has been subject to disability discrimination, he or she must report the allegation to DOC Human Resources for prompt investigation and any appropriate actions.
2. Employees, visitors, or the public will follow the complaint procedure outlined in the Discrimination Complaint Form.
3. Requests, complaints, or grievances involving a disability issue should include specific facts, such as, person or persons involved, structure or barrier involved, the date, time, and place of the occurrence, what was done or said, and the names of any witnesses present.

E. Response to Requests and Complaints

1. Employees and designated personnel at contracted facilities and programs will immediately inform the appropriate ADA coordinator of any request, complaint, or grievance involving a disability-related accommodation or discrimination.

Policy No. BOPP 3.5	Chapter 3: HUMAN RESOURCES	Page 3 of 3
Subject: AMERICANS WITH DISABILITIES ACT (ADA)		

2. DOC Human Resources will act promptly to investigate and resolve all employee and public related ADA requests, complaints, and grievances.
3. A request may be denied if the accommodation would result in undue financial or administrative burdens, constitute a direct threat, endanger the health or safety of any person, or fundamentally alter the inherent nature of the BOPP's business. After considering all resources, if a request is denied for these reasons, there must be a written statement outlining the reasons for the denial.

F. Record-keeping Requirements

1. The ADA coordinator will retain all documentation, including a Discrimination Complaint Form, when necessary, pertaining to the request, grievance, or complaint and the ensuing investigation in a separate investigative file. If an employee is involved, this information will not become part of their personnel file.
2. The DOC will maintain the confidentiality of all medical information, unless otherwise provided by law. The department will only disclose information about the request internally on a need-to-know basis to personnel involved in making or assisting in the implementation of the reasonable accommodation or resolution of the grievance or complaint.
3. The ADA coordinator will maintain statistical data regarding complaints, grievances, or requests made pursuant to this policy and will prepare an annual report on ADA activities to the Human Resources director and BOPP Chairman that includes successes, challenges, and recommendations.

V. CLOSING

1. Provisions of this policy not required by statute will be followed unless they conflict with negotiated labor contracts which will take precedence to the extent applicable.
2. Questions concerning this policy should be directed to DOC Human Resources. Copies of this policy directive may be posted on employee and public bulletin boards.

VI. REFERENCES

- A. 49-3-201 MCA; 49-3-205MCA; 49-3-209MCA; 49-4-101MCA; 49-4-202 MCA.
- B. *Americans with Disabilities Act of 1990 enacted July 26, 1990, codified at 42 USC 12010, as amended*
- C. 2.21.4005, *Administrative Rules of Montana*
- D. *Montana Operations Manual, EEO, Nondiscrimination, and Harassment Prevention Policy*
- E. 4-4054, 4-4142; *ACA Standards for Adult Correctional Institutions, 4th Edition*
- F. 4-4429-1; *ACA Standards Supplement, 2008*

VII. ATTACHMENTS

Discrimination Complaint Fill-in Form



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 3.6	Subject: PERFORMANCE EVALUATIONS
Chapter 3: HUMAN RESOURCES	Page 1 of 2
Section 6: Performance Evaluations	Effective Date: June 1, 2022
Signature: /s/ Joseph McElroy, Chief of Staff	Revised:

I. POLICY

The Board of Pardons and Parole (BOPP) Board Chair will conduct employee performance evaluations for their direct reports on a regular basis to assist with managing work performance.

II. APPLICABILITY

All BOPP.

III. DEFINITIONS

Annual Evaluation – The yearly work performance review and rating of an employee

Human Resources Information System (HRIS) – A software or online solution that is used by Department of Corrections (DOC) for data entry, data tracking and the data information requirements of an organization's human resources (HR) management, payroll, and bookkeeping operations. Since BOPP is administratively attached by statute, The DOC maintains all record keeping.

IV. BOPP DIRECTIVES

A. General Requirements

1. The BOPP through DOC will establish and maintain a performance management system in compliance with the Montana Operations Manual (MOM) Performance Management and Evaluation policy.
 - a. The performance management and evaluations system will address employee performance as it relates to the overall success of the BOPP’s mission, goals, and objectives, as well as adherence to expected standards of conduct such as those identified in *DOC Policy 1.3.2 Performance and Conduct*
 - b. performance evaluations will use employee performance goals and measures to further employee development whenever possible.
2. Evaluation meetings must be conducted in person for all employees at least annually.
 - a. In-person evaluation meetings should be conducted in a private location where minimal interruptions are anticipated
 - b. annual evaluation meetings are the mandatory minimum requirement. It is recommended that one-on-one performance management meetings are conducted on a regular basis throughout the year.
2. Board Chair or designee will evaluate employee performance utilizing materials approved by the DOC Human Resources Bureau (HR).

Policy No. BOPP 3.6	Chapter 3: Human Resources	Page 2 of 2
Subject: PERFORMANCE EVALUATIONS		

3. HR, or the applicable Human Resources Information System (HRIS) automated application, will provide the department notice of pending performance evaluation activities.
 - a. Prior to the due date of an evaluation meeting, the supervisor must schedule an in-person meeting date and time with the employee.
4. Board Chair or designee will ensure employees acknowledge that they have received an evaluation. This acknowledgment must be made by signing a document for the employee's personnel file, or by an electronic acknowledgement via an HRIS automated application.
5. If an employee refuses to acknowledge participation in the evaluation, a designee witness may attest the employee was present and participated in performance evaluation. Regardless of a refusal to acknowledge, the employee must be provided access to the evaluation.
6. The BOPP will rely on DOC Performance management training to carry out function in this policy.

B. BOPP Review

1. Board Chair will be responsible for compliance with this policy.

C. Evaluation Rebuttal

1. If an employee disagrees with performance evaluation process, the employee will be provided an opportunity to submit a response to be included with the evaluation.

D. Evaluation Grievance

1. The employee may grieve adverse employment actions taken because of the performance evaluation in accordance with *ARM 2.21.4001 et seq.*

E. Records

1. The performance evaluation and rebuttal comments, if any, will be retained in the employee's personnel file or in applicable HRIS electronic records.

IV. CLOSING

1. Provisions of this policy not required by statute will be followed. Questions concerning this policy should be directed to the DOC Human Resource Bureau.

V. REFERENCES

- A. *DOC Policy 1.3.2 Performance and Conduct*
- B. *ARM 2.21.4001 et seq*

VI. ATTACHMENTS

None.



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 3.7	Subject: WORKPLACE FAMILY RELATIONSHIPS
Chapter 3: HUMAN RESOURCES	Page 1 of 2
Section 7: Workplace Family Relationships	Effective Date: June 1, 2022
Signature: /s/ Joseph McElroy, Chief of Staff	Revised:

I. POLICY

The Board of Pardons and Parole (BOPP), strives to identify and manage family member relationships between supervisors and subordinates through self-identification and active division administrator involvement to mitigate the perception of preferential treatment and maintain professionalism.

II. APPLICABILITY

All BOPP.

III. DEFINITIONS

BOPP Employee – A person employed by the BOPP who has attained permanent status or is eligible to attain permanent status, as provided in *2-18-601, MCA*; volunteers, interns, temporary and short-term workers; this term does not include service providers.

Family Member – Any individual related by blood or marriage.

IV. DEPARTMENT DIRECTIVES

A. General Provisions

1. This policy does not prohibit personal relationships between BOPP, Department of Corrections (DOC) employees, or DOC and contractor employees and does not presume family member relationships adversely affect the ability of employees to work together. This policy does recognize the potential for the perception of adverse effects to exist and attempts to ensure such perception does not become reality.
2. The Board Chair will not allow family member relationships to affect workplace behavior or job responsibilities; if an individual supervises a family member, he or she must report the existence of the relationship to the division administrator as soon as practical.
3. BOPP employees will not participate in a selection process in which a family member is an applicant.
4. An employee who believes he or she has been adversely affected by preferential treatment due to a family member relationship will report concerns to the Board Chair or DOC Human Resources.

Policy No. BOPP 3.7	Chapter 3. Human Resources	Page 2 of 2
Subject: WORKPLACE FAMILY RELATIONSHIPS		

B. Resolution

1. BOPP employees having family member relationships involving new or existing employees will be documented using the Family Member Relationship Disclosure form; the form will be completed by the affected and disclosing individuals and the division administrator, stored by DOC Human Resources, and accessible to those in the chain of command on a need-to-know basis.
2. A mitigation plan to maintain a professional working environment will be developed by the Board Chair and attached to the Family Member Relationship Disclosure form.

V. CLOSING

1. Questions concerning this policy should be directed to Board Chair or designee.

VI. REFERENCES

A. DOC Policy 1.3.2 Performance and Conduct

VII. ATTACHMENT

Family Member Relationship Disclosure Form



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 3.8	Subject: CRIMINAL CONVICTION IN EMPLOYMENT
Chapter 1: HUMAN RESOURCES	Page 1 of 5
Section 8: Criminal Conviction in Employment	Effective Date: June 1, 2022
Signature: /s/ Joseph McElroy, Chief of Staff	Revised:

I. POLICY

The Board of Pardons and Parole (BOPP) through Department of Corrections (DOC) conducts criminal background checks as a condition of employment. Evidence of a conviction may not automatically disqualify an applicant or an employee from continued employment. If an individual has a criminal history, the department will consider the following factors before extending an offer of employment or continuing employment, the nature and gravity of the offense, the time since the completion of the sentence, and the nature of the job held or sought along with the relatedness of the conviction.

II. APPLICABILITY

All BOPP.

III. DEFINITIONS

Administrator – The official, regardless of local title (division or facility administrator, bureau chief, chairman, superintendent, warden), ultimately responsible for the division, facility or program operation, and management.

Brady Act & Lautenberg Amendment – Any person who has been convicted of a misdemeanor crime of domestic violence or is the subject of a court order of protection for “an intimate partner or child of such intimate partner” cannot lawfully possess a firearm or ammunition. *See* 18 U.S.C. § 922(g)(8) & (9).

Criminal Conduct – A charge or conviction of a violation of city, county, state, or federal law, including all felonies and serious misdemeanors, including but not limited to assault, sexual assault, traffic violations, e.g., hit and run, driving under the influence (DUI), reckless driving, or other violations by staff that could result in the imposition of a jail sentence and/or suspension or revocation of the violator's driver license.

Department Employee – A person employed by the BOPP or DOC who has attained permanent status or is eligible to attain permanent status, as provided in § 2-18-101(20), MCA, a volunteer, an intern, or a temporary or short-term worker. This term does not include service providers.

Facility/Program – Refers to any division, prison, secure care correctional facility, correctional or training program, or community-based program under department jurisdiction or contract. This term includes the facility building or residence, including property, and land owned or leased and operated by the DOC.

POST Certified – Refers to any public safety officer, as defined under § 44-4-401(2), MCA, certified by the Montana Public Safety Officer Standards and Training Council.

Policy No. BOPP 3.8	Chapter 3: Human Resources	Page 2 of 5
Subject: CRIMINAL CONVICTION IN EMPLOYMENT		

Service Providers – This term includes contracted persons or other vendors providing service whose assignment is primarily on DOC premises, e.g., facility or program office.

IV. BOPP DIRECTIVES

A. General Requirements

1. The BOPP is committed to protecting the safety of all employees and other individuals in our workplace, as well as state assets.
2. The BOPP will comply with all federal anti-discrimination laws in all employee selection processes.
3. The BOPP recognizes the important role obtaining meaningful employment plays in the successful reintegration of offenders into the community.
4. Consideration of criminal background information will be based on relevancy to the specific position held or sought.
5. For positions which may have contact with offenders, the BOPP will not hire, enlist the services of, or continue employment of an employee or service provider who:
 - a. has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution
 - b. has been convicted of engaging in 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
 - c. has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (b) of this subsection
 - d. has contact with youth and is listed on the DPHHS child abuse registry.
6. Employees have a continuing affirmative duty to disclose any of the misconduct listed in Section IV.A.6 of this policy.
7. Prior to hiring, promoting, or enlisting the services of any individual who may have contact with offenders, the BOPP will consider any incident where the individual engaged in sexual harassment.
8. Upon hire, transfer, promotion, and every five years thereafter, DOC Human Resources will ensure that criminal background checks are conducted on employees and service providers who may have contact with offenders and ensure a DPHHS child abuse registry search for employees or service providers who may have contact with youth.
9. All employees who may have contact with offenders must complete the Policy Acknowledgement and Disclosure Form in written applications or interviews for hiring and promotion and annually. The form will be submitted to Human Resources.
10. Employees must self-report criminal charges and convictions within five days of either the charge or conviction to their immediate supervisor and Human Resources.

Policy No. BOPP 3.8	Chapter 3: Human Resources	Page 3 of 5
Subject: CRIMINAL CONVICTION IN EMPLOYMENT		

11. If an administrator or supervisor has reason to believe a current employee may have been involved in criminal conduct, he or she will notify DOC Human Resources immediately.
12. The BOPP will abide by the Fair Credit Reporting Act, Montana human rights statutes and all applicable laws to ensure individuals are not discriminated against.

B. Criminal Background Checks in Hiring

1. Criminal background checks will be conducted on finalists for vacant positions, as identified in the vacancy announcement.
2. If the criminal background check indicates there are no convictions, DOC Human Resources will inform the hiring manager that the candidate is eligible for employment.
3. If the criminal background check indicates any convictions, DOC Human Resources will notify the administrator and hiring manager and will follow Section IV.D. of this policy.

C. Convictions During Employment

1. Criminal background checks are conducted every five years on existing employees and service providers in accordance with the *Prison Rape Elimination Act of 2003*.
2. The BOPP may further review an employee’s criminal background during their employment at any time for due cause.
3. If the criminal background check indicates any conviction, DOC Human Resources will then determine whether the conviction was previously disclosed either during the employee’s initial hiring process or subsequently to their immediate supervisor, or whether the conviction presents new information not previously known by the BOPP. If the conviction represents new information, Human Resources will notify the administrator and follow Section IV.D. of this policy.
4. In all cases, the BOPP will take appropriate action based on the information discovered relative to the position the employee currently holds.

D. Evaluation of Criminal Record History

If a pre-employment criminal background check reveals any conviction which the individual disclosed in the recruitment process, DOC Human Resources will consider the factors for each conviction, including any additional information that the individual provides before the offer of employment is confirmed or withdrawn. In consultation with DOC Human Resources and DOC legal counsel, the chairman will determine a course of action. The existence of a conviction does not automatically disqualify an individual from employment.

Policy No. BOPP 3.8	Chapter 3: Human Resources	Page 4 of 5
Subject: CRIMINAL CONVICTION IN EMPLOYMENT		

1. If an unreported conviction for an employee or applicant is discovered in a criminal background check, and unless the individual proves that the report is in error, the offer of employment may be withdrawn, or, if employed, the employee may be subject to formal discipline up to and including termination from employment. DOC will consider the factors for each conviction, including any additional information that the individual provides. In consultation with DOC Human Resources and DOC legal counsel, the Chairman In will determine a course of action. The existence of a conviction does not automatically disqualify an individual from employment
2. Factors to be considered when reviewing convictions are:
 - a. nature and gravity of the offense
 - b. nature of the job held
 - c. time since completion. This factor may not be considered if the employee has had contact with offenders
3. Any decision to reject an applicant or formally discipline an employee up to and including termination with reported, unreported, or new convictions is solely at the discretion of the department.

E. Confidentiality

1. All information pertaining to an employee's or applicant's criminal conviction history is confidential communication. Access to this information is limited to those who have a legitimate need to know and will only be disseminated in conformity with relevant laws and department policy. Records gathered in a criminal background check will be kept by DOC Human Resources. These records will include:
 - a. authorization form
 - b. information collected from the check
 - c. analysis and decision regarding any convictions
 - d. correspondence related to criminal background check.
2. The records will be securely maintained in accordance with state retention policy.
3. The BOPP through DOC Human Resources will 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 the employee has applied to work.

V. CLOSING

1. Provisions of this policy not required by statute will be followed unless the provisions conflict with negotiated labor contracts, which will take precedence to the extent possible.
2. Questions concerning this policy should be directed to Chairman of the Board or DOC Human Resources.

Policy No. BOPP 3.8	Chapter 3: Human Resources	Page 5 of 5
Subject: CRIMINAL CONVICTION IN EMPLOYMENT		

VI. REFERENCES

A. 53-1-203, MCA; 44-4-401 MCA

B. 28 CFR Part 115, Prison Rape Elimination Act of 2003

C. DOC Policy 1.1.17 Prison Rape Elimination Act of 2003 (PREA)

VII. ATTACHMENTS

None.



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 4.1	Subject: CONDITIONAL DISCHARGE FROM SUPERVISION (CDFS)
Chapter 4: OPERATIONAL PROCEDURE	Page 1 of 3
Section 1: Conditional Discharge from Supervision	Effective Date: June 1, 2022
Signature: /s/ Joseph McElroy, Chief of Staff	Revised:

I. POLICY

Montana Department of Corrections (DOC) has established procedure for probation and parole officers when recommending a conditional discharge from supervision for parolees. This policy is intended to ensure parolees are complying with the conditions set forth by Board of Pardons and Parole (BOPP).

II. APPLICABILITY

BOPP Staff

III. DEFINITIONS

Conditional Discharge from Supervision (CDFS) – As defined in 46-23-1020, MCA, (1)(a) is a discharge from supervision by the DOC for the time remaining on the sentence imposed if the probationer or parolee complies with all the conditions imposed by the District Court or the Board of Pardons & Parole; and 2) a release from the obligation to pay supervision fees imposed as part of a sentence or as terms of parole or probation.

Supervision on parole is set forth in 46-23-1021(6) MCA. Further, for good cause, the BOPP may return a parolee to status of regular parole.

A conditional discharge on parole may be revoked as set forth in 46-23-2025 MCA .

- (a) is charged with a felony offense.
- (b) is charged with a misdemeanor offense for which the individual could be sentenced to incarceration for a period of more than 6 months; or
- (c) violates any condition imposed by the district court or the board.
- (3) A sexual or violent offender who is subject to lifetime supervision by the department is not eligible for a conditional discharge from supervision.

PPD - Probation and Parole Division – The Division oversees the Probation & Parole regional offices and interstate transfers.

Registered Victim – A person registered with an automated notification system (e.g., VINE) used by the department and/or who is identified in OMIS as registered with the department to receive location and custody status updates about adult offenders under department supervision.

VINE -Victim Information and Notification Everyday – An automated telephone, email, and text notification system which provides location and custody status updates about adult offenders under department supervision.

Policy No. BOPP 4.1	Chapter 4: Operational Procedure	Page 2 of 3
Subject: CONDITIONAL DISCHARGE FROM SUPERVISION		

Victim - The person against whom a felony crime has been committed, or a family member of that person. Other individuals may be recognized as victims on a case-by-case basis. Word to be Defined (bolded, no underlining) – (concise definitions, listed alphabetically; refer to department glossary)

IV. DEPARTMENT DIRECTIVES

1. BOPP may conditionally discharge a parolee, from standard supervision if the Court or BOPP determines a conditional discharge is in the best interests of the offender and society and will not present unreasonable risk of danger to the victim(s) of the offense.

- a. The Court must find all restitution and court-ordered financial obligations have been paid in full.
- b. The BOPP must consider the following:
 1. 46-23-218, MCA, the parolee’s compliance with his/her supervision, residential stability, employment stability, engagement in treatment, and other factors indicative of adequate reentry stability
 2. parole achievement credits of 46-23-1027, MCA.
- c. If parolee is granted a CDFS, the BOPP may provide conditions while the parolee is on CDFS

2. P&P Officer will complete OMIS termination moves. Date entered should be the date on the BOPP’s certificate. A change in the offender’s OMIS Location and Status will initiate VINE notification.

- a. Correctional Status showing release to BOPP jurisdiction
- b. Location (end date)
- c. Officer (end date)
- d. the parolee’s field file is returned to the BOPP it will be placed in the BOPP CDFS tracking system. Every CDFS Parolee will be subjected to a criminal history inquiry annually in conjunction with annual reporting as set forth in ARM 20.25.704(5). Further, pursuant 46 23-1020(2) MCA and ARM 20.25.704(6); A hearing Panel may revoke a CDFS parolee and return to active supervision or amend the conditions of the CDFS if, in the opinion this is in the best interest of society of the BOPP. Upon expiration of offender’s sentence, BOPP will send file to county of commitment. File is then placed with inactive files and retained pursuant to *PPD 1.5.501 Case Records Organization, Management, and Retention*.

3. A conditional discharge on parole may be revoked as set forth in 46-23-2025 MCA . Further, the BOPP must also consider 46-23-1020(2) when revoking within in the time remaining on a sentence. BOPP will ensure:

- a. is charged with a felony offense.
- b. is charged with a misdemeanor offense for which the individual could be sentenced to incarceration for a period of more than 6 months
- c. violates any condition imposed by the district court or the board.

4. A sexual or violent offender who is subject to lifetime supervision by the department is not eligible for a conditional discharge from supervision.

Policy No. BOPP 4.1	Chapter 4: Operational Procedure	Page 3 of 3
Subject: CONDITIONAL DISCHARGE FROM SUPERVISION		

V. CLOSING

1. Questions concerning this policy should be directed to the chairman or designee.

VI. REFERENCES

*A. DOC-PPD 6.3.401; 46-23-2015, 46-23-218, 46-23-1020, MCA; 46-23-1021, MCA
20.25.704 A.R.M.53-1-203, MCA*

ATTACHMENTS

None.



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 4.2	Subject: VICTIM SERVICES
Chapter 4: OPERATIONAL PROCEDURE	Page 1 of 4
Section 2: Victim Services	Effective Date: July 1, 2022
Signature: /s/ Joseph McElroy, Chief of Staff	Revised:

I. POLICY

The Board of Pardons and Parole (BOPP) have a collaborative working relationship with Department of Corrections (administratively attached -*See 2-15-112; 2-15-121; 2-15-124; 2-15-2302; 46-23-215; 46-23-202; 46-23-203; 46-23-1002; 46- 23-1021, MCA*). Together, both departments treat crime victims with dignity and respect, complies with victim notification and restitution statutes. The department of Corrections (DOC) offers programs that promote healing and encourages victim awareness training. The BOPP Victim/Witness Coordinator will ensure the collaborative working relationship is in good standing. Victim/Witness Coordinator will promote, respect, and follow all DOC policies in carrying out duties relative to the position given the statutorily administrative attached relationship.

II. APPLICABILITY

Victims of adult offenders under DOC supervision.

III. DEFINITIONS

Facilitator – A person who meets the DOC requirements to facilitate a victim-offender dialogue or victim impact panel.

Restorative Justice – A criminal justice concept that focuses on offender accountability and healing for victims, families, communities, and offenders.

Victim – The person against whom a felony crime has been committed, or a family member of that person. Other individuals may be recognized as victims on a case-by-case basis.

Victim Information and Notification Everyday (VINE) – An automated telephone, email, and text message notification system that DOC purchases on contract from Appriss, Inc., which provides location and custody status updates about adult offenders under DOC supervision.

Victim/Witness Coordinator – A BOPP employee who manages victim programs and policies, responds to victims’ requests for information and referrals, educates victims about the post-conviction criminal justice system (parole), provides victim services training, and represents victim interests in all BOPP matters. This position will also respond to inmate/parolee family and support network who wish to participate in parole hearings and provide information related to the subject matter.

A. General DOC Requirements that BOPP Acknowledges

1. The DOC Victim Program Manager(VPM) provides valuable assistance to BOPP. The BOPP will:
 - a. Collaborate with VPM to ensure BOPP compliance with victim notification.
 - b. BOPP will respond to victim information requests via email and phone. All requests will be in writing to serve as confirmation.

Policy No. BOPP 4.2	Chapter 4: Operational Procedure	Page 2 of 4
Subject: VICTIM SERVICES		

- c. BOPP will refer to DOC victim services programs and follow DOC Policy.
- d. VPM does manage the VINE service contract and is charge of, and will collaborate with the Information Technology Division and Appriss, Inc. to ensure the system is functional
- e. VPM will recommend/inform BOPP of new or expanded programs to respond to the needs of victims.

B. Victim Notification

- 1. If victims request notification, the BOPP will communicate all changes in offender custody status and location to the victim.
- 2. The BOPP acknowledges the DOC will maintain an automated electronic notification system, known as Victim Information and Notification Everyday (VINE), to provide custody status and location information about offenders under DOC supervision.
- 3. Offenders may not appeal any delay of case decisions or actions caused by statutory victim notification requirements or the processing of such notifications.

C. Victim Support

- 1. The BOPP assists victims of offenders under DOC custody and/or parole supervision by providing referrals to services within the DOC and in the community, training staff to respond to concerns regarding safety, providing prompt notification of changes in offender location and custody status.
- 2. The BOPP recognizes the importance of victim input concerning parole decisions. The BOPP will facilitate the right and ability of victims to provide oral or written statements to BOPP hearing panels. The BOPP also recognizes the right of victims to provide confidential statements under appropriate circumstances.

D. Victim Restorative Justice Program Acknowledgment

- 1. BOPP supports DOC Victim Impact Panels (VIPs) provide victims an opportunity to speak to offenders about how crime has affected them and serves to influence future offender behavior.
- 2. BOPP supports the DOC Victim-Offender Dialogue (VOD) program allows a victim, or an adult acting on behalf of a victim who is under age 18, to discuss the impacts of the crime with the offender in the presence of a trained facilitator. Participation in the program is voluntary for all participants and may only be initiated by the victim.
- 3. BOPP supports the DOC offender Accountability Letter Program (ALP) allows offenders to write to the victim(s) of the crime for which the offender was sentenced, reflecting responsibility for the crime and remorse for the harm caused to the victim(s) without excuses or requests for forgiveness or pardon.

Policy No. BOPP 4.2	Chapter 4: Operational Procedure	Page 3 of 4
Subject: VICTIM SERVICES		

E. Rights and Responsibilities of Victims

1. Victims are not obligated to participate in victim services or programs.
2. Victims who choose to participate in victim services and programs offered by the DOC must provide their current contact information, agree to complete all evaluations, and sign all forms required by the DOC
3. BOPP acknowledges victims, support person(s), and facilitators must pass visitor background checks in accordance with DOC Policy 3.3.8. *Offender Visiting* and follow normal facility entrance procedures.
4. BOPP acknowledges victims involved in legal proceedings involving the offender may not participate in the VOD program or ALP.

F. Facilitator Requirements

1. BOPP acknowledges to be a facilitator, BOPP employee must meet the requirements of, and complete paperwork required in DOC Policy 1.3.16 *Volunteer Services*.

G. Offender Requirements

1. Offenders who approach the BOPP that are currently involved in legal appeals or other legal proceedings involving the victim, may not participate in the VOD program or ALP.
2. Offenders who approached the BOPP are referred to DOC and must agree to complete all evaluations and sign all forms required by the DOC.
3. BOPP supports victim restorative justice programs. The BOPP will not grant permission for the offender to make additional contact with the victim unless fully vetted through the DOC.

H. Training

1. The BOPP will consult DOC VPM quarterly to keep up to date on training about victim information requests, VINE and other notification procedures, victim sensitivity and staff communications, and programs for victims within the community, when requested, and within the department.

IV. CLOSING

1. Questions concerning this policy should be directed to Chairman or designee. In matters requiring further review, the BOPP will consult DOC VPM for further assistance.

V. REFERENCES

- A. 2-15-112, MCA; 41-5-1416, MCA; 46-18-241, MCA; 46-24-101, MCA; 46-24-102, MCA; 46-24-203, MCA; 46-24-212, MCA; 46-24-213, MCA; 53-1-203, MCA
- B. 4-4447-1, *ACA Standards Supplement*, 2008
- C. *DOC Policies 1.1.1, Purpose, Mission and Management Philosophy; 1.3.16, Volunteer Services; 1.5.6, Offender Records Access and Release*
- D. *Victim Services Standard Operations Procedure Guide 1.8.1A*

Policy No. BOPP 4.2	Chapter 4: Operational Procedure	Page 4 of 4
Subject: VICTIM SERVICES		

VI. ATTACHMENTS

None.



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 4.3	Subject: Institutional Screening
Chapter 4: OPERATIONAL PROCEDURE	Page 1 of 4
Section 3: Institutional Screening	Effective Date: April 22, 2024
Signature: /s/ Steve Hurd	Revised: June 4, 2024

I. POLICY

The Board of Pardons & Parole (BOPP) has a collaborative working relationship with Department of Corrections (DOC or Department) (administratively attached -See 2-15-112; 2-15-121; 2-15-124; 46-23-215; 46-23-202; 46-23-203; 46-23-1002; 46- 23-1021, MCA). Together, the two entities administer an institutional screening (IS) process to prepare inmates who are within nine months of parole eligibility or discharge for release to the community. The BOPP IS Coordinator will ensure the collaborative working relationship is in good standing. During this process, the IS staff will treat crime victims with dignity and respect and comply with victim notification statutes. The IS Coordinator will promote, respect, and follow all Department policies in carrying out duties relative to the position given the statutorily established, administratively attached relationship between the BOPP and the DOC.

II. APPLICABILITY

DOC Inmates who are within nine months of parole eligibility (P.E.) or discharge. (Note: MCA 53-1-203 authorizes this process for offenders within 14 months, but the DOC Policy Directive sets nine months as the timeline.)

III. DEFINITIONS

BOPP – Montana Board of Pardons and Parole

Board – Montana Board of Pardons and Parole Department

DOC – Montana Department of Corrections.

IPPO – Institutional Probation & Parole Officer

IS – Institutional Screening

MCA – Montana Code Annotated – The current statutes of the State of Montana.

P.E. – Parole Eligibility Date

PRC – Pre-release center.

SO – Sexual Offender

VO – Violent Offender

Subject: Institutional Screening

Victim/Witness Coordinator – A BOPP employee who communicates with victims about upcoming IS action involving the offenders.

I. BOPP DIRECTIVES:**A. Composition of IS panel:**

1. The IS panel for secure facilities is composed of the following:
 - a. The Department's IS Coordinator
 - b. The BOPP's IS Coordinator
 - c. The designated Department representative from the secure facilities.
 - d. The IS panel members may assign a designee for coverage.
 - e. The IS process is not a public board, and its decisions are not subject to public participation. Potential placement in treatment or a pre-release center prior to parole eligibility is a privilege, not a right.

B. IS Process:

The IS Coordinators from the BOPP and DOC will run a report monthly to determine who is eligible to see the IS panel the following month. The IS Coordinators will review it and assign inmates to a Facility Case Manager to review the eligibility criteria.

1. The unit case managers will review the applications in accordance with the criteria on the Institutional Screening Initial Eligibility Checklist (DOC 4.6.15 (A)).
2. The case managers will review the IS process with the offenders who have passed the initial screening and confirm their interest in participating.

C. Screening Requirements:

1. Eligible offenders must meet the criteria below:
 - a. Is currently in the physical custody of the DOC in a secure placement.
 - b. Be within nine months of parole eligibility or discharge date.
 - c. Clear conduct for 120 days.
 - d. Compliant with treatment recommendations/requirements.
 - e. No active detainers or warrants.
 - f. Has not been reviewed for IS during the current secure placement (unless requested by IS Coordinators).
 - g. No parole restriction preventing placement.
 - h. Has not failed or refused recommended treatment/programming within the last 180 days.
 - i. Has not failed or refused a community corrections placement within the last 180 days.

Subject: Institutional Screening

2. In making decisions, the IS panel will consider the following factors:
 - a. Time until parole eligibility/discharge.
 - b. Current risk assessment.
 - c. Compliance with recommended treatment/programming.
 - d. The nature of the offense
 - e. Whether the offender is required to register as a sexual or violent offender upon release.
 - f. Victim input.
 - g. Overall conduct during current sentence.
 - h. The offender's expressed interest in placement in treatment or pre-release.
 - i. Any other factor that may be relevant based on the individual circumstances of the offender being considered.
3. As the Board is committed to the right of victims to be heard in a public forum if they so choose, the Board representative is unlikely to approve an IS placement for sexual or violent offenders through the IS process without them seeing the BOPP.
4. The IS panel may, at its sole discretion conduct an interview with the offender as part of the decision process. If the IS panel chooses to conduct an interview, it may be conducted either in-person or via video or telephone conference.
5. Offenders who have already seen the BOPP and received a disposition are not eligible for IS placements that are inconsistent with those dispositions. In other words, an offender who has been given conditions that are required to be met and had a subsequent Board hearing scheduled must comply with the conditions stipulated. The only exception to this would be an offender who is within 14 months of discharge. In that case, the IS panel has more flexibility.
6. Any single factor may be sufficient to deny an eligible inmate's potential placement outside of the secure facility prior to the offender's parole eligibility date.

D. Victim Notification

1. The IS Coordinators will work with the BOPP Victim/Witness Coordinators to ensure that victim notification is made. The BOPP is committed to ensuring that victims voices are heard. The IS panel will be sensitive to victim concerns when making placement decisions.

E. Screening

1. The IS panel will meet monthly to decide on the cases. They will review each case with the criteria outlined in §46-23-208, MCA. The vote must be unanimous to approve. Those who are approved will be referred to the IPPO to initiate the referral process. Those who are denied will be routed back to the case manager to notify the offenders. Chronological notes will be made of all decisions.

Policy No. BOPP 4.3	Chapter 4: Operational Procedure	Page 4 of 4
Subject: Institutional Screening		

2. The criteria from §46-23-208, MCA includes the following: The circumstances of the offense, the social history and prior criminal record, institutional conduct, employment, attitude in prison, whether he/she has taken advantage of opportunities for treatment, the reports of any evaluations made, the maturity, sense of responsibility, and development of traits and behaviors that will increase the likelihood of the offender conforming behavior to the law, as well as the other factors listed in the statute.
3. The decisions of the IS panel are not subject to appeal or grievance. Inmates who are denied will have the opportunity to seek release through the regular Board process once they become parole eligible.

F. Transitional Living

1. Offenders who have been approved for an early placement via IS are not eligible for a transitional living placement until they have been seen by the Board and granted a parole.

II. CLOSING

1. Questions concerning this policy should be directed to Chairman or designee.

III. REFERENCES

- A. MCA §46-23-208
- B. MCA §53-1-203

IV. ATTACHMENTS

Institutional Screening Initial Eligibility Checklist (DOC 4.6.15 (A))



**STATE OF MONTANA
BOARD OF PARDONS AND PAROLE
POLICY DIRECTIVE**

Policy No. BOPP 4.4	Subject: PUBLIC PARTICIPATION IN HEARINGS FROM BOPP OFFICE	
Chapter 4: OPERATIONAL PROCEDURE	Page 1 of 3	
Section 4: Public participation in Hearing from BOPP Office	Effective Date: March 18, 2024	
Signature: /s/ Michael A. Buckley, Chief of Staff	Revised:	

I. PROCEDURE:

The Chief of Staff or Board Chairman may authorize witnesses to take part in Parole Hearings from the Board of Pardons and Parole (BOPP) Office when all alternative arrangements are not feasible or available for the witness. Necessary precautions and considerations will be made to preserve the safety and security of BOPP Staff on-site at the BOPP Office.

II. APPLICABILITY

This Procedure applies to all BOPP Administrative Staff and members of the public requesting to take part in BOPP Hearings from the BOPP Office.

III. DEFINITIONS

Opponent Witness – A member of community law enforcement or judicial officials involved in the prosecution of the offender’s crime that may wish to speak for their community on public safety concerns regarding the offender’s potential release from incarceration.

Proponent Witness – A member of the community supporting an incarcerated offender’s re-entry into the community from a secure facility. This may include, but is not limited to, family members of the offender, previous or potential employers, and the offender’s legal representative.

Victim Witness – The person against whom a felony crime has been committed, or a family member of that person. Other individuals may be recognized as victims on a case-by-case basis.

Victim/Witness Coordinator – A BOPP employee who manages victim programs and policies, responds to victims’ requests for information and referrals, educates victims about the post-conviction criminal justice system (parole), provides victim services training, and represents victim interests in all BOPP matters. This position will also respond to inmate/parolee family and support network who wish to participate in parole hearings and provide information related to the subject matter.

IV. DIRECTIVES

The BOPP recognizes the importance of witness input concerning parole decisions. The BOPP will facilitate the right and ability of witnesses to provide oral or written statements to BOPP hearing panels. The BOPP also recognizes the right of victim witnesses to provide confidential statements under appropriate circumstances.

A. Purpose of BOPP Office On-site Participation

1. The BOPP Board Members conduct Hearings remotely from various locations throughout the State and do not physically meet to hold hearings at the BOPP Office. As such, witness participation from the BOPP Office does not offer any access to Board Members that is not

offered by all other remote options offered to witnesses by the Victim/Witness Coordinator. These options are often offered closer in geographic location to witnesses and do not require travel on their part. Witness participation at the BOPP Office is offered when the Witness does not have the electronic means to take part and the Victim/Witness Coordinator is unable to make reasonable accommodations locally for the witness.

B. Approval of On-site Participation

1. Requests to participate from the BOPP Office must be staffed by Victim/Witness Coordinators with the Chief of Staff or Board Chairman.
2. Generally, the Chief of Staff or Board Chairman will not approve participation from the BOPP Office without a specific need, purpose, or verification that all viable options are not available or where any concerns for staff safety exist.
3. The Chief of Staff or Board Chairman will consider on-site participation requests on a case-by-case basis. They may solicit input from Department of Corrections staff such as the communications director, victim information specialist, and community corrections administrators.

C. BOPP Staff Procedures

1. Witnesses will submit a request to participate to Victim/Witness Coordinators 10 business days prior to a scheduled hearing.
2. Victim/Witness Coordinators will assist witnesses with their request and attempt to arrange for them to participate in hearings remotely.
3. If all viable remote options have been exhausted, the witness may request to the Victim/Witness Coordinator permission to appear on-site from the BOPP Office.
4. Victim/Witness Coordinators will determine if the witness presents a safety risk by conducting an informal background check utilizing OMS, Sexual Violent Offender Registry, or contacting appropriate Department of Corrections staff. Additionally, Victim/Witness Coordinators are to limit the number of witnesses to a reasonable number within their span of control during the hearing in consideration of any safety concerns that the witness may present.
5. Victim/Witness Coordinators will then staff the request with the Chief of Staff or Board Chairman along with any safety concerns that need to be mitigated so that the Victim/Witness Coordinator can maintain an appropriate span of control while the witness is present at the BOPP Office.
6. Once approved for on-site participation, the Victim/Witness Coordinator will communicate expectations for appropriate decorum during the hearing and make arrangements for on-site participation with the witness.

V. CLOSING

1. Questions concerning this policy should be directed to Chief of Staff or designee. In matters requiring further review, the BOPP will consult DOC VPM for further assistance.

VI. REFERENCES

- A. *2-15-112, MCA; 41-5-1416, MCA; 46-18-241, MCA; 46-24-101, MCA; 46-24-102, MCA; 46-24-203, MCA; 46-24-212, MCA; 46-24-213, MCA; 53-1-203, MCA*
- B. *4-4447-1, ACA Standards Supplement, 2008*
- C. *DOC Policies 1.1.1, Purpose, Mission and Management Philosophy; 1.3.16, Volunteer Services; 1.5.6, Offender Records Access and Release*
- D. *Victim Services Standard Operations Procedure Guide 1.8.1A*

VII. ATTACHMENTS

None.