

**Bismarck Transition Center Annual Comparative Reports (§115.287 and §115.288) for the year 2022.**

Bismarck Transition Center posts an annual report of PREA investigations and outcomes.

The following are standardized definitions offered by the Prison Rape Elimination Act. This ensures everyone is using the same language, and has the same understandings of key terms.

**Sexual abuse** includes:

(1) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and

(2) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.

Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

(1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(2) Contact between the mouth and the penis, vulva, or anus;

(3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and

(4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:

(1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(2) Contact between the mouth and the penis, vulva, or anus;

(3) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(4) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(5) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described above.

- (7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and  
(8) Voyeurism by a staff member, contractor, or volunteer.

**Voyeurism** by a staff member, contractor, or volunteer means an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

**Sexual harassment** includes:

- (1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and  
(2) Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

**Substantiated allegation** means an allegation that was investigated and determined to have occurred.

**Unfounded allegation** means an allegation that was investigated and determined not to have occurred.

**Unsubstantiated allegation** means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

**The following annual reports offer a yearly comparison of the number of PREA Investigations completed based upon receipt of reports/complaints of sexual abuse or sexual harassment. All reports are investigated.**

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Bismarck Transition Center has compiled the following data regarding PREA reports and subsequent PREA investigation results for the year of 2022.

**Bismarck Transition Center - 2022**

There was (1) PREA Investigation completed in 2022.

**Resident Allegations Made Towards Staff in 2022:**

Sexual Misconduct: (0) Unsubstantiated (0) Substantiated (0) Unfounded

Sexual Harassment: (1) Unsubstantiated (0) Substantiated (0) Unfounded



One (1) complaint of staff on inmate sexual harassment was investigated. A female resident claimed a female staff member made her undress completely, sit on a toilet naked and submit a urine sample for drug testing. Both the resident and staff member were interviewed. The interviews revealed the urinalysis testing process the staff member used to obtain the urine sample did not violate BTC's urinalysis testing policy. This incident did not meet the criteria for Staff Sexual Harassment. The incident was determined to be unsubstantiated. (It should be noted, however, BTC's urinalysis testing policy was rewritten after this incident to be more specific regarding the process to be followed).

Bismarck Transition Center has compiled the following data regarding PREA reports and subsequent PREA investigation results for the year of 2021.

### **Bismarck Transition Center - 2021**

There were (3) PREA Investigations completed in 2021.

#### **Resident Allegations Made Towards Staff in 2021:**

Sexual Misconduct: (1) Unsubstantiated (0) Substantiated (1) Unfounded

Sexual Harassment: (0) Unsubstantiated (0) Substantiated (0) Unfounded

1 unfounded complaint of sexual misconduct of a resident by a staff member resulted in no further investigation. The resident filed a grievance alleging that during a pat search, the Resident Assistant put her hands down the front of his pants, close to his genitals. The resident further stated, that the Resident Assistant pulls up his underwear and pants violently. A review of camera footage revealed the Resident Assistant used her thumbs to inspect the waist band of the resident. At no point does she put her hands down the front of resident's pants or violently pull up his pants or underwear. The pat search took less than 30 seconds.

1 unsubstantiated complaint of sexual misconduct of a resident by a staff member resulted in no further investigation. A staff member reported an allegation that another staff member was allegedly having a relationship with a resident. An interview was conducted with the alleged victim (resident). The interview did not substantiate that the resident was having any type of relationship with the staff member. The interview with the staff member did not substantiate any type of relationship with the resident.

Resident on Resident:

#### **Resident Allegations Made Towards Resident in 2021:**

Nonconsensual Sexual Acts: (0) Unsubstantiated (1) Substantiated (0) Unfounded

Abusive Sexual Contact: (0) Unsubstantiated (0) Substantiated (0) Unfounded

Sexual Harassment: (0) Unsubstantiated (0) Substantiated male on male (0) Unfounded

1 substantiated nonconsensual sexual act of a resident on resident resulted in the perpetrator receiving disciplinary action for sexual abuse. The resident was removed from the facility and returned to the North Dakota State Penitentiary. The resident (victim) reported that his roommate sexually assaulted him. The victim stated he was under his blankets, on his bed (top bunk). The perpetrator climbed onto the victim's bed, crawled on top of the victim and began "dry humping" him through the blankets. While interviewing the perpetrator (resident) he stated he meant nothing sexual, nor did he experience anything sexually gratifying. He stated they were all joking around in their room. He admitted that things probably had gotten out of hand and he should not have taken things as far as he did.

Bismarck Transition Center has compiled the following data regarding PREA reports and subsequent PREA investigation results for the year of 2020.

### **Bismarck Transition Center - 2020**

There were (2) PREA Investigations completed in 2020.

#### **Resident Allegations Made Towards Staff in 2020:**

Sexual Misconduct: (0) Unsubstantiated (0) Substantiated (2) Unfounded

Sexual Harassment: (0) Unsubstantiated (0) Substantiated (0) Unfounded

1 unfounded complaint of sexual misconduct of a resident by a staff member resulted in no further investigation. A resident reported to staff that he was asked by another resident to bring back some condoms on his way back from work. He stated he assumed the resident who asked him for the condoms was going to have sex with a staff member. At the time of the investigation, the staff member, who had left employment at BTC to work with another correctional agency, was called. She stated she never had a sexual relationship with any resident. The alleged resident who supposedly wanted the condoms, had been discharged at the time of this investigation. The former resident was called concerning the allegations. He denied having a sexual relationship with the staff member.

1 unfounded complaint of sexual misconduct by a resident by a staff member did not result in further investigation. The resident stated that while he was taking a shower, a staff member, who was taking count, came into the shower. The resident stated the staff member came into the shower while he was showering and stood there for approximately 2 minutes and was leering at him. The alleged staff member stated he was taking count, entered the bathroom, had a conversation with a resident who was in the bathroom, then went to the shower area, opened the shower curtain, peeked in, saw who was in the shower and closed the shower curtain. A review of camera footage revealed the staff member was in the front bathroom for less than a minute when he was taking count.



Resident on Resident:

Resident Allegations Made Towards Resident in 2020:

Nonconsensual Sexual Acts: (0) Unsubstantiated (0) Substantiated (0) Unfounded

Abusive Sexual Contact: (0) Unsubstantiated (0) Substantiated (0) Unfounded

Sexual Harassment: (0) Unsubstantiated (0) Substantiated male on male (0) Unfounded

**Bismarck Transition Center - 2019**

There were (5) PREA Investigations completed in 2019.

Resident Allegations Made Towards Staff in 2019:

Sexual Abuse: (1) Unsubstantiated (0) Substantiated (1) Unfounded

Sexual Harassment: (1) Unsubstantiated (1) Substantiated (0) Unfounded.

Voyeurism: (0) Unsubstantiated (0) Substantiated (0) Unfounded

1 unfounded complaint of sexual abuse of a resident by a staff member resulted in no further investigation. A former Bismarck Transition Center staff member, who was then employed with the ND DOC&R, stated when he was talking to the former Bismarck Transition Center resident, the resident stated he had received a video chat from two Bismarck Transition Center Resident Assistants. The former resident stated the Resident Assistants were naked on the video chats. The former resident stated one of the Resident Assistants is no longer employed at the Bismarck Transition Center. Upon further investigation, neither the former resident or the current Resident Assistant admitted to sending video chats or having any type of relationship.

1 unsubstantiated complaint of sexual abuse of a resident by a staff member did not result in further investigation. A former Bismarck Transition Center employee texted a current Bismarck Transition Center employee about a sexual relationship with a former Bismarck Transition Center resident. When questioned, both the former employee and former resident denied having a sexual relationship with each other.

1 substantiated complaint of sexual harassment of a resident by a staff member resulted in a staff member resigning prior to the conclusion of the investigation. A female resident, who was working in the kitchen, stated the staff member made derogatory comments about her genitalia. She reported he also made inappropriate gestures with his fingers while he made sexually suggestive comments towards her.

1 complaint of sexual harassment of a resident by a staff member was investigated and determined to be unsubstantiated. A female resident, who was working in the

dishwashing room, stated a male staff member told her that she looked good wet. He made additional sexually suggestive comments towards her related to her being wet. The staff member resigned from the Bismarck Transition Center prior to her filing the complaint.

Resident on Resident:

Resident Allegations Made Towards Resident in 2019:

Sexual Abuse: (1) Unsubstantiated (0) Substantiated (0) Unfounded

Sexual Harassment: (0) Unsubstantiated (0) Substantiated male on male (0) Unfounded

1 unsubstantiated complaint of sexual abuse of a resident by a resident resulted in the alleged victim being returned to NDSP. (The alleged victim assaulted the alleged aggressor). The alleged victim stated the alleged aggressor kicked him in the buttocks.

**Bismarck Transition Center - 2018**

There were (3) PREA Investigations completed in 2018.

Resident Allegations Made Towards Staff in 2018:

Sexual Abuse: (1) Unsubstantiated (0) Substantiated (0) Unfounded

Sexual Harassment: (0) Unsubstantiated (0) Substantiated (1) Unfounded.

Voyeurism: (0) Unsubstantiated (0) Substantiated (0) Unfounded

1 unsubstantiated complaint of sexual abuse of a resident by a staff member resulted in a resident receiving an incident report for Sexual Harassment and Disobeying a Written or Verbal Order from Staff. A male resident reported that another male resident told him that a female staff member asked him for a hug, which he agreed to. The male resident added further that when he hugged the female staff member, he grabbed her buttocks.

1 complaint of sexual harassment of a resident by a staff member was investigated and determined to be unfounded. A female resident, who was working in the dishwashing room, stated a male staff member told her that her shirt was wet. She alleged the male staff member then stated that she should enter a wet t-shirt contest. There were no changes or actions taken involving this allegation.

Resident on Resident:

Resident Allegations Made Towards Resident in 2018:



Sexual Abuse: (0) Unsubstantiated (0) Substantiated (0) Unfounded

Sexual Harassment: (0) Unsubstantiated (0) Substantiated male on male (1) Unfounded  
1 unfounded complaint of sexual harassment of a resident by a resident resulted in one resident being moved to another room in the facility.

There is 1 on-going PREA investigation related to allegations of staff on resident sexual abuse. The investigation is being completed by local law enforcement.

### **DATA Comparison**

While looking at data from the previous five years, there was a slight rise in PREA allegations in 2019, with 5 allegations. In 2018 there were 3 allegations, in 2020 there were 2 PREA allegations, in 2021 there were 3 allegations and there was 1 allegation in 2022.

In 2020, the Women's Service Unit contract expired. This unit was then used to house parole violators on an intermediate measure and inmate status residents with a short sentence. The decrease in the number of female residents being housed at BTC may also have made an impact on the number of PREA allegations submitted in 2020, 2021 and 2022

Additionally, on August 20, 2018, Management Team members began conducting Unannounced Sexual Safety Rounds. Team members are required to come in one time between Monday and Friday after 6 pm. They are required to come in on either Saturday, Sunday and holidays at any time. The Team members are assigned one week on a rotating basis. Team members are required to do a complete walk through of the facility, meet with staff and residents to address any issues or concerns, observe facility cleanliness and safety concerns. This information is documented via email to me and also in an electronic log book.

Since the implementation of Unannounced Sexual Safety rounds, there has been a decrease in the number of PREA allegations. Implementation of Unannounced Sexual Safety rounds has made an apparent difference in the number of PREA allegations BTC has received.

Residents receive information upon admission through fliers and they receive a PREA Handbook. Additionally, within the first week of their arrival, residents receive Orientation concerning the role of each department, facility rules and additional information about PREA.

New staff receives training on PREA before they have any inter-action with residents; they sit in on Resident Orientation the first week they are employed (where they receive the same PREA information new residents receive) and again during quarterly training. Reporting mechanisms are visible to both staff and residents and BTC has taken a proactive role in attempting to reduce prison rape.

**The above-mentioned information will serve as an annual review for 2022 in order to assess and improve the effectiveness of BTC's sexual abuse and sexual harassment prevention, detection, response policies and training.**

On May 10, 2021 – May 12, 2021 the Bismarck Transition Center underwent its' third PREA audit, conducted by K.E. Arnold, Castle Rock, CO. The Bismarck Transition Center was deemed to be in full compliance with PREA standards for Community Confinement facilities on August 11, 2021

**Revision to the Bismarck Transition Center Annual Comparative Reports (§115.287 and §115.288) for the year 2020.**

Standard 115.288b states that the Annual Report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.

The Bismarck Transition Center has not been able to install a new camera system since the PREA audit back in 2017, due to the cost.

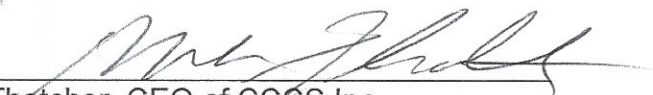
In 2019, a camera was moved in the Woman Secure Unit (WSU) to provide better visibility of the Resident Assistance (RA) desk and residents coming up to the desk. Another camera was moved out of the old laundry room on the second floor of the back building to the hallway on second floor facing the door leading to the WSU.

In 2020 the facility replaced three cameras that were not functioning and replaced a monitor in the RA office. There was one camera moved from the outside (west parking lot) of the Administrative area to the inside Administrative area. The camera was positioned to provide a view of staff and residents, when administering medications and any other activity in the Administration area.

On May 10, 2021, the Bismarck Transitional Center was audited for the past 3 years (2018-2020). During this audit, it was recommended that we install mirrors in blind spots where cameras normally would be. On June 15, 2021, nine mirrors were ordered, as suggested in the PREA audit. All of the mirrors have been installed.

New staff receives training on PREA before they have any inter-action with residents; they sit in on Resident Orientation the first week they are employed (where they receive the same PREA information new residents receive) and again during quarterly training. Reporting mechanisms are visible to both staff and residents and BTC has taken a proactive role in attempting to reduce prison rape.




  
Mike Thatcher, CEO of CCCS Inc.

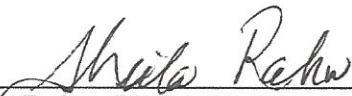
2/7/23  
Date

  
Marwan Saba, PREA Coordinator

2/7/23  
Date

  
Kevin Arthaud, Program Administrator

2.7.23  
Date

  
Sheila Rahn, PREA Manager

2/7/23  
Date