

**First Report of the Independent Reviewer**  
**Covering June 19, 2013 – October 1, 2013**

**The Agreement between the City of Missoula Police  
Department and the United States Department of Justice  
Regarding Response to Sexual Assault**

Respectfully Submitted By:

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## **TABLE OF CONTENTS**

|                                                              |                     |
|--------------------------------------------------------------|---------------------|
| <b>Introduction</b>                                          | <b>Page 3 – 9</b>   |
| <b>Work Conducted / Observed by the Independent Reviewer</b> | <b>Page 10 – 24</b> |
| • Initial Site Visit                                         | Page 10 – 18        |
| • Two Day Sexual Assault Training for MPD Investigators      | Page 18 – 20        |
| • MPD Sexual Assault Policies and Protocol                   | Page 20             |
| • Initial Training for MPD First Response Officers           | Page 21             |
| • External Review Panel Training and Case Review             | Page 22 – 24        |
| <b>Assessment of Progress to Date / Compliance Graph</b>     | <b>Page 25 – 33</b> |
| <b>Conclusion</b>                                            | <b>Page 34</b>      |

## INTRODUCTION

On May 15, 2013 the City of Missoula (the “City”) acting through the Missoula Police Department (“MPD”), and the United States Department of Justice (“DOJ”) (collectively, “the Parties”) entered into an Agreement. See full Agreement for details: [http://www.justice.gov/crt/about/spl/documents/missoulapdsettle\\_5-15-13.pdf](http://www.justice.gov/crt/about/spl/documents/missoulapdsettle_5-15-13.pdf)

The Agreement was created to resolve DOJ’s investigation of MPD initiated pursuant to 42 U.S.C. §14141 and the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d. Based on this investigation the City and MPD engaged in open dialogue about the concerns raised by DOJ’s investigation regarding MPD’s response to sexual assault. This dialogue resulted in the above referenced agreement.

DOJ acknowledged in the Agreement that the City and MPD “fully and completely cooperated with the DOJ investigations,” and that “MPD had been working to improve its response to sexual assault prior to DOJ initiating its investigation.”

The Parties entered into the Agreement with the understanding that the Agreement is intended to ensure the success of MPD’s effort to improve its response to adult sexual assault and not an admission, or evidence of liability of the City or MPD for any violation of State or Federal Law, violation of State or Federal Constitution, or for any alleged gender bias in the performance of law enforcement duties

The Agreement focuses on the improvement of MPD policies, practices, supervision, and training. The following general categories are listed in the Agreement that MPD must implement to improve MPD’s response to adult sexual assault and to fulfill the terms of the Agreement:

- Assess and Modify Sexual Assault Policies and Protocols
- Provide Initial and On-going Sexual Assault Response and Investigations Training
- Review of Policies and Training to Ensure that Terms of the Agreement are Included in MPD Policies and Training

- Enhance Investigation of Non-Stranger and Alcohol-or-Drug Facilitated Sexual Assault
- Enhance Victim-Centered Response to Sexual Assault
- Ensure Close Supervision and Internal Oversight of All Sexual Assaults
- Enhance Coordination with Law Enforcement and Community Partners to Improve the Reporting and Participation Experience for Victims of Sexual Assault
- Assess and Enhance Data Collection and Reporting for Improved Analysis of Sexual Assault Cases
- Establish External Review of (Felony) Sexual Assault Cases to be Conducted by a Panel of Qualified Representatives
- Community-Conducted Sexual Assault Response Safety and Accountability Audit
- Independent Oversight by Selected Independent Reviewer (the “Reviewer”) to Assess and Report Whether the Requirements of the Agreement Have Been Implemented.

Thomas R. Tremblay was jointly selected by the Parties as the Independent Reviewer (the “Reviewer”) to oversee the terms of this Agreement with the understanding that the City / MPD bear the burden of demonstrating compliance with the Agreement.

The Parties also jointly selected Anne Munch, Esq. to assist the City, MPD, the External Review Panel, and the Reviewer with respect to training.

The Agreement stipulates that the City / MPD anticipate compliance with the Agreement within two years of the Effective Date of the Agreement; meaning May 15, 2015. In accordance with the Agreement “Compliance” shall be defined to require both sustained compliance with all material requirements of the Agreement, and sustained and continuing improvement in the response to and investigation of reports of sexual assault, as demonstrated pursuant to the outcome measures determined by the Independent Reviewer.

The Reviewer is responsible for providing the City and MPD quarterly written reports, which are publicly released, documenting the progress during the reporting period including:

- A. Description of the work conducted by the Independent Reviewer during the reporting period;
- B. Listing of each Agreement requirement indicating which requirements have been:
  - (1) Incorporated into implemented policy;
  - (2) The subject of adequate and appropriate training for all relevant MPD personnel;
  - (3) Reviewed by the Independent Reviewer to determine whether they have been fully implemented in actual practice, including the date of the review; and
  - (4) Found by the Independent Reviewer to have been fully implemented in practice;
- C. The methodology and specific findings for each review conducted;
- D. For any requirements that were reviewed and found not to have been fully implemented in practice, the Independent Reviewer's recommendations regarding necessary steps to achieve compliance;
- E. The methodology and specific findings for each outcome assessment conducted;
- F. A qualitative assessment of MPD's progress in achieving the desired outcomes for each area covered by the Agreement, noting issues of concern or particular achievement; and
- G. A projection of the work to be completed during the upcoming reporting period and any anticipated challenges or concerns related to implementation of the Agreement.

The Reviewer and the City signed a contract for service on June 19, 2013 beginning the independent review process.

This report is the first report from the Reviewer covering the period between June 19, 2013 and October 1, 2013. During this fifteen week time period the Reviewer has conducted over one-hundred hours of remote reviewing activity and consultation; and over one-hundred additional hours of on-site review activity, consultation and training during three separate site visits to Missoula, MT.

The review services and consultation were specific to the terms of the Agreement and have included; sexual assault case reviews, policy development, sexual assault response and investigations training, interviews with community members and community service organizations, and the development of an external review panel of community members to review felony sexual assault cases in Missoula.

All MPD sworn officers and command staff have completed comprehensive Sexual Assault Response and Investigations training. This training included national best practices emphasizing the importance of a multi-disciplinary approach, examining the myths and realities of sexual violence and the potential for bias interference, victim centered services that is trauma informed, effective communication and interviewing skills with sexual assault victims to promote the collection of sensory and peripheral details as evidence, developing successful investigative strategies for stranger and non-stranger sexual assault including alcohol / drug facilitated sexual assault, understanding offender conduct, successful approaches to suspects, and report writing and documentation.

The MPD Sexual Assault Policy has gone through significant assessment and review and is in final draft form. As part of the policy development MPD has reviewed national best practices in sexual assault response and investigations including model policies and related resources from the International Association of Chiefs of Police (IACP).<sup>1</sup>

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<sup>1</sup> The International Association of Chiefs of Police, Police Response to Violence Against Women Project, with funding from the Department of Justice's Office on Violence Against Women (OVW), focuses on the development of tools and policies to assist law enforcement in responding effectively to human trafficking, sexual assault, domestic violence, domestic violence by police officers, and all other crimes against women. - See more at: <http://www.theiacp.org/PublicationsGuides/Projects/ViolenceAgainstWomen/PoliceResponsetoViolenceAgainstWomen/tabid/372/Default.aspx#sthash.NgviEFyw.dpuf>

As part of their policy assessment and development process MPD also reviewed information and resources from Ending Violence Against Women International (EVAWI)<sup>2</sup>

MPD has demonstrated national best practice in policy development by seeking comments, feedback, and agreement on policy language from community resources / advocacy agencies that provide services to sexual assault victims and survivors.

MPD has also created an External Review Panel (ERP) of Sexual Assault Victim and Survivor Advocates that are reviewing MPD investigations to ensure comprehensive and bias-free responses and investigations.

The ERP is in the process of finalizing the review protocol that was created by Anne Munch Consulting, in consultation and cooperation with the Women's Law Project<sup>3</sup> and their review of sexual assault cases in Philadelphia, PA.

The ERP is providing MPD feedback on their reviews in an effort to improve MPD's response, investigations, and services to sexual assault victims. The Reviewer has also engaged in case reviews and provided similar feedback to MPD.

Initial Case Reviews have resulted in identifying positive examples of work performed and has also resulted in the identification of areas for continued improvement.

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<sup>2</sup> EVAWI Mission: Inspire and educate those who respond to gender-based violence, equipping them with the knowledge and tools they need to support victims and hold perpetrators accountable. We promote victim-centered, multidisciplinary collaboration, which strengthens the response of the criminal justice system, other professionals, allies, and the general public - making communities safer. <http://www.evawintl.org>

<sup>3</sup> Women's Law Project: For over two decades, the Women's Law Project has worked to improve system responses to violence against women. From our [groundbreaking role in working with the Philadelphia Police Department](#) in reforming police practice investigating sex crimes to playing a major role in [reforming insurance practices](#) and [state welfare requirements](#), WLP continues to push for systemic changes that will positively impact women's lives. <http://www.womenslawproject.org/NewPages/wkViolenceAgainstWomen.html>

These areas for continued improvement include conducting comprehensive investigations and seeking possible interconnected and co-occurring crimes, victim centered services including effective communication and victim interviewing, better communication and coordination with community sexual assault resources including the County Attorney's Office, and overcoming the challenges that MPD identified regarding Montana laws and court decisions for strategic approaches to suspects.

The Reviewer is pleased to report throughout this initial report that substantial progress on the terms of the Agreement are being made, but more importantly these efforts are beginning to show the intent of the Agreement which is to ensure the success of MPD's effort to improve its response to adult sexual assault.

While it is too early in the review and assessment process to accurately measure the improvements, the Reviewer has initially identified examples of enhanced skills that were introduced in training and improved policy development process in the rewrite of the MPD policy.

Some of these initial examples were identified in case reviews and have included enhanced victim centered services, coordinated communication with sexual assault community resources, more documentation of advocacy involvement in response and investigations and examples of detailed reports and documentation of facts and potential evidence.

Also of note is that MPD is reporting that they are receiving increased reporting rates for sexual assault cases compared to the previous year's data. Research and experience clearly indicates that sexual assault remains one of the most underreported violent crimes in our criminal justice system. Increased rates for sexual assault reporting are influenced by a number of factors and are not always indicative of an increase in sexual assaults in the community.

Factors influencing reporting rates can also be connected to increased community awareness and dialogue regarding sexual violence, increased collaboration and community coordinated response, and public confidence in the reporting process.

The increased reporting rates reported by MPD will require further examination, but it is clear following DOJ's investigation in Missoula that there has been increased community awareness and dialogue about sexual violence in Missoula as well as an effort to enhance community collaboration. One of the efforts in Missoula was the creation of the new community supported sexual assault reporting options as detailed in "It's Your Call / Missoula 911."<sup>4</sup>

MPD reported that one of the goals of "It's Your Call / Missoula 911" program was to increase awareness for new sexual assault reporting options that would better support victims and hopefully encourage more reporting of sexual assaults. It is still early in the assessment process, but increased rates of sexual assault reporting in Missoula will be monitored by MPD and reported on by the Reviewer in subsequent Reviewer reports.

This remainder of this report documents the current activities and observations of the Reviewer and the progress that MPD is making to fulfill the terms of the Agreement to ensure the success of MPD's effort to improve its response to adult sexual assault.

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<sup>4</sup> The Missoula Police, The University of Montana and multiple community advocate groups are working together to address these crimes — on campus or off — with responses that help victims and enhance public safety. When you call 911, it does not obligate you to file a police report. It does, however, help you open doors to services available in the community. <http://www.missoula911.com/>

**Description of Work Conducted by the Independent Reviewer during the reporting period;  
June 19, 2013 – October 15, 2013**

Work of the Reviewer began immediately by establishing and completing the following initial tasks:

1. Establishing open lines of communication with the DOJ, the City and MPD
2. Review and understand the DOJ findings regarding their investigation of MPD
3. Review and understand the Agreement between MPD and DOJ
4. Conduct initial independent research and background on the City and MPD to better understand their mission, their capacity and the challenges MPD faces in providing overall policing services
5. Conduct initial independent research and background on MPD's coordination and collaboration with the University of Montana's Office of Public Safety.
6. Obtain City of Missoula Business License
7. Plan and coordinate initial site visit.

The initial site visit was planned and scheduled for June 23 – 28, 2013. The goals and objectives for the initial site visit were established as follows:

**Initial Site Visit Goal:**

To establish professional relationships and effective communication with MPD and their community partners and create clear expectations for the first year of independent review.

**Site Visit Objectives:**

1. Meet with MPD and community partners in Missoula that are involved in the response to sexual violence, and/or are impacted by the Agreement;
2. Gain a deeper understanding of MPD's overall mission and operational capacity;

3. Gain immediate and remote access to MPD facilities, necessary documents, databases, policies, and relevant information to begin planning the monitoring and assessment objectives described in the DOJ Agreement;
4. MPD to demonstrate and confirm they understand the terms of their Agreement and provide initial overview of their plans to fulfill terms of the agreement
  - a. Demonstrate managerial and operational understanding for the implementation of each term, reform, and requirement of the respective DOJ Agreement
  - b. Establish proposed initial timelines for each term, reform and requirement of the DOJ Agreement and how they will successfully measure compliance
  - c. Discuss and make recommendations for the review plan, including how we successfully measure actions, progress and compliance
  - d. Learn what initial compliance activities have taken place to date at MPD
5. Establish clear expectations of roles and responsibilities for the coming year; July 1, 2013 – June 30, 2014.
6. Establish notifications procedures to the Independent Reviewer for new reports of sexual assault, or others acts involving reported incidents of sexual violence or deviance;
7. Develop proposed budget for Independent Review for MPD FY 14.

### **Initial MPD Site Visit Agenda: Meeting w/ Chief Mark Muir and MPD Command Staff**

Introductions and the site visit goals and objectives were discussed as well as expectations and responsibilities of the Reviewer. It was clearly communicated to Chief Muir and MPD that it is not the Reviewer's responsibility to implement the requirements of the agreement, but rather this is the responsibility of MPD.

Chief Muir agreed and demonstrated an understanding that in order for MPD to comply with the Agreement they must take managerial and operational responsibility for the implementation of the terms, reforms and requirements of the Agreement. It was further understood that MPD is responsible for documenting and measuring their efforts and the Reviewer is responsible to assess MPD's efforts and report whether the requirements of the Agreement have been implemented by MPD.

The Reviewer is pleased to report that Chief Muir and his staff pledged full cooperation with the Reviewer's expectations and responsibilities. Chief Muir did openly express frustration with what he believes to be the insufficiency of the DOJ investigation and the impact the investigation has had on the morale of his department. Chief Muir indicated that MPD and all employees strive to do their very best and they take pride in the work they do.

Chief Muir reported that MPD has seen an increase in sexual assault reporting compared to the previous year and his officers and detectives are working to ensure that all cases are a priority. While there is no identifiable cause or pattern for the increased reporting, it was agreed that there should be more analysis at the end of the calendar year to determine the extent and causes.

Chief Muir indicated that MPD did not agree with all of the DOJ findings, but did agree that MPD could improve their response and investigations to crimes of sexual violence. Chief Muir said that they welcomed the independent review and looked forward to working cooperatively to fulfill the terms of the Agreement.

Chief Muir and his command staff demonstrated professionalism towards the Reviewer throughout the initial site visit pledging their commitment to working cooperatively, fulfilling the Agreement, and moving MPD forward.

### **Initial Site Visit Agenda: Introduction and Meeting with MPD Detectives**

Chief Muir facilitated a meeting with MPD Detectives. The Reviewer was introduced and provided an overview of the role and responsibilities of the Reviewer. Some of the MPD Detectives in attendance informed the Reviewer that they had handled cases that were reviewed during the DOJ investigation.

While MPD Detectives were respectful towards the Reviewer they did express dissatisfaction with the way the DOJ investigation was conducted and they questioned the DOJ findings. Several of the Detectives reported that they felt the DOJ investigation lacked specific detail and they were never afforded the opportunity to clarify or discuss specific cases, or the findings, with DOJ investigators.

The Reviewer was aware that MPD and DOJ had previously discussed these concerns as part of the investigation and settlement agreement. The Reviewer is also aware that DOJ disagrees with the MPD's assessment, and DOJ believes it is more important to move forward to implement the agreed upon reforms than continue discussing disagreements regarding the investigation.

Chief Muir repeated the message that MPD and DOJ had agreed to move forward and he pledged full commitment by MPD to work cooperatively to fulfill the Agreement.

### **Initial Site Visit Agenda: Overview of Police Operations / Meeting with Mayor Engen**

Chief Muir provided an overview of the MPD mission, organizational structure, management, supervision, and operational capacity.

Chief Muir also arranged a meeting for the Reviewer to meet with Mayor Engen. The Reviewer's role and responsibility was explained as was the responsibility of MPD and the City to take managerial and operational responsibility for fulfilling the terms of the Agreement. Mayor Engen pledged his full support for MPD and Chief Muir and the efforts to fulfill the terms of the Agreement.

### **Initial Site Visit Agenda: Visit with Community Partners**

Chief Muir arranged meetings and introductions to the following community partner organizations:

- Missoula City/County Crime Victim Advocate Program
- YWCA Pathway Program / 24 Hour Crisis Line
- First Step Resource Center, Providence St. Patrick Hospital

The Reviewer explained to the community partner organizations the roles and responsibilities of the Reviewer and MPD as it relates to the Agreement. Each organization explained their individual and collective roles in providing services to victims of sexual assault. It was generally agreed that community resources for victims and survivors of sexual assault were strong, but that communication and coordination of services with MPD needed to be strengthened.

The Reviewer was pleased to see the commitment and professionalism of these organizations. All pledged full support of MPD's efforts to fulfill the terms of the Agreement, recognizing an opportunity to strengthen a community coordinated response to sexual assault. The Reviewer provided contact information to each organization as ongoing communication with these community resources will be important throughout the term of the Agreement.

### **Initial Site Visit Agenda: Meet with IT on data access**

The Reviewer met with MPD Information Technology specialists to create remote access to MPD reports, policies, and information that is needed for review during the term of the Agreement. Protocols were established with MPD to ensure confidential communication and review of ongoing investigations.

### **Initial Site Visit Agenda: Meet with County Attorney Fred Van Valkenburg**

Chief Muir arranged a meeting with County Attorney Fred VanValkenburg. Mr. Van Valkenburg qualified his support for MPD's effort to fulfill the Agreement. Mr. Van Valkenburg explained that in his opinion his current status with DOJ was adversarial and uncertain and he openly expressed dissatisfaction with DOJ involvement in Missoula.

Mr. Van Valkenburg indicated that while he was skeptical of the process, he would do the best he could to support MPD in fulfilling their Agreement with DOJ. The Reviewer and Mr. Van Valkenburg exchanged contact information and encouraged open lines of communication throughout the process.

### **Initial Site Visit Agenda: MPD Presentation on Terms of the Agreement**

As part of the Initial Site Visit, MPD was asked to conduct a presentation for the Reviewer on their understanding of the DOJ Agreement and their plans to fulfill the terms of the Agreement. The objectives of the presentation were as follows:

1. Demonstrate managerial and operational understanding for the implementation of each term, reform, and requirement of the DOJ Agreement
2. Establish proposed initial timelines for each term, reform, and requirement of the DOJ Agreement and how MPD will work to successfully measure compliance
3. Learn what initial compliance activities have taken place to date at MPD
4. Discuss and make recommendations for the review plan including how we successfully measure actions, progress, and compliance

The MPD presentation was conducted by Chief Muir and attended by Assistant Chief Mike Brady and Captain Mike Colyer.

The Reviewer is pleased to report that MPD not only demonstrated a thorough knowledge of the terms of the Agreement, they also demonstrated that prior to the Agreement they had already taken action to strengthen their policies and procedures, conducted department wide training on sexual assault, and enhanced community collaboration with the creation of a comprehensive sexual assault community resource guide titled; “It’s Your Call 911.” Furthermore, MPD demonstrated that they had created detailed Action Plans to fulfill each term of the Agreement and had already begun work on their Action Plans.

During the MPD presentation, MPD acknowledged the difficult task of how to measure progress and effectiveness of the efforts, and also ensure that unintended consequences of their actions are identified and remedied.

It was agreed that while the Agreement calls for the Reviewer and MPD to develop measurements for progress, the true measure will be the feedback and enhanced community confidence resulting from the External Review Panel’s work, and the eventual community safety and accountability audit which will occur in year two of the Agreement.

During a facilitated discussion with the Reviewer the following areas of measurement were initially identified for MPD to incorporate into their managerial and operational responsibility for documenting and measuring their efforts in accordance with the Agreement:

- Victim participation rates in process
- Number of cases going to trial and number of cases resulting in conviction
- Timelines that track the case from initial response, time of investigation, when cases are referred to the County Prosecutor, and when the County Prosecutor makes a decision to charge / not to charge
- Increased training; hours spent on sexual assault training, pre/post testing and evaluation results
- Feedback and review by community groups and partners
- Feedback and review by External Review Panel
- Approval rates of External Review Panel
- Victim survivor survey in cooperation with community partners

MPD also reported that they are in the process of implementing a new Computer Aided Dispatch (CAD) and Records Management System (RMS) that should improve their ability to collect and analyze data. MPD reported that they will be incorporating these measurements and others during planning and implementation of the RMS.

MPD and the Reviewer agreed that the initial efforts for compliance with the Agreement should be directed at the following requirements of the Agreement:

- Assess and Modify Sexual Assault Policies and Protocols
- Provide Initial and On-going Sexual Assault Response and Investigations Training
- Establish External Review of (Felony) Sexual Assault Cases to be Conducted by a Panel of Qualified Representatives

The Reviewer is pleased to report that progress on these efforts has been substantial. The MPD policy is in final draft, the initial training for officers and detectives has been completed and the External Review Panel received their training and conducted the first case reviews in September 2013. (See further details of progress as noted in the compliance graph on page 25 – 33)

The Reviewer and MPD established notifications procedures to the Reviewer for all new reports of sexual assault cases. The notification procedures include remote confidential access to review ongoing cases conducted by MPD. Case review by the Reviewer is ongoing and will continue throughout the term of the Agreement.

Initial Case Reviews have resulted in identifying some positive examples of work performed and has also resulted in the identification of areas of concern for continued improvement.

These areas for continued improvement include conducting comprehensiveness investigations and seeking possible interconnected and co-occurring crimes, victim centered services including effective communication and victim interviewing, better communication and coordination with community sexual assault resources including the County Attorney's Office, and the challenges identified by MPD regarding Montana laws and court decisions influencing strategic approaches to suspects.

These areas of concern are being addressed by MPD in training, policy / SOP, and direct feedback to officers and detectives for professional development and will continue throughout the term of the Agreement.

Following the Initial Site Visit, and in accordance with the contract for services between the Reviewer and the City, the Reviewer produced a budget for services for Fiscal Year 2014.

#### **August 6 – 7, 2013 Two Day Sexual Assault Training for Investigators**

In accordance with the Agreement, Section III, B. 5, MPD is required to provide in-depth sexual assault training to MPD detectives. This training was designed by Anne Munch Consulting to meet the requirements detailed in this section of the Agreement. The training was delivered by Anne Munch Consulting with the Reviewer assisting in the training delivery.

One of the requirements of the training was a section on the Montana sexual assault laws. Missoula County Attorney Fred Van Valkenburg was invited to work with Anne Munch to deliver this section of the training. Mr. Van Valkenburg respectfully declined to conduct the training and recommend that someone from the Montana Attorney General's Office provide the training. Mr. Van Valkenburg assisted in securing Assistant Attorney General Ole Olson to provide the training on Montana Law.

The training was attended by MPD Detectives and was open to other Montana police departments, the County Attorney's Office and community agencies that are involved in sexual assault related services.

Over ninety multi-disciplinary participants attended representing law enforcement, advocacy, health care / Sexual Assault Nurse Examiners (SANE), and several members of the County Attorney's Office including Missoula County Attorney Fred Van Valkenburg.

The training included a pre and post-test and daily evaluations. Review of the evaluations and feedback for the training were overwhelmingly positive with participants agreeing that the training provided new information to help them feel better prepared to address sexual assault cases. Pre and Post test scores showed the following improvements for MPD personnel attending the training:

- Pre Test Combined Average Score for MPD personnel in attendance: 72.6
- Post Test Combined Average Score for MPD personnel in attendance: 91.4
- Combined Improvement Between Pre and Post Test Score: 18.8

One point of interest surfaced during the training and in fact was an identified concern of the Reviewer while reviewing MPD cases. The Reviewer noted during case reviews that there appeared to be minimal planning and collection of background information around the approach to the suspect. Furthermore, the Reviewer noted a lack of non-custodial interview approaches and an overreliance on custodial interviews requiring Miranda warnings. There was discussion and debate around both of these issues during the training.

Several investigators expressed that the modified MPD procedures required them to approach suspects immediately prior to collecting helpful background and criminal record information. Several investigators and prosecutors in attendance expressed that Montana laws and court decisions limited their approaches for non-custodial versus custodial interviews with suspects.

The issue of when to approach the suspect was discussed following the training and MPD has since modified their policy to encourage obtaining a statement from the suspect as soon as possible, while still allowing the investigator time to collect background and criminal record information to assist in development of a lawful, timely, and strategic approach to the suspect.

The issue related to custodial and non-custodial interviews is currently in review. The Reviewer suggested that MPD seek a legal opinion from the Montana Attorney General's Office of current controlling laws or court decisions on this point. Once legal review and guidance on these issues is received, MPD should reassess their policy and future training needs on this issue.

### **MPD Sexual Assault Policies and Protocols**

The MPD Sexual Assault Policy, Standard Operating Procedures (SOP) has gone through substantial assessment and modification. MPD followed national best practices and sought and received feedback for their policy from community partners that provide advocacy and related services for victims and survivors of sexual assault.

MPD used the International Association of Chiefs of Police (IACP) Model Policy as a guiding document during the assessment and modification of their policy. MPD also referenced the IACP Sexual Assault Guidelines and Investigative Strategies booklet and the IACP Supplemental Report form.

MPD incorporated a modified version of the IACP Supplemental Report form as an attachment to their policy that will guide officers and detectives to ensure a comprehensive response and investigation for sexual assault cases.

Also as part of the MPD policy assessment and development process, MPD referenced Ending Violence Against Women International (EVAWI) website and resources.

MPD has submitted the sexual assault policy modifications for feedback from the Reviewer and DOJ throughout the policy development process. The MPD policy and SOP is currently in final draft and it is anticipated that it will be implemented and publicly posted before January 2014.

### **September 17 & 19, 2013 Initial Training for First Response Officers**

In accordance with the Agreement, section III B.3., MPD is required to provide initial training to MPD officers in sexual assault response. This training was designed by Anne Munch Consulting to meet the requirements detailed in this section of the Agreement for first response officers. The training was delivered by Anne Munch Consulting with the Reviewer assisting in the training delivery.

The one day training was provided twice to allow MPD to adjust schedules to ensure adequate 24 hour police coverage for the city, while also allowing personnel on all shifts to adjust their schedules to attend.

The training included a pre and post-test and daily evaluations. Review of the evaluations and feedback for the training were overwhelmingly positive with participants agreeing that the training provided new information to help them feel better prepared to address sexual assault cases. Pre and Post test scores showed the following improvements for MPD personnel attending the training:

- Pre Test Combined Average Score for MPD personnel in attendance: 83.3
- Post Test Combined Average Score for MPD personnel in attendance: 95.2
- Combined Improvement Between Pre and Post Test Score: 11.9

### **September 18 – 20, 2013, External Review Panel Training and Case Review**

In accordance with the Agreement, section IV 15 – 17, MPD is required to create an External Review Panel (ERP) to review cases of sexual assault that are reported to, or investigated by MPD. During the planning process of the ERP, MPD, the Reviewer and DOJ agreed to specifically review felony cases only. Misdemeanor sexual assault cases can still be reviewed if MPD or the Reviewer determines the need to review a misdemeanor case.

ERP members were nominated by MPD and selected with oversight of the Reviewer and DOJ. The initial ERP protocol was designed and implemented by Anne Munch Consulting in cooperation and consultation with the Women's Law Project and their efforts in Philadelphia.

The ERP began operation September 18, 2013 with initial protocol training conducted by Anne Munch Consulting. The training and implementation of the review protocol were observed by the Reviewer and DOJ.

ERP members provided helpful feedback during the training to help develop a Final Review Protocol. Once the ERP agrees on the Final Review Protocol, the Protocol will be sent to the Reviewer and DOJ for approval.

The ERP protocol is designed for the ERP members to examine each case of sexual assault and rape for the following: (a) the comprehensiveness of the investigation; and (b) indication of bias present in the investigation.

The ERP training included an actual case review of an MPD case to work through the protocol and discuss how case review feedback would be delivered. This review included reading of all written reports, observation of the digital recording of the victim interview and observation of the digital recording of the suspect interview.

September 18 – 20, 2013, the ERP reviewed eighteen cases investigated by MPD. The ERP provided feedback to MPD command staff in accordance with the initial ERP Protocol. The protocol categories are color coded using three different color categories:

**Green:** No indication of problems, a good case example.

**Yellow:** Some problems identified that need attention by way of future training or individual work with the detective or officer, but do not require the case to be reopened.

**Orange:** Identified problem(s) that require immediate attention and follow up work including reopening the case if necessary.

The ERP categorized the eighteen cases that were reviewed as follows:

Green: 12 cases (5 of the 12 cases had some degree of constructive feedback)

Yellow: 6 cases (5 of the 6 cases had some degree of positive feedback)

Orange: 0

MPD is in the process of developing an internal protocol to ensure the ERP feedback and recommendations are shared with supervisors and individual officers and incorporated into policy updates, training, and employee development; or to reopen, or reexamine cases where warranted. MPD will also monitor the ERP feedback and case coding data to help measure the effectiveness of the training, policy / SOP, and ERP feedback.

For the duration of the Agreement MPD and the ERP will continue case reviews at least semi-annually, or more often if necessary if the case load requires.

One issue of concern was identified by the Reviewer during site visits to MPD and the University of Montana Office of Public Safety (OPS), and it was also observed by the Reviewer during the External Review Panel work. The issue of concern is the lack of coordination between MPD and the County Attorney's Office to ensure timely case reviews and charging decisions from the County Attorney's Office.

MPD and OPS response to questions by the Reviewer suggested that the time between an investigator referring a case to the County Attorney's Office for a charging decision, and the delay in the response from the County Attorney's Office can often be several weeks or months, or in some cases approaching a year before a decision is made.

The Reviewer contacted County Attorney, Mr. Van Valkenburg, to hear his perspective regarding this concern. Mr. Van Valkenburg said it would be helpful to have a specific case that the Reviewer was referencing. The Reviewer asked Mr. Van Valkenburg if he could speak generally about this concern. Mr. Van Valkenburg reported that his office is very busy and that he and his staff do the best they can with the resources they have.

Mr. Van Valkenburg indicated that the priority for staff time is directed to currently charged cases that are active in court. Mr. Van Valkenburg said that his office does not have a current protocol or policy in place to ensure timely charging decisions, but rather they rely on MPD detectives to stay on top of the Attorneys to get the decisions they need. Mr. Van Valkenburg said that if he does not hear from the detective of the case he assumes the case is not a priority for the detective. Mr. Van Valkenburg added that when the Attorneys in his office have spare time they review cases for charging decisions.

The Reviewer sees a concern with a lack of process or protocol to ensure timely review and charging decisions between MPD and the County Attorney's Office. Case reviews and charging decisions should be done thoroughly, however a process and reasonable time frame for review should be worked out between MPD, OPS, and the County Attorney's Office as soon as possible to better reflect these crimes as a priority.

A case review and charging decision protocol with suggested timelines would certainly be helpful to all involved, especially victims of sexual assault, as well as persons accused of sexual assault. A protocol would also be further evidence of a true community coordinated response.

### **Assessment of Progress to Date on the Requirements of the Agreement:**

It is too early in the review process for qualitative assessment of MPD's progress in achieving the desired outcomes for each area covered by the Agreement. However, the following compliance graph shows all the requirements of the Agreement and the work that MPD has accomplished to date.

The compliance graph uses compliance definitions to categorize the status of each requirement of the Agreement.

The compliance definitions are as follows:

**Pending compliance:** Current plans for implementation but not yet implemented in approved policy/SOP, training, or actual practice

**Partial Compliance:** Plans for compliance have been implemented, reflected in approved policy/SOP, or training, but not yet observed in actual practice

**Compliance:** Plans for compliance have been implemented in approved policy/SOP and training, and evidence of actual practice

**Sustained Compliance:** Found by the Reviewer to have been fully implemented in practice based on a qualitative assessment showing MPD achieved the desired outcomes for the area covered by the Agreement

**Missoula Police Department – DOJ Agreement Action Items – Deadlines – Compliance**

Pending compliance, Partial compliance, Compliance, Sustained compliance

| DOJ ACTION ITEM             | PROPOSED ACTION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | DEADLINE    | COMPLIANCE STATUS                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| I.                          | Recitals                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | N/A         | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                |
| II                          | Definitions and Abbreviations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | N/A         | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                |
| III.A.                      | <b>Improving MPD's Response to Sexual Assault</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Jan 1, 2014 | <b>Pending compliance;</b> ongoing effort by MPD has included substantial assessment and policy modifications. MPD has also sought input and review of draft policy from community partners including advocacy. Policy modifications have included ongoing review by independent reviewer and most recently by DOJ. MPD Policy / S.O.P. is in final draft form to be sent back to independent reviewer and DOJ for final approval. |
| III.A.2.<br>III. A.2. a - i | MPD shall assess and modify as necessary its policies and protocols to strengthen its response to sexual assault, and ensure that the policy incorporates the requirements of this agreement and comports with best practices and current professional standards. These policy modifications shall include but not limited to revising MPD's existing policy, entitled "Response to Rape and Sexual Assaults." MPD's revised sexual assault policy should incorporate the requirements of the International Association of Chiefs of Police Model Policy on Investigating Sexual Assaults on at least the topics defined in III.A.2. a – i. | Jan 1, 2014 | <b>Pending compliance;</b> ongoing effort includes review of IACP Model policy, IACP Sexual Assault Guidelines and Supplemental Report Form and EVAWI resources. Policy / S.O.P. in final draft form. (Implementation must include employee review and training demonstrating an understanding of new policy, procedures, and terms of the Agreement)                                                                              |

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| III.B.   | <b>Sexual Assault Response Training</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Nov 1, 2013  | <b>Partial compliance;</b> initial training of all MPD officers, detectives and recruits designed and completed by Anne Munch Consulting Inc., including evaluation and pre and post testing.<br>On-going effort to develop annual in service training program and supervisor review training.                                                    |
| III.B.3. | MPD shall provide initial and on-going annual in-service training to all MPD officers, detectives, and recruits about law enforcement response to sexual assault. This initial and annual in-service training shall ensure that all MPD officers and detectives understand and can perform their duties pursuant to the Agreement, and shall reflect and incorporate any developments in applicable law, best practices, and professional standards. Annual in-service training also shall address any training needs identified throughout the previous year. This initial and in-service training shall be of sufficient length and scope to include the topics as detailed in section III.B.3. a – h. | Sep 30, 2013 | <b>Partial compliance;</b> initial training completed of all MPD officers, detectives and recruits conducted by Anne Munch Consulting Inc., including evaluation and pre and post testing.<br>Training dates; Aug 6 – 7, 2013, Sep 17 & 19, 2013<br>On-going effort to develop annual in-service training program and supervisor review training. |
| III.B.4  | This training shall include presentations by victims of sexual assault and victims' advocates in order to provide officers with the unique perspectives of those who have been victimized by sexual assault and/or those who work with sexual assault survivors.                                                                                                                                                                                                                                                                                                                                                                                                                                         | Sep 30, 2013 | <b>Partial compliance;</b> initial training conducted by Anne Munch Consulting Inc., included perspectives of those victimized by sexual assault and/or those who work with sexual assault survivors.<br>On-going effort to ensure this perspective is included in annual in-service training.                                                    |

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| III.B.5. a. – d. | MPD shall provide additional in-depth training in sexual assault investigations to all MPD detectives who conduct such investigations. The training shall include topics detailed in section III.B.5. a. – d.                                                                                                                                                                                                   | Aug 9, 2013 | <b>Compliance;</b> Training designed and conducted by Anne Munch Consulting Inc., on Aug 8-9, 2013 in accordance with the Agreement. Pre and Post Test with daily evaluation show improved level of knowledge that will be helpful in investigations.                                                                                                |
| III.B.6.         | MPD personnel who provide direct supervision of officers who respond to reports of sexual assault and of detectives who investigate sexual assault allegations shall receive training on how to review sexual assault response and investigations for comprehensiveness and to detect indications of bias, including how to implement the supervisory reviews and responsibilities contained in this Agreement. | Nov 1, 2013 | Pending compliance; ongoing effort.                                                                                                                                                                                                                                                                                                                  |
| III.B.7.         | Training pursuant to the Agreement shall be provided in accordance with best practices and include adult-learning methods that incorporate role-playing scenarios and interactive exercises, as well as traditional lecture formats. Training also shall include testing and/or writings that indicate that MPD personnel taking the training comprehend the material taught.                                   | Nov 1, 2013 | <b>Partial compliance;</b> All training to date was designed and conducted by Anne Munch Consulting Inc., and was delivered in live presentations and included best practices, adult-learning methods, lecture format, pre and post testing and daily evaluations. Ongoing effort to ensure that these requirements are included in annual training. |

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| <b>III.C.</b> | <b>Review of Policies and Training</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Jun 15, 2015                                                                      | Pending compliance; ongoing effort                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| III.C.8.      | Each of the requirements of the Agreement shall be incorporated into MPD policy, and all relevant MPD officers and employees shall be trained on how to meet the requirements of this agreement. MPD shall submit new and revised policies and protocols related to sexual assault and/or the terms of the Agreement, and all curricula for trainings developed pursuant to this agreement, to the Independent Reviewer and DOJ for review and comment prior to implementation and/or training delivery. | Ongoing review by Independent Reviewer / DOJ as required throughout the Agreement | <b>Partial compliance;</b> MPD policy is in final draft form and updated drafts are submitted to the independent reviewer. Final draft has been reviewed by DOJ. Training Consultant, Anne Munch Consulting Inc., was retained by MPD / OPS to design and conduct the initial training in agreement approved by DOJ. Ongoing effort to ensure that the MPD policy will be implemented in accordance with the Agreement and that all MPD officers and employees will be trained on the policy and how to meet the requirements of the Agreement. |
| III.C.9.      | MPD sexual assault related policies shall be publicly available.                                                                                                                                                                                                                                                                                                                                                                                                                                         | Jan 1, 2014                                                                       | Pending compliance; ongoing effort to ensure final policies will be publicly available upon completion.                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>III.D.</b> | <b>Investigating Non-Stranger and Alcohol or Drug Facilitated Sexual Assault</b>                                                                                                                                                                                                                                                                                                                                                                                                                         | Jun 15, 2015                                                                      | <b>Partial compliance;</b> initial training designed and conducted by Anne Munch Consulting Inc., included these requirements. Ongoing effort to ensure that these requirements are included in annual training and the MPD policy / SOP.                                                                                                                                                                                                                                                                                                       |

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| III.D.10.        | MPD shall enhance and improve policy, training, and oversight to ensure that officers: 1) recognize the prevalence of non-stranger and alcohol or drug facilitated sexual assault, and relative infrequency of false reporting of such assault, and 2) accordingly take all appropriate investigative steps when investigating non-stranger sexual assault, alcohol or drug facilitated sexual assault, and sexual assault involving victims who were incapacitated at the time of the assault or otherwise unable or unwilling to clearly describe the assault. | Jun 15, 2015 | <b>Partial compliance:</b> initial training designed and conducted by Anne Munch Consulting Inc., included these requirements. Ongoing efforts to ensure these requirements are included in annual training and the MPD policy / SOP, including adoption of a modified version of the IACP Sexual Assault Supplemental Report Form. |
| <b>III.E.</b>    | <b>Victim-Centered Response to Sexual Assault</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Jun 15, 2015 | Pending compliance; ongoing effort                                                                                                                                                                                                                                                                                                  |
| III.E. 11 a.- h. | MPD shall enhance and improve policy, training, and oversight to ensure victim-centered practices in the areas of sexual assault response, interviews, and investigations in order to increase the likelihood of victims' continued participation with law enforcement; improve the experience for victims; and strengthen sexual assault investigations. These practices include the details of III.E.11. a-g                                                                                                                                                   | Jun 15, 2015 | <b>Partial compliance;</b> initial training designed and conducted by Anne Munch Consulting Inc., was complete with victim centered practices. Ongoing efforts to ensure that victim centered practices are included in the MPD policy / S.O.P, and annual training.                                                                |
| <b>III.F.</b>    | <b>Close Supervision and Internal Oversight</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Jun 15, 2015 | Pending compliance; ongoing effort                                                                                                                                                                                                                                                                                                  |
| III.F.12. a-g    | MPD shall establish and implement measures to ensure close supervision and internal oversight of all sexual assault investigations including details of III.F.12 a-g                                                                                                                                                                                                                                                                                                                                                                                             | Jun 15, 2015 | Pending compliance; ongoing effort                                                                                                                                                                                                                                                                                                  |

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| <b>III.G.</b>    | <b>Coordination with Law Enforcement and Community Partners</b>                                                                                                                                                                                                                                                                                                             | Jun 15, 2015  | <p><b>Partial compliance;</b> Prior to independent review, MPD coordinated with law enforcement and community partners in the development of a community resource booklet for sexual assault victims / survivors titled; “It’s Your Call.” Ongoing effort has included community partners’ review of MPD Sexual Assault policy draft, involvement in initial training, and the collaboration and creation of the External Review Panel.</p> |
| III.G.13. a - f. | <p>To improve the reporting and participation experience for victims of sexual assault, MPD shall increase and improve its communication, coordination, and collaboration with community and law enforcement partners, including the University, University’s OPS, Missoula County Attorney’s Office and community advocates. MPD shall include details of III.G.a - f.</p> | Sep 1, 2015   | <p><b>Partial compliance;</b> MPD coordinated and collaborated with University of Montana OPS, Missoula County Attorney’s Office (MCAO) and community advocates as indicated above. Initial training and the draft policy / SOP supports this continued effort. Ongoing efforts include securing a Memorandum of Understanding with the MCAO and inclusion of community partners in the delivery of annual training.</p>                    |
| <b>III.H.14.</b> | <b>Data Collection and Reporting</b>                                                                                                                                                                                                                                                                                                                                        | Jun 15, 2015. | <p><b>Pending compliance;</b> ongoing effort as MPD has contracted with a vendor to provide a new records management system that will include designs to ensure improved sexual assault response, investigations, and case closure data collection in accordance with the Agreement.</p>                                                                                                                                                    |

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| III.H.14. a-c | To identify shortcomings, assess improvement, and increase community confidence in Missoula law enforcement's response to sexual assault, MPD shall enhance its data collection, analysis, and reporting and shall include details of III.H.14. a-c. | Sep 1, 2013  | <b>Pending compliance;</b> ongoing effort                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| IV.           | <b>External Review of Sexual Assault Cases</b> (In conjunction with OPS)                                                                                                                                                                             | Jun 15, 2015 | <b>Partial compliance;</b> External Review Panel (ERP) was selected with oversight of the independent reviewer and DOJ. The ERP protocol was designed and implemented by Anne Munch Consulting Inc., modeled after and in consultation with the <b>Women's Law Project</b> and their efforts in Philadelphia. The ERP began operation Sep 18, 2013 with protocol training and review of ongoing felony sexual assault cases submitted by MPD. Ongoing effort to continue consistent reviews at least semi-annually, or as case load requires. |

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| IV.15-17     | (ERP) The parties shall jointly select and establish a group of qualified representatives, including experienced sexual assault prosecutors, public defenders, and/or other legal service providers, experienced sexual assault investigators, and/or advocates, to serve as an external review group for sexual assault cases. Beginning August 9, 2013 (three months after effective date of agreement) the external review group shall review, on a semi-annual basis, all reports of sexual assault received by MPD, and all investigations of those reports opened by MPD since the Effective Date. Thereafter, this external review group shall review all reports of sexual assault received by MPD and investigations of those reports opened by MPD, since the external review group's last such review including details of IV.15-17 | Aug 9, 2013<br>Sep 18, 2013 | <b>Partial compliance;</b> The ERP was selected with approval of the independent reviewer and DOJ in Sep 2013. On Sep 18, 2013, the ERP was trained on the review protocol and began reviewing felony sexual assault cases submitted by MPD and OPS.<br>Ongoing effort to ensure that ERP feedback and recommendations are shared with supervisors and incorporated into policy updates, training, and employee development and to re-open or reexamine cases where warranted. |
| V. 18. – 26. | <b>Community - Conducted Sexual Assault Response Safety and Accountability Audit</b> (In conjunction with OPS)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Jun 15, 2015                | Pending compliance; ongoing efforts. This initiative will require substantial community collaboration and planning in 2014.                                                                                                                                                                                                                                                                                                                                                    |
| VI.          | <b>Independent Oversight</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Current / ongoing           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| VII.         | <b>Agreement Implementation and Enforcement</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Current / ongoing           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| VIII.        | <b>Termination of the Agreement</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Jun 15, 2015                | <b>Pending “Full and Sustained Compliance”</b>                                                                                                                                                                                                                                                                                                                                                                                                                                 |

## **Conclusion:**

As observed by DOJ throughout their investigation, findings, and settlement Agreement, MPD has continued to cooperate fully and professionally with the Reviewer in MPD's initial efforts to fulfill the terms of the Agreement.

While much progress has been made, there is substantial work that needs to be accomplished. To his credit, Chief Muir has directed the efforts to date and he is committed to achieving as many terms of the Agreement prior to his planned retirement at the end of 2013.

Captain Mike Colyer has been significantly involved in the process and the Reviewer is impressed with his level of commitment and professionalism. During the transition for a new Police Chief, the new Chief and MPD will need to continue to take managerial and operational responsibility for the implementation of the remaining terms, reforms, and requirements of the Agreement. The new Chief and MPD must also remain committed and responsible for documenting and measuring their efforts toward full compliance with the Agreement.

The Reviewer remains impressed with the quality and service offered by community resources in Missoula for victims and survivors of sexual assault. Continued efforts are underway to enhance communication and coordination between MPD, the County Attorney's Office, and the community resources to achieve a true community coordinated response to sexual assault.

Continued sexual assault case reviews by the Reviewer and the ERP have identified areas that MPD is focusing on to strengthen their response and investigations of sexual assault crimes. The MPD Sexual Assault Policy / SOP needs to be implemented including training all call-takers/dispatchers and sworn personnel on the new policy. Continued progress on the remaining requirements of the Agreement is expected.

The Reviewer looks forward to the work ahead and the continued commitment of the City, MPD and the community of Missoula.