Prison Rape Elimination Act (PREA) Audit Report
Community Confinement Facilities

☐ Interim x☐ Final

Date of Report: March 6, 2018

Auditor Information

K. E. Arnold	**kenarnold220@gmail.com**
K. E. Arnold, PREA Auditor	
P.O. Box 1872	**Castle Rock, CO 801014**
484-999-4167	**September 12-14, 2017**

Agency Information

Community Counseling and Correctional Services (CCCS)		**CCCS**	
471 East Mercury Street		**Butte, MT 59701**	
471 East Mercury Street		**Butte, MT 59701**	
(406)782-0417		**Is Agency accredited by any organization? X☐ Yes ☐ No** Bismarck Transition Center is ACA accredited.	
The Agency Is:	☐ Military	☐ Private for Profit	x☐ Private not for Profit
☐ Municipal	☐ County	☐ State	☐ Federal
Agency mission: CCCS is a team of individuals dedicated to meeting the human service needs of youths and adults to promote healthy living through treatment, training, and supervision.			
http://www.cccscorp.com			

Agency Chief Executive Officer

Mike Thatcher	**Title: Chief Executive Officer (CEO)**
Email: mthatcher@cccscorp.com	**Telephone: 406-782-0417**

Agency-Wide PREA Coordinator	
Name: Marwan Saba	**Title:** PREA Coordinator
Email: msaba@cccscorp.com	**Telephone:** 406-491-0245
PREA Coordinator Reports to: CEO	**Number of Compliance Managers who report to the PREA Coordinator** 9

Facility Information

Bismarck Transition Center			
2001 Lee Avenue Bismarck, ND			
NA			
701-222-3440			
The Facility Is:	☐ Military	☐ Private for Profit	x☐ Private not for Profit
☐ Municipal	☐ County	☐ State	☐ Federal

Facility Type:	☐ Community treatment center	☐ Halfway house	☐ Restitution center
	☐ Mental health facility	☐ Alcohol or drug rehabilitation center	
	X☐ Other community correctional facility		

Facility Mission: Bismarck Transition Center is a professional team of individuals who promote public safety, preserve the rights of victims, fulfill the mandates of the criminal justice system, and address the individual needs of adults.

Facility Website with PREA Information: http://www.cccscorp.com

Have there been any internal or external audits of and/or accreditations by any other organization? x☐ Yes ☐ No

Director	
Name: K. Arthaud	**Administrator**
karthaud@cccscorp.com	**701-222-3440**

Facility PREA Compliance Manager

Name: K. Arthaud	**Administrator**
karthaud@cccscorp.com	**701-222-3440**

Facility Health Service Administrator

Name: NA	**Title:** NA
Email: NA	**Telephone:** NA

Facility Characteristics

Designated Facility Capacity: 165	**Current Population of Facility: 121**

Number of residents admitted to facility during the past 12 months	597
Number of residents admitted to facility during the past 12 months who were transferred from a different community confinement facility:	46
Number of residents admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:	567
Number of residents admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:	5
Number of residents on date of audit who were admitted to facility prior to August 20, 2012:	0

Age Range of Population:	☐ Adults 18-65	☐ Juveniles NA	☐ Youthful residents NA

Average length of stay or time under supervision:	Three to Six Months
Facility Security Level:	Minimum
Resident Custody Levels:	Community Custody
Number of staff currently employed by the facility who may have contact with residents:	61
Number of staff hired by the facility during the past 12 months who may have contact with residents:	94
Number of contracts in the past 12 months for services with contractors who may have contact with residents:	0

Physical Plant

Number of Buildings: 2	**Number of Single Cell Housing Units:** 0
Number of Multiple Occupancy Cell Housing Units:	0

Number of Open Bay/Dorm Housing Units:	34 Dorm Rooms
Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.): **Cameras are placed throughout the facility to monitor residents.**	
Medical	
Type of Medical Facility:	NA
Forensic sexual assault medical exams are conducted at:	St. Alexius and Sanford Hospitals
Other	
Number of volunteers and individual contractors, who may have contact with residents, currently authorized to enter the facility:	4
Number of investigators the agency currently employs to investigate allegations of sexual abuse:	2

Audit Findings

Audit Narrative

The Prison Rape Elimination Act (PREA) on-site audit of the Bismarck Transition Center (BTC) was conducted September 12-14, 2017 by K. E. Arnold from Castle Rock, CO, a United States Department of Justice Certified PREA Auditor for both juvenile and adult facilities. Pre-audit preparation included review of all materials and self reports electronically uploaded to an encrypted thumb drive and mailed to the Auditor's address via the United States Postal Service. The thumb drive was securely packaged in such a manner as to alert to envelope tampering.

The documentation reviewed included, but was not limited to, agency and facility policies, staff training slides, completed forms regarding both staff and resident training, MOUs, organizational chart(s), a PREA brochure, the PREA video presented to offenders, offender education materials, photographs of PREA related materials (e.g. posters, etc.), executed Human Resources documents associated with relevant PREA standard(s), and staff training certifications. This review prompted several questions and informational needs that were addressed with the Community Counseling and Correctional Services (CCCS) PREA Coordinator. Additionally, the auditor met with the BTC Administrator on the afternoon of September 11, 2017 to address issues still requiring reconciliation. The majority of informational needs were addressed pursuant to this process.

In addition to the above, the auditor used this meeting as the introductory meeting. The Administrator, the BTC ACA Coordinator, the CCCS PREA Coordinator, and the CCCS ACA Coordinator/PREA Compliance Manager, and the auditor attended this meeting. The auditor provided an overview of the audit process and advised all attendees the same would be facilitated in the least disruptive manner possible. Additionally, the auditor advised attendees of the tentative schedule(s) for the conduct of the audit.

During the on-site audit, the Auditor was provided a private conference room from which to review documents and facilitate confidential interviews with staff and residents. The Auditor randomly selected (from a resident roster provided by the CCCS PREA Coordinator) and interviewed 20 of the residents (with varying lengths of stay) on-site pursuant to the Random Sample of Residents Questionnaire. As both male and female residents are housed at BTC, an equal number of male (10) and female (10) residents were interviewed. Resident interviewees represented the male and female housing units.

According to the BTC PREA Manager (Administrator), there were no resident(s) confined in the facility at the time of the on-site audit, who reported a sexual abuse incident during the audit period. Similarly, the BTC PREA Manager advised there were no resident(s) confined in the facility during the on-site audit who were Limited-English Proficient, disabled, or transgender/intersex residents.

It is noted the 20 random resident interviewees were generally questioned regarding their knowledge of a variety of PREA protections and their knowledge of reporting mechanisms available to residents for reporting sexual abuse and sexual harassment. Overall, random resident interviewees presented knowledge of PREA policies and practices. Of note, the Auditor inquired as to the basis for their knowledge and random residents advised they had received training by BTC staff however, they have also received training at other North Dakota Department of Corrections and Rehabilitation facilities and/or other Pre-Release Centers, treatment facilities, etc. throughout the State of North Dakota. Additionally, all 20 random resident interviewees advised they feel sexually safe at BTC.

Fourteen random staff selected by the Auditor from a staff roster provided by the CCCS PREA Coordinator, were interviewed. The Random Sample of Staff Interview Guide was administered to this sample group of interviewees. Interviewees were questioned regarding PREA training and overall knowledge of the agency's zero tolerance policy, reporting mechanisms available to residents and staff, the response protocols when a resident alleges abuse, and First Responder duties.

The following specialty staff questionnaires were utilized during this review including:

Agency Head
Warden or Designee
PREA Coordinator (1), BTC PREA Manager (1)
Designated Staff Charged with Monitoring Retaliation (2)
Incident Review Team (2)
Human Resources (1)
Investigator (1)
SAFE/SANE Staff- (Central Dakota Forensic Nurse Examiners) (1)
Intake (2)
Staff Who Perform Screening for Risk of Victimization and Abusiveness (2)
Security and Non-Security Staff Who Have Acted as First Responders (7)
Non-medical Staff Involved in Cross-Gender Strip or Visual Searches (2)
Volunteer (1)

It is noted Medical and Mental Health staff are not employed at BTC. Accordingly, specialty interviews were not conducted during the on-site review. Additionally, the Contract Administrator interview was not conducted as BTC does not employ staff in that classification.

It is noted CCCS is the umbrella company for BTC.

The following resident interviews were facilitated in addition to the random resident interviews. The interview sets are noted below:

LGBTI (2)

The Auditor reviewed eight (8) Staff Training records, eight (8) resident files, seven (7) staff HR files, 13 PREA investigative files, and other records reflected throughout the following narrative, prior to the audit, during the audit, and subsequent to completion of the same.

On September 13, 2017, the Auditor was processed into the facility at the Administrative Side Entrance. As mentioned in 115.211, a PREA Compliance Acknowledgment is issued to all contractors, visitors, and volunteers each time they enter BTC. Potential entrants (inclusive of the Auditor) are instructed to read this Acknowledgment and affix their signature to the same. The Acknowledgment addresses definitions of sexual abuse, sexual harassment, and voyeurism and mandatory investigation of anyone who has allegedly committed such an act, inclusive of prosecution in those instances wherein the threshold is met for a criminal act. Additionally, the same includes a certification of understanding of the requirements of PREA as scripted in the document, verbiage regarding zero tolerance towards any form of sexual abuse and sexual harassment, and verbiage regarding immediate reporting of any knowledge of sexual abuse or sexual harassment. This document serves as a constant PREA reminder to affected individuals entering the confines of BTC. When signing this document, contractors, vendors, service providers, and volunteers of BTC are likewise certifying they have familiarized and understand PREA, agreeing to abide by this law.

From 8:30AM to 10:45AM on the same date, the BTC PREA Investigator and the Auditor toured the entire facility. The Auditor observed, among other features, the facility configuration, location of cameras, staff supervision of offenders, unit layout (inclusive of shower/toilet areas), placement of PREA posters and informational resources, security monitoring, and offender programming.

The facility is comprised of two buildings with an Administrative Area located on the First Floor of Building 1/male housing unit and a female housing unit located on the Second Floor of the same building (BTC). Building 2 (the Assessment Building) is comprised of a male housing unit on the First Floor and a female housing unit located on the Second Floor. A Resident Assistant (RA) Office (the equivalent of a Control Center) is located on the First Floor of the Assessment Building. Residents are not authorized to be in the RA Office and the same is manned on a 24/7 basis.

Throughout the tour, the auditor observed numerous PREA posters in housing units, program areas, Food Service, staff offices/gathering places. Clearly, residents have access to continual education regarding PREA processes. Additionally, PREA Audit Notices were generously posted throughout the facility.

Providing an overview of camera surveillance, each area will be addressed in singular fashion. There is one camera covering the exterior of the Administrative Area entrance (First Floor, BTC). Additionally, there is one camera located in the Front Entry area of the Building. An RA Office is located just beyond the camera positioning.

Just east of the Front Entry (First Floor), resident rooms are located along the East and South walls in an L configuration. Given the configuration and varying room sizes, many blind spots are present in the

hallway outside the East rooms. A second camera is located at the end of the East wall however, the same does not capture much of the hallway in view of physical barriers. It is noted a resident bathroom is located on the other side of this hallway and the same is not readily observable by either camera in view of physical barriers.

One camera is available for observation along the South wall of the First Floor. Six resident rooms are located along this hallway. To the North of Room 1, Food Service is located. A camera is located at the entrance from the South hallway, positioned along the Serving Line. Another camera is also positioned to capture the same. Another camera is located in the Food Preparation and Receiving Area. This creates cause for concern in terms of "blind spots".

Camera coverage is sparse on the Second Floor of the BTC. Cameras are located in the Laundry, stairwell leading down to the First Floor, in the Female Day Room, one covering East, West, and South traffic in the Female Living Area hallway, and one camera positioned in the hallway pointing North near the female resident bathrooms. There are no cameras covering office doors and one Storage Room on this floor.

The First and Second Floors of the Assessment Building are linear, each with two cameras positioned in the hallway separating rooms, DayRoom, Offices, and bathrooms. Contact with staff revealed there is a large area in the middle of the corridor wherein vague monitoring, at best, is accomplished. The auditor observed this condition both personally and via the screen in the RA Office. Additionally, a camera is positioned in the Holding Room, Laundry, one office, the Day Room, and one exit on the First Floor.

On the Second Floor of the same building, additional cameras are located in a stairwell, Storage Room, and the Women's Secure Unit (WSU) Day Room.

The PREA Investigator advised the auditor a camera upgrade plan has been developed and is awaiting costing. A copy of a handwritten plan was provided by the PREA Investigator shortly after conclusion of the tour. If approved, the purchase and positioning of cameras will certainly enhance sexual safety at BTC.

The auditor toured the two Recreation Areas, determining there are two cameras however, only one camera was operational at the time. The PREA Investigator explained staff always supervise the Recreation Yards when female residents use the same.

In the TSU, an Emergency Grievance Box was mounted on the wall. Emergency Grievances were available however, one had to search for the same. Two random residents identified the location of the Emergency Grievances after searching folders. The auditor recommends the situation be rectified by organization.

The BTC is an extremely busy facility with significant movement on a daily basis. Resident movement to and from work in the community, programs, medical appointments in the community, and community activities is abundant and appears to be monitored and tracked in an effective manner.

It is noted the auditor telephonically spoke with a representative from the Abused Adult Resource Center (AARC) and he/she was aware of no particular sexual safety issues at BTC in terms of an inordinate number of sexual abuse or sexual harassment allegations, etc. AARC is a community sexual abuse advocacy organization with whom BTC has an MOU for Hotline services, as well as, advocacy services.

Facility Characteristics

The Bismarck Transition Center (BTC) is a comprehensive, community-based correctional program designed to help eligible, non-violent offenders transition back into the community. It provides the opportunity to develop necessary skills that aid male and female offenders in obtaining essentials such as employment and housing once they are released into society. The program provides residents with a full-range of treatment services that decrease the likelihood of re-offense upon release.

Community, Counseling, and Correctional Services, Inc. (CCCS) in partnership with the North Dakota Department of Corrections and Rehabilitation opened BTC in August 2002. The facility was renovated by a group of private investors and is leased to CCCS on a long-term basis. BTC is the only correctional facility in North Dakota that is accredited by the American Correctional Association.

Program objectives are as follows:

Provide residents with a structured living and work environment through staff supervision and monitoring;

Provide residents with a Case Manager responsible for development and constant assessment of an individualized case management plan;

Provide designated residents with Cognitive Behavioral Therapy and/or Substance Abuse Services;

Provide residents with weekly individual contact with their designated Case Manager;

Provide residents with evidence based core correctional programming, which includes the eight principles developed by the Transition from Prison to Community Initiative, in collaboration with the ND DOC&R;

Provide residents with community based support groups to be held within the facility;

Provide residents opportunities to access community based programming, including spiritual and religious activities;

Provide residents the opportunity to participate in recreational activities;

Provide residents opportunities for re-integration into their family and community, which includes weekly visitation and passes;

Provide opportunities for full-time employment and/or continued education.

Summary of Audit Findings

Number of Standards Exceeded: 2

Number of Standards Met: 33

Number of Standards Not Met: 0

Number of Standards Not Applicable: 4

Summary of Corrective Action

As reflected below, the Auditor has determined that BTC staff exceed expectations with respect to two standards. The standards are listed throughout the following paragraphs with a justification narrative identifying the Auditor's logic.

As a point of interest, a PREA Compliance Acknowledgment is issued to all contractors, visitors, and volunteers each time they enter BTC. Potential entrants are instructed to read this Acknowledgment and affix their signature to the same. The Acknowledgment addresses definitions of sexual abuse, sexual harassment, and voyeurism and mandatory investigation of anyone who has allegedly committed such an act, inclusive of prosecution in those instances wherein the threshold is met for a criminal act. Additionally, the same includes a certification of understanding of the requirements of PREA as scripted in the document, verbiage regarding zero tolerance towards any form of sexual abuse and sexual harassment, and verbiage regarding immediate reporting of any knowledge of sexual abuse or sexual harassment. This document serves as a constant PREA reminder to affected individuals entering the confines of BTC.

In view of the above, the Auditor has determined that the BTC program exceeds Standards 115.211 and

115.232 based on this practice. An important segment of PREA familiarity is ingrained in potential entrants each and every time they visit the facility.

The Auditor is appreciative of the hard work and steps taken by BTC staff to ensure and enhance sexual safety at the facility. Continued implementation of PREA standards will result in greater efficiency in operations.

Provision 115.213(a) requires that for each facility, the agency shall develop and document a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, agencies shall take into consideration: the physical layout of each facility; the composition of the resident population; the prevalence of substantiated and unsubstantiated incident(s) of sexual abuse; and any other relevant factors. The auditor reviewed the BTC Staffing Plans for 2015, 2016, and 2017 (Standard 115.213). All address the requisite consideration factors as articulated above. However, there is very little, if any, variation between each Staffing Plan.

As the auditor toured the facility, he noted numerous instances of "blind spots" (as previously referenced in this report) and physical barriers that may impede supervision. As the purpose of the Staffing Plan is enhancement of sexual safety within the facility and there is no mention of the "blind spots" and potential solutions, the auditor has deemed this provision to be non-compliant. Neither additional camera coverage, modification of staff duties to offset or minimize the effect of the "blind spots", or a request for additional staffing were identified or recommended pursuant to the Annual Staffing Plan process.

To ensure institutionalization and critical annual assessment of staffing and camera surveillance at BTC, the Administrator will develop a new Staffing Plan, taking into account all relevant factors as defined above. Substantiated and Unsubstantiated investigative findings, the fact pattern in each case, physical plant “blind spots” and current camera placements, the feasibility of re-organizing staff duties to offset “blind spots”/physical barriers, etc. will be included in Staffing Plan considerations. Finally, planned corrective action and target dates for completion will be scripted in the Staffing Plan. This Staffing Plan is due for the auditor’s review no later than March 30, 2018.

It is noted a hand written camera enhancement proposal, complete with a recommendation for the purchase of additional cameras to be positioned in designated locations, was presented to the auditor. While this is a step toward addressing sexual safety at BTC, this is not the only corrective strategy meritorious of consideration. It may be prudent for the Administrator and COS to re-visit staff duties and the number of staff required when escorting residents in areas lacking in camera surveillance. While some camera additions may be prudent, the combination of the above and additional cameras may be more cost effective.

Provision 115.213(b) requires that in circumstances where the staffing plan is not complied with, the facility documents and justifies all deviations from the plan.

Review of the narrative for 115.213(b) reflects a synopsis of the evidence relied upon in finding BTC non-compliant with the provision. It is noted Deviation Form usage for Staffing Plan accountability is now effective. As mentioned throughout the narrative for 115.213(b), the proper form is in use and explanations for deviation from the Staffing Plan have been expanded as described.

As corrective action, BTC staff will continue to submit such Deviation Forms to the auditor throughout the next 90-150 days. The final due date for the auditor's review of Deviation Forms will be March 30, 2018, unless the auditor is convinced of institutionalization of the practice at a sooner date.

Provision 115.213(c) requires whenever necessary, but no less frequently than once each year, the facility shall assess, determine, and document whether adjustments are needed to: the staffing plan established pursuant to 115.213(a); prevailing staffing patterns; the facility's deployment of video monitoring systems and other monitoring technologies; and the resources the facility has available to ensure adequate staffing levels.

The corrective action and findings relative to this provision are reflected above relative to 115.213(a).

Provision 115.217(a) requires the agency not hire or promote anyone who may have contact with residents and prohibits enlisting the services of any contractor who may have contact with residents who: has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution as defined in 42 U.S.C. 1997; has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force or coercion, or if the victim did not consent or was unable to consent or refuse; or has been civilly or administratively adjudicated to have engaged in the activity described in the preceding sentence. The auditor reviewed seven employee personnel files, five of which pertain to employees hired since the last PREA audit, particularly assessing the afore-mentioned three questions and whether they were asked upon application for employment. No evidence was provided to substantiate that the relevant questions were asked upon employment. Accordingly, the auditor has determined BTC is not compliant with 115.217(a).

Provision 115.217(b) requires the agency to consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents. Pursuant to the auditor's review of the afore-mentioned five employee personnel files, he found no evidence of contact with previous employers regarding incidents of sexual harassment. Additionally,the auditor has not been provided with any documentation to substantiate review and consideration of the same.

In view of the above, the auditor finds BTC to be non-compliant with 115.217(b).

Provision 115.217(c) requires before hiring any new employees who may have contact with residents, a criminal background records checks is conducted and consistent with federal, state, and

local law, the facility makes its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of sexual abuse. Background investigations were present in all five of the staff personnel files reviewed regarding staff hired within the last 12-18 months. However, no evidence was provided substantiating prior institution employers were contacted as part of the background investigation process to determine whether there were any administrative or civil adjudications of sexual abuse or any resignation pending investigation of an allegation of sexual abuse. Accordingly, the auditor finds BTC non-compliant with 115.217(c).

Provision 115.217(d) requires a background record check be completed before enlisting the services of any contractor who may have contact with residents. The auditor has not been provided copies of any background record checks related to any contractors at BTC. Accordingly, validation of this standard could not be accomplished. The auditor finds BTC to be non-compliant with 115.217(d).

Provision 115.217(e) requires that either criminal background record checks be conducted at least every five years for current employees and contractors who may have contact with residents or that a system is in place for otherwise capturing such information for current employees. Facility staff have not provided the auditor with any documentary evidence verifying that five-year background re-investigations were conducted for contractors. In the alternative, a viable explanation has not been provided regarding the status of five-year background re-investigations for contractors.

In view of the above, the auditor finds BTC to be non-compliant with 115.217(e).

To address the deficiency relative to 115.217(e), facility staff will forward all five-year re-investigations conducted regarding contractors, to the auditor for review. Facility staff will also provide documentation as to the initial date of contractual hire and copies of previous five-year background re-investigations for affected contractors.

To ensure compliance with the 180 day corrective action period, the above will be completed on or before March 30, 2018. This will provide adequate assessment time to ensure institutionalization.

Provision 115.217(f) requires facility staff to ask all applicants and employees who may have contact with residents directly about previous misconduct described in 115.217(a) in written applications or interviews for hiring or promotions and in any interviews or written self- evaluations conducted as part of reviews of current employees. Additionally, the facility shall also impose upon employees a continuing affirmative duty to disclose any such misconduct. It is noted there were no interview notes for new hires and promotions, such documents were not provided to the auditor. Applications for employment were addressed in the narrative for 115.217(a). Likewise, there was no evidence these questions were asked during the performance evaluation process.

In view of the above, the auditor finds BTC to be non-compliant with 115.217(f).

It appears policies address each provision of 115.217. However, to ensure compliance with all provisions of this standard, some employee and contractor application modifications to address the three questions identified in 115.217(a), possibly interview notes to be used during employment interviews and/or promotion interviews reflecting the three questions identified in 115.217(a), a document executed by staff during performance review discussions wherein they attest to their status regarding the three questions identified in 115.217(a), and a vouchering/vetting template (applicable for both new employee and contractor applicants) for use in assessing allegations of sexual abuse/resignation during a pending investigation of any allegation of sexual abuse/allegations and outcomes of sexual harassment investigations conducted by prior institutional employers, may be prudent.

If the above recommendations are adopted and/or included in a new policy or whatever strategy is implemented, training regarding the same will be required to ensure institutionalization as all hiring managers at BTC will be impacted. Copies of relevant documents associated with corrective strategies, as well as, evidence of training will be forwarded to the auditor for review and assessment regarding institutionalization. Additionally, completed documents demonstrating compliance with policy and the afore-mentioned PREA provisions will be forwarded to the auditor for review.

Once again, to ensure compliance with the 180 day corrective action period, the above will be completed on or before March 30, 2018. This will provide adequate assessment time to ensure institutionalization.

Provision 115.231(d) requires the agency to document that employees who may have contact with residents understand the training they have received through employee signature or electronic verification.

The auditor reviewed 13 Staff Development and Training Record Forms (covering 2015, 2016, and 2017) and finds these training records are absent indication the employee understands the information presented during the training sessions. These forms essentially referenced Annual In-Service PREA training for staff of all levels. It is also noted the auditor reviewed 23 Orientation training records for security and non-security staff (dated 2015, 2016 and 2017) and the same reflect the "understand" caveat.

In view of the above, the auditor has determined this provision is non-compliant based on the lack of substantial compliance with the same. However, it is noted corrective action was and has been implemented as BTC is now using a CCCS Staff Development and Training Record Form wherein the “understand” caveat is clearly reflected and staff sign the same.

While this provision is subject to corrective action until March 30, 2018, the same can be terminated at an earlier date. The CCCS PREA Coordinator will forward completed Staff Development and Training Record Forms to the auditor to ensure institutionalization of the practice.

Provision 115.233(a) requires residents receive information at time of Intake about the zero tolerance policy, how to report incidents or suspicions of sexual abuse or harassment, their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents. The auditor reviewed 43 BTC/WSU Resident /Inmate Orientation Training Forms (PREA) and determined there was only two forms reflecting Receipt of a PREA Handbook. This receipt substantiates the resident's receipt of the Handbook which contains all relevant information as required by this provision. With respect to the remaining 41 residents, the date of receipt of the Handbook is unknown.

It is noted that the BTC/WSU Resident /Inmate Orientation Training Forms (PREA) cover a span of one year.

The Auditor has determined that the PREA Handbook is now being issued at Intake and residents are signing for receipt of the same pursuant to the receipt attached as the last page of the PREA Handbook. Residents are signing the same and that document is subsequently filed in the resident's file. This process has evidently become effective on September 7, 2017. Accordingly, BTC has not been compliant with provision 115.233(a) during the entire audit period.

Prior to the afore-mentioned date, facility staff were disseminating a PREA Brochure to residents during Intake. Pursuant to review of the PREA Brochure, the auditor has determined the same does not meet the requirements of resident education as articulated in provision 115.233(a). While the same is an excellent resource, the document does not address the resident's right to be free from sexual abuse/ sexual harassment/retaliation for reporting such incidents and agency policies and procedures for responding to such incidents. It is also noted the resident did not sign for this document until completion of PREA Orientation (generally four to seven days following Intake).

In view of the above, BTC is deemed to be non-compliant with provision 115.233(a) and will be subject to a period of corrective action to be completed on or before March 30, 2018. Facility staff will forward copies of PREA Handbook receipts, as well as, admission rosters to the auditor so he can validate institutionalization of the practice. Once satisfied with institutionalization, the auditor will close the finding.

Provision 115.253(b) requires the facility shall inform residents prior to giving them access to outside support services of the extent to which such communications will be monitored and the extent to which reports of sexual abuse will be forwarded to authorities in accordance with mandatory reporting laws. The CCCS PREA Coordinator advised that a PREA Handbook has now been issued to all BTC residents. Since the issuance of the PREA Handbook has not been accomplished during the entire three year audit period (see narrative for 115.233), residents have not received the requisite information regarding confidential access to support services and mandatory reporting. Accordingly, the auditor finds BTC to be non-compliant with 115.253(b) throughout the entire three year audit period.

In view of the above, BTC is deemed to be non-compliant with 115.253(b) and will be subject to a period of corrective action to be completed on or before March 30, 2018. Facility staff will forward copies of PREA Handbook receipts, as well as, admission rosters to the auditor so he can validate institutionalization regarding provision of information to residents relating to contact with support service providers following an incident of sexual abuse. Once satisfied with institutionalization, the auditor will close the finding.

Provision 115.267(c) requires for at least 90 days following a report of sexual abuse, the agency shall monitor the conduct and treatment of residents or staff who reported the sexual abuse and of residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff, and shall act promptly to remedy such retaliation. Items the agency should monitor include any resident disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The agency shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.

Pursuant to the auditor's review of investigations for the last 12 months, there were six investigations addressing the definition of sexual assault as defined in the PREA Community Confinement Standards. Of these six investigations, one investigation was Unsubstantiated and five investigations were determined to be Unfounded. It is noted that no distinction is found in the standard regarding investigation determination however, the report format clearly reflects "Unfounded" allegations are exempt from retaliation monitoring.

In addition to the above, the auditor also randomly reviewed two additional investigations completed on December 17, 2014, and October 17, 2015, finding retaliation monitoring was not facilitated in any of these cases. One investigation was "Substantiated" and the other case was "Unsubstantiated". There is no evidence of retaliation monitoring in either case.

A second "Unsubstantiated" investigation was completed on July 3, 2015 and retaliation monitoring was initiated on July 8, 2015. Contacts were made on July 8, 2015, July 20, 2015, and July 22, 2015. In other words, contacts/monitoring meetings were conducted during a 14 day period of time, as opposed to, 90 days.

In view of the above, the auditor has found BTC to be non-compliant with 115.267(c) and the same is in corrective action status. With a due date of March 30, 2018, BTC staff will forward a copy of any "Substantiated" or "Unsubstantiated" PREA investigation and any accompanying retaliation monitoring documents to the auditor for review and assessment of institutionalization.

If no incidents of this nature occur prior to the above date, the CCCS PREA Coordinator and/or BTC PREA Manager will develop a mock scenario(s) involving sexual abuse investigation(s) (administrative or criminal). Additionally, the accompanying retaliation monitoring documents will be forwarded to the auditor for review.

Upon receipt of the above, the auditor will review the same and make a determination regarding institutionalization.

Provision 115.271(l) requires when outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation. With respect to a 2016 criminal investigation, the administrative investigation was completed in March, 2016 and the matter was referred for criminal investigation. Evidence provided to the auditor substantiates only one follow-up with Bismarck Police Department investigators. The document reflects the follow-up occurred on October 30, 2017.

In view of the above, the auditor finds BTC to be in non-compliance with 115.271(l). While policy is not specific regarding follow-up contact regarding the status of a criminal investigation, both the Administrator and Investigator advised contact would be weekly. Accordingly, evidence does not substantiate stated practice.

With a due date of March 30, 2018, BTC staff will forward to the auditor, a copy of a criminal investigation, if one same occurs on or before the above date, and accompanying requests for investigation status regarding finding(s).

If no incidents of this nature occur prior to the above date, the CCCS PREA Coordinator and/or BTC PREA Manager will develop a mock scenario involving a criminal investigation and subsequent follow-up to determine the status of the investigation. This will include any documentation related to follow-up with the investigating agency as to the status of the investigation.

Upon receipt of the above, the auditor will review the same and make a determination regarding institutionalization.

Provision 115.273(b) requires if the agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the resident. With respect to a 2016 criminal investigation, the administrative investigation was completed in March, 2016 and the matter was referred for criminal investigation. Evidence provided to the auditor substantiates only one follow-up with Bismarck Police Department investigators. The document reflects the follow-up occurred on October 30, 2017. It is also noted the auditor was not provided a copy of the resident notification in this matter or valid justification as to why the notification was not made. While policy is not specific regarding follow-up contact regarding the status of a criminal investigation, both the Administrator and Investigator advised contact would be weekly. However, evidence does not substantiate stated practice.

In view of the above, the auditor has found BTC to be non-compliant with 115.273(b) and the same is in corrective action status. With a due date of March 30, 2018, BTC staff will forward a copy of a

criminal investigation, if the same occurs on or before the above date, and accompanying request for investigation status regarding finding(s)/notification to the victim, to the auditor for review.

If no incidents of this nature occur prior to the above date, the CCCS PREA Coordinator and/or BTC PREA Manager will develop a mock scenario involving a criminal investigation and subsequent notification of the victim regarding the outcome of the investigation. This will include any documentation related to follow-up with the investigating agency as to the status of the investigation.

Upon receipt of the above, the auditor will review the same and make a determination regarding institutionalization.

Provision 115.286(c) requires the review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners. The auditor reviewed various SART reviews, as referenced in Standard 115.286, and finds the Administrator/ PREA Manager and PREA Investigator were team members for three reviews while the Chief of Security also served as a team member for the third review. As noted in the Year 1 SART reports, the PREA Manager, Administrator, and Chief of Security were represented. Again, there is no evidence of line supervisor representation or input in the report.

There is no evidence that input from line supervisors was considered with respect to any of the SART reviews evaluated by the auditor. While they are designated as members of the SART, line supervisors were not present during any of the reviews.

Given the restrictive language reflected in 115.286(c) (The review team SHALL include upper-level management officials, with input from LINE SUPERVISORS, investigators, and medical or mental health practitioners) and the verbiage reflected in BTC Policy 14.7 as reflected in the narrative for 115.286(a), the auditor finds BTC to be non-compliant with this provision. Policy requires all members of the SART to be included in the review. Accordingly, based on the composition of the SART teams as reflected for the SART reviews discussed above, the auditor finds BTC to be non-compliant with 115.286(c).

In view of the above, BTC staff will facilitate a mock SART developed around a fact pattern identified by the CCCS PREA Coordinator. SART members must be reflective of policy requirements. A copy of the mock scenario and the SART report will be forwarded to the auditor for consideration on or before March 30, 2018.

Alternatively, in the event of a sexual abuse investigation and accompanying SART review prior to March 30, 2018, the BTC Administrator will forward a copy of the investigation and SART report to the auditor for review. Again, the makeup of the SART team must be commensurate with the afore-mentioned policy.

Provision 115.288(a) requires the facility to review data collected and aggregated pursuant to 115.287 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including: identifying problem areas; taking corrective action on an ongoing basis; and preparing an annual reports of its findings and corrective actions for each facility, as well as, the agency as a whole. It is noted, there is only one Annual Report and it appears the same covers three years based on the analysis of investigations for three consecutive years. The provision requires that a report be prepared on an annual basis. This ensures perpetual analysis of demographics and findings from both investigations and SART reviews, to enable implementation of corrective action.

The annual report presented is dated 2017 and identified problem areas and corrective action taken on an ongoing basis are not addressed in the report. There is no mention of the recommendations for camera purchases and positioning/whether the corrective action was accomplished, as described in the narratives for 115.286 and 115.287. These recommendations were identified during SART reviews and, as previously mentioned.

The auditor has reviewed three documents entitled BTC PREA Standards Yearly Report, which appear to be annual assessments of the entirety of PREA standards implementation at BTC. Two of these documents are dated however, one is not. It appears the Administrator conducted each of these assessments.

In view of the above, the auditor finds this singular Annual Report and attachments to be out of compliance with provisions 115.288(a) and (b). Additionally, the absence of a discussion regarding corrective actions as identified in 115.288(b) is a source of concern and a basis for non-compliance.

Provision 115.288(b) requires that such report shall include a comparison of the current year’s data and corrective actions with those from prior years and shall provide an assessment of the agency’s progress in addressing sexual abuse.

Provision 115.288(c) requires the agency’s report shall be approved by the agency head and made readily available through its website or, if it does not have one, through other means. Pursuant to the auditor's review of the afore-mentioned singular Annual PREA Report, there is no indication that the Agency Head approved the same as there is no signature affixed and other substantiation has not been provided. Accordingly, the auditor finds non-compliance with 115.288(c).

In view of the above (narrative for 115.288(a), (b), and (c), BTC staff will develop a new Annual Report for 2017 that addresses all requisite tenets of this standard. Details of investigations, SART reviews, and an assessment of corrective actions taken as the result thereof will be included in the report. Compilation of demographics must be commensurate with all evidence reflected in 115.287. An analysis of sexual safety enhancements at BTC must be comprehensive. Finally, requisite evidence of CEO review must be reflected in the Annual Report.

The above Annual Report will be due for the auditor's review on or before March 30, 2018. Upon completion of review and satisfaction that the process is institutionalized, the auditor will close findings regarding this standard.

It is noted a revised Annual Report for 2016 has been developed, signed, etc. The auditor is in the process of reviewing the same and if all corrective actions identified above have been reconciled in this report, the auditor will consider closure of the findings regarding 115.288. If additional modifications, etc. are necessary, the auditor will work with the CCCS PREA Coordinator to address the same.

03/06/2018 Update:

The above findings were identified and noted in the Interim Report which gave rise to a corrective action period. As of March 6, 2018, the auditor has determined corrective action has been accomplished and accordingly, BTC is now compliant with the PREA standards for Community Confinement Facilities.

Corrective action findings are bolded in the narratives for each of the afore-mentioned ten findings.

PREVENTION PLANNING

Standard 115.211: Zero tolerance of sexual abuse and sexual harassment; PREA coordinator

All Yes/No Questions Must Be Answered by The Auditor to Complete the Report

115.211 (a)

- Does the agency have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment? x□ Yes □ No
- Does the written policy outline the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment? x□ Yes □ No

115.211 (b)

- Has the agency employed or designated an agency-wide PREA Coordinator? x□ Yes □ No
- Is the PREA Coordinator position in the upper-level of the agency hierarchy? x□ Yes □ No
- Does the PREA Coordinator have sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities? x□ Yes □ No

Auditor Overall Compliance Determination

- x☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

The Administrator self reported in the Pre-Audit Questionnaire (PAQ) that the agency has a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment in facilities it operates directly or under contract. The Administrator further self reported that the facility has a written policy outlining how it will implement the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment. As reported in the PAQ, the Administrator self reported that the policy includes definitions of prohibited behaviors regarding sexual abuse and sexual harassment. Finally, the Administrator self reported that the policy includes sanctions for those found to have participated in prohibited behaviors and agency strategies and responses to reduce and prevent sexual harassment of residents.

BTC Policy 14.1 entitled PREA General Requirements, sections entitled Purpose and Policy address 115.211(a). This policy specifically stipulates that the Bismarck Transition Center will screen all residents residing at the center, to identify residents likely to engage in sexual or assaultive behavior with peers, or be at risk of sexual victimization. The center has a zero tolerance for any type of sexual abuse or sexual harassment. The zero tolerance policy applies to all BTC Residents and all BTC employees, volunteers and contractors. Additionally, it is a zero tolerance policy of CCCS' BTC programs staff, volunteers, and contractors to reduce sexual assault of Residents (offenders) through orientation, screening, assessment, staff training, data collection and monitoring, counseling, and investigation of alleged sexual abuse and sexual harassment. This will ensure protection, detection and prevention of offender sexual abuse and sexual harassment while in custody. (Pursuant to Prison Rape Elimination (PREA) Act of 2003). Strategies and responses to reduce and prevent sexual abuse and sexual harassment of residents are clearly articulated throughout the policy, inclusive of screening, the development and maintenance of a staffing plan, staff and resident sanctions for sexual assault/ harassment, staff/contractors/volunteer training, and strategies to be employed when contractors/ volunteers violate sexual safety expectations.

Pursuant to the PAQ, the Administrator self reported that the agency employs or designates an upper-level, agency-wide PREA Coordinator. Further, the Administrator self reported that the PREA Coordinator has sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its community confinement facilities. Pursuant to the PAQ, the position of the PREA coordinator in the agency's organizational structure is articulated.

BTC Policy 14.1 entitled PREA General Requirements, page 6, section IV(A)(1)(a-d) addresses 115.211(b). This policy stipulates that BTC has an upper-level, agency-wide PREA coordinator, with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the

PREA standards in all of its facilities, as well as, a designated PREA Manager who communicates and reports directly to the PREA Coordinator with all PREA related issues. The PREA Manager is responsible for:

identifying, monitoring, and tracking staff sexual misconduct, harassment, and non-consensual sexual acts and contact;

ensuring that all staff are in compliance with PREA training requirements;

compiling and reporting statistical data to the Department of Corrections & Rehabilitation (DOC&R) PREA Coordinator on an annual basis; and

reporting to the Community, Counseling, and Correctional Services Inc. PREA Coordinator.

Pursuant to the Auditor's review of the BTC Organizational Chart, the PREA Coordinator works directly for the Community Counseling and Correctional Services (CCCS) CEO. Therefore, he has adequate access to the company decision-making official.

According to the CCCS PREA Coordinator, he has sufficient time to manage all of his PREA- related duties. He oversees eleven facilities with collateral Compliance Manager duties. Nine PREA Compliance Managers and one Compliance/PREA Specialist report to him and facilitate PREA- related duties at the respective facilities. As PREA Coordinator, he identifies the issue(s) and assesses whether policy development/modification is necessary. Review of the Staffing Plans is a critical step when confronted with any PREA issue, as well as, review of camera needs and placements.

The PREA Compliance Manager at BTC was also interviewed pursuant to the PREA Coordinator guidelines. He also advised that he had sufficient time to complete PREA- related duties. He advised he facilitates staff PREA training however, the same is being delegated to other staff following completion of this audit. He reviews PREA Screening Forms and Re-Assessments, is a member of the Sexual Assault Response Team (SART), facilitates sexual safety rounds throughout the facility, and is active with Retaliation Monitoring. As Administrator, oversight of resident movement within the building, removal of residents from the building, and review and approval of increases/decreases in Crisis Welfare Checks are part of his responsibilities.

As a point of interest, a PREA Compliance Acknowledgment is issued to all contractors, visitors, and volunteers each time they enter BTC. Potential entrants are instructed to read this Acknowledgment and affix their signature to the same. The Acknowledgment addresses definitions of sexual abuse, sexual harassment, and voyeurism and mandatory investigation of anyone who has allegedly committed such an act, inclusive of prosecution in those instances wherein the threshold is met for a criminal act. Additionally, the same includes a certification of understanding of the requirements of PREA as scripted in the document, verbiage regarding zero tolerance towards any form of sexual abuse and sexual harassment, and verbiage regarding immediate reporting of any knowledge of sexual abuse or sexual

harassment. This document serves as a constant PREA reminder to affected individuals entering the confines of BTC.

In view of the above, the Auditor has determined that the BTC program exceeds Standard 115.211 based on this practice. An important segment of PREA familiarity is ingrained in potential entrants each and every time they visit the facility.

Standard 115.212: Contracting with other entities for the confinement of residents

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.212 (a)

- If this agency is public and it contracts for the confinement of its residents with private agencies or other entities including other government agencies, has the agency included the entity's obligation to comply with the PREA standards in any new contract or contract renewal signed on or after August 20, 2012? (N/A if the agency does not contract with private agencies or other entities for the confinement of residents.) □ Yes □ No x□ NA

115.212 (b)

- Does any new contract or contract renewal signed on or after August 20, 2012 provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards? (N/A if the agency does not contract with private agencies or other entities for the confinement of residents OR the response to 115.212(a)-1 is "NO".) □ Yes □ No x□ NA

115.212 (c)

- If the agency has entered into a contract with an entity that fails to comply with the PREA standards, did the agency do so only in emergency circumstances after making all reasonable attempts to find a PREA compliant private agency or other entity to confine residents? (N/A if the agency has not entered into a contract with an entity that fails to comply with the PREA standards.) □ Yes □ No x□ NA

- In such a case, does the agency document its unsuccessful attempts to find an entity in compliance with the standards? (N/A if the agency has not entered into a contract with an entity that fails to comply with the PREA standards.) □ Yes □ No x□ NA

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

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

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

x NA

Pursuant to the PAQ, the agency had not entered into or renewed a contract for confinement of residents since the last PREA audit. Pursuant to memorandum dated July 30, 2017, the Administrator advised that the Bismarck Transition Center does not contract with other agencies for the confinement of residents. Accordingly, the auditor has been determined this standard is not applicable.

Standard 115.213: Supervision and monitoring

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.213 (a)

- Does the agency develop for each facility a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect residents against sexual abuse? x□ Yes □ No

- Does the agency document for each facility a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect residents against sexual abuse? x□ Yes □ No

- Does the agency ensure that each facility's staffing plan takes into consideration the physical layout of each facility in calculating adequate staffing levels and determining the need for video monitoring? x□ Yes □ No

- Does the agency ensure that each facility's staffing plan takes into consideration the composition of the resident population in calculating adequate staffing levels and determining the need for video monitoring? x□ Yes □ No

- Does the agency ensure that each facility's staffing plan takes into consideration the prevalence of substantiated and unsubstantiated incidents of sexual abuse in calculating adequate staffing levels and determining the need for video monitoring? x□ Yes □ No

- Does the agency ensure that each facility's staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring? x□ Yes □ No

115.213 (b)

- In circumstances where the staffing plan is not complied with, does the facility document and justify all deviations from the plan? (N/A if no deviations from staffing plan.) x□ Yes □ No □ NA

115.213 (c)

- In the past 12 months, has the facility assessed, determined, and documented whether adjustments are needed to the staffing plan established pursuant to paragraph (a) of this section? x□ Yes □ No

- In the past 12 months, has the facility assessed, determined, and documented whether adjustments are needed to prevailing staffing patterns? x□ Yes □ No

- In the past 12 months, has the facility assessed, determined, and documented whether adjustments are needed to the facility's deployment of video monitoring systems and other monitoring technologies? x□ Yes □ No

- In the past 12 months, has the facility assessed, determined, and documented whether adjustments are needed to the resources the facility has available to commit to ensure adequate staffing levels? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts that a staffing plan is developed and documented, providing for adequate levels of staffing and, where applicable, video monitoring to protect residents against sexual abuse. The Administrator also advised that since the last PREA audit, the average daily number of residents has totaled 129 and thus, the staffing plan is predicated upon that number.

BTC Policy 14.1 entitled PREA General Requirements, pages 7 and 8, section IV(A)(5) addresses 115.213(a). This policy stipulates BTC has developed and documented a staffing plan approved by corporate office that provides for adequate levels of staffing and, where applicable, video monitoring, to protect residents against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, BTC shall take into consideration:

(1) The physical layout of each facility, including any blind spots;
(2) The composition of the resident population;
(3) The prevalence of substantiated and unsubstantiated incidents of sexual abuse;
(4) Any other relevant factors.

The auditor reviewed the BTC Staffing Plans for 2015, 2016, and 2017. All address the requisite consideration factors as articulated in provision 115.213(a). However, there is very little, if any, variation between each Staffing Plan.

As the auditor toured the facility, he noted numerous instances of "blind spots" (as previously referenced in this report) and physical barriers that may impede supervision. As the purpose of the Staffing Plan is enhancement of sexual safety within the facility and there is no mention of the "blind spots" and potential solutions, the auditor has deemed this provision to be non-compliant. Neither additional camera coverage, modification of staff duties to offset or minimize the effect of the "blind spots", or a

request for additional staffing were identified or recommended pursuant to the Annual Staffing Plan process.

To ensure institutionalization and critical annual assessment of staffing and camera surveillance at BTC, the Administrator will develop a new Staffing Plan, taking into account all relevant factors as defined above. Substantiated and Unsubstantiated investigative findings, the fact pattern in each case, physical plant "blind spots" and current camera placements, the feasibility of re-organizing staff duties to offset "blind spots"/physical barriers, etc. will be included in Staffing Plan considerations. Finally, planned corrective action and target dates for completion will be scripted in the Staffing Plan. This Staffing Plan is due for the auditor's review no later than March 30, 2018.

According to the Administrator, there is a BTC Staffing Plan that is updated annually. He advised that staffing levels are adequate to protect residents against sexual abuse. Staffing levels are based on resident population, risk factors, disabilities, mental health, previous PREA incidents, physical plant concerns, language barriers, and camera surveillance. The Staffing Plan is documented and maintained by the Administrator/PREA Manager.

The Administrator further relates the physical layout of the facility, the composition of the resident population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse, and any other relevant factors are considered. All of these considerations are articulated in the preceding paragraph.

The Administrator (also the PREA Manager) also advised that when assessing adequate staffing levels and the need for video monitoring, blind spots, the linear configuration of the facility, and resident schedules for movement throughout facility are considered. Resident offenses, frequency and nature of disciplinary reports, locations at which incidents occurred, any patterns, and root causes are also considered. Finally, any other relevant factors are considered.

12/19/2017 Update:

The auditor's review of a copy of a camera proposal to address needs throughout the facility, reveals substantial effort to enhance sexual safety at BTC. The proposal, dated September 13, 2017, if executed, will assist with Annual Staffing Plan considerations and facility PREA improvements. However, additional measures (e.g. re-alignment of staff duties) may also be required in conjunction with camera surveillance enhancements, during Annual Staffing Plan reviews.

02/16/2018 Update:
The auditor has been provided a copy of the January 8, 2018 BTC Staffing Plan wherein all requisite topics are discussed in detail. Blind spots, as identified during the facility tour, are addressed with corrective actions noted. The combination of re-arrangement of staff supervision and surveillance duties, a request for 16 additional strategically placed camera units, movement of one camera from a non-critical area (from a PREA perspective) to another area requiring

supervision, and installation of deadbolts in an area to control and curtail access, are addressed in the Staffing Plan.

The auditor finds the afore-mentioned Staffing Plan to be comprehensive and developed in accordance with the requirements of 115.213(a). Continued development of critical and comprehensive annual Staffing Plans will benefit the facility in an immeasurable fashion, enhancing sexual safety at BTC.

In view of the above, the auditor finds BTC to be compliant with 115.213(a). The practice of facilitating a thorough analysis of staffing issues appears to be institutionalized at BTC. Accordingly, this provision is closed.

Pursuant to the PAQ, the Administrator asserts each time the staffing plan is not complied with, the facility documents and justifies all deviations from the staffing plan. The six most common reasons for deviating from the staffing plan in the last 12 months are as follows: 1.vacation; 2. sick call-off; 3. shortage of same gender staff; 4. training; 5. unforeseen circumstances; and 6. transportation issues.

BTC Policy 14.1 entitled Prison Rape Elimination Act, page 8, section IV(A)(6) addresses 115.213(b). This policy stipulates that in circumstances where the staffing plan is not complied with, the BTC shall document and justify all deviations from the plan.

According to the Administrator, compliance with the Staffing Plan is accomplished pursuant to review of the Chief of Security Shift Report. However, the Administrator asserted facility staff are now using the Exception or Deviation Form to document and justify deviation(s) from the Staffing Plan. Supervisors are reporting.

It is noted the auditor reviewed Deviation Forms and determined that accountability for deviation from the Staffing Plan is isolated to instances wherein insufficient female staff were on post. The Administrator confirmed the same during a separate conversation.

The auditor received a memo from the Administrator addressing the lack of occurrences of insufficient female staff on board during 2015 and 2016, resulting in the need to deviate from the Staffing Plan and the corrective action taken. He advised there were few instances of the same that occurred during the referenced time frame. It is noted there is no accounting for staff call-offs, training relief, inclement weather relief, etc.

The auditor has received one copy of a Chief of Security Report for 2017 as evidence. No other documents were provided to demonstrate continuous compliance throughout the audit period.

It is noted that on August 31, 2016, a Deviation Form was created and the same has been used since that time. As previously mentioned, the five Deviation Forms reviewed by the auditor addressed only the

lack of female staff. It will be incumbent upon BTC staff to utilize the Deviation Form whenever Staffing Plan adjustments, of any nature, are made.

According to the Administrator, all instances of non-compliance with the staffing plan are documented. The Administrator further relates that the documentation includes explanations for non-compliance.

The above information, in addition to the narrative for 115.213(a), is indicative of a non-compliance finding for 115.213(b).

It is noted Deviation Form usage for Staffing Plan accountability is now effective. As has been mentioned throughout this narrative, the proper form is in use and explanations for deviation from the Staffing Plan have been expanded as described above. BTC staff will continue to submit such Deviation Forms to the auditor throughout the next 90-150 days. The final due date for the auditor's review of Deviation Forms will be March 30, 2018, unless the auditor is convinced of institutionalization of the practice at a sooner date.

12/20/2017 Update:

The auditor reviewed ten Deviation Forms covering September 23, 24, 2017 and October 3, 4, 2017. The reason for the deviation is clearly articulated on the document and requisite signatures are included in each case.

02/16/2018 Update:

The auditor received and reviewed three Staffing Deviation Forms generated during September, 2017 and 10 Staffing Deviation Forms generated during October, 2017. Pursuant to memorandum from the Administrator dated January 16, 2018, there were no staffing deviations during November, 2017 and December, 2017.

It is noted that the reasons for staffing deviations are expansive and congruent with the standard provision and information reported by the Administrator.

In view of the above, the auditor finds BTC to be compliant with 115.213(b). The auditor is convinced this practice is institutionalized.

Pursuant to the PAQ, the Administrator self reported that at least once every year, the facility reviews the staffing plan to see whether adjustments are needed to:
The staffing plan;
Prevailing staffing patterns;
The deployment of video monitoring systems and other monitoring technologies; or
The allocation of facility/agency resources to commit to the staffing plan to ensure compliance with the staffing plan.

BTC Policy 14.1 entitled Prison Rape Elimination Act, page 8, section IV(A)(7) addresses 115.213(c). This policy stipulates that whenever necessary, but no less frequently than once each year, BTC shall assess, determine, and document whether adjustments are needed to:

(1) The staffing plan established pursuant to 115.213(a);
(2) Prevailing staffing patterns;
(3) BTC deployment of video monitoring systems and other monitoring technologies; and
(4) The resources BTC has available to commit to ensure adequate staffing levels.

According to the Administrator/BTC PREA Manager, the Staffing Plan is reviewed on, at least, an annual basis and he is consulted regarding any necessary adjustments.

As noted in the narrative for 115.213(a), the auditor finds BTC to be non-compliant with this standard.

03/05/2018 Update:

The corrective action relative to this provision is clearly articulated in the narrative for 115.217(a). The corrective action is substantive and annual follow-up of this nature will only enhance sexual safety at BTC. Accordingly, the auditor finds BTC to be compliant with 115.217(c)

Standard 115.215: Limits to cross-gender viewing and searches

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.215 (a)

- Does the facility always refrain from conducting any cross-gender strip or cross-gender visual body cavity searches, except in exigent circumstances or by medical practitioners?
  x□ Yes □ No

115.215 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female residents, except in exigent circumstances? (N/A if less than 50 residents) □
  xYes □ No □ NA

- Does the facility always refrain from restricting female residents' access to regularly available programming or other outside opportunities in order to comply with this provision? (N/A if less than 50 residents) x□ Yes □ No □ NA

115.215 (c)

- Does the facility document all cross-gender strip searches and cross-gender visual body cavity searches? x□ Yes □ No

- Does the facility document all cross-gender pat-down searches of female residents? x□ Yes □ No

115.215 (d)

- Does the facility implement policies and procedures that enable residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks? x□ Yes □ No

- Does the facility require staff of the opposite gender to announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing? x□ Yes □ No

115.215 (e)

- Does the facility always refrain from searching or physically examining transgender or intersex residents for the sole purpose of determining the resident's genital status? x□ Yes □ No

- If a resident's genital status is unknown, does the facility determine genital status during conversations with the resident, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner? x□ Yes □ No

115.215 (f)

- Does the facility/agency train security staff in how to conduct cross-gender pat down searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs? x□ Yes □ No

- Does the facility/agency train security staff in how to conduct searches of transgender and intersex residents in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts that the facility does conduct cross gender strip or cross-gender body cavity searches of residents under exigent circumstances or when performed by medical practitioners. The Administrator further relates that 0 cross-gender strip or visual body cavity searches were conducted during the past 12 months.

BTC Policy 14.1 entitled PREA General Requirements, page 8. section IV(A)(8) and page 9, section IV(A)(11)(ii) addresses 115.215(a). This policy stipulates BTC shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners. Pursuant to this policy, exigent circumstances are defined at page 2, section III as any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility. The second provision of this policy stipulates no strip searches or body cavity searches will be conducted unless prior authorization of the CEO and in his absence, their respective designee, is obtained. If a strip search should be deemed a necessity by the CEO or designee, typically it will be performed only by a staff member of the same sex as the resident.

One of the two Non-Medical Staff Involved in Cross-Gender Strip or Visual Searches advised the following urgent circumstances might require cross-gender strip and visual body cavity searches; smuggling dangerous contraband, presentation of a physical threat, and/or verified information regarding a resident introducing drugs in rectum.

Clearly, while allowed under exigent circumstances, staff are dissuaded from performing such searches as reflected in the afore-cited policy.

Pursuant to the PAQ, the Administrator asserts the facility does allow cross-gender pat down searches of female residents under exigent circumstances. The Administrator further asserts the facility does not restrict female residents' access to regularly available programming or other outside opportunities in order to comply with this provision. The Administrator reported there has been 0 pat down searches of female residents conducted by male staff during the past 12 months.

BTC Policy 14.1 entitled PREA General Requirements, page 8, section IV(A)(9) addresses 115.215(b). This policy stipulates BTC shall not permit cross-gender pat-down searches of female residents, absent exigent circumstances.

Eleven of the fourteen random staff interviewees stated access to programs or outside activities would not be restricted if insufficient female staff were available to conduct pat-down searches of female residents. Similarly, ten (all female residents) of the twenty random resident interviewees advised the afore-described program(s) and activities would not be canceled as there are always female staff on shift.

Review of documentation confirms that no cross-gender pat searches of female residents were conducted during the past 12 months.

Pursuant to the PAQ, the Administrator asserts facility policy requires all cross-gender strip and cross-gender visual body cavity searches be documented. Likewise, facility policy requires all cross-gender pat down searches of female residents be documented.

BTC Policy 14.1 entitled PREA General Requirements, page 8, section IV(A)(11) addresses 115.215(c). This policy stipulates that BTC shall document all cross-gender strip searches and cross-gender visual body cavity searches, and cross-gender pat searches of female residents in the exigent circumstances log. The afore-mentioned searches are strictly prohibited, except:

Exigent Circumstances

Review of relevant documentation verifies that neither type of cross-gender search was conducted during the past 12 months.

Pursuant to the PAQ, the Administrator asserts the facility has implemented policies and procedures that enable residents to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine room checks (inclusive of viewing by cameras). Policies and procedures also require staff of the opposite gender to announce their presence when entering a resident hosing unit.

BTC Policy 14.1 entitled PREA General Requirements, page 9, sections IV(A)(12 and 13(a) address 115.215(d). This policy stipulates that BTC enables residents to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine security functions.

Opposite gender staff will announce their presence on the floor and prior to entering any living area, bathroom, or shower room.

Signage stating BTC is staffed with female and male staff 24 hours per day will be posted in conspicuous areas for resident awareness.

During the facility tour, the auditor noted the Facility and Transportation Manager always announced his male presence whenever entering a female housing area, female resident room, and/or female resident bathroom. The requisite knock preceded the announcement of gender. Subsequently, the afore-mentioned male staff member paused prior to entering the resident's room or female bathroom.

It is also noted the afore-mentioned signage was readily posted in conspicuous areas.

All of the 20 random resident interviewees advised that nearly all staff of the opposite gender announce their presence prior to entering their housing area. Minimally, prior to entering their room or the bathroom, opposite gender staff knock on the door, announce gender, wait a short period of time, and then enter. Opposite gender staff do not barge into the bathrooms rather, they employ the same protocol as referenced for room entry. All twenty random resident interviewees advised they are never naked in

full view of opposite gender staff (not including medical staff such as doctors, nurses) when toileting, showering, or changing clothing. All 14 random staff interviewees confirmed the random resident statements, advising that they announce themselves when entering a unit and they knock on the door, announce gender, pause, and then enter after a reasonable period of time.

It is also noted the auditor randomly questioned three staff regarding the above questions during the facility tour and all responded identically to the random staff interviewees. The auditor finds these practices to be institutionalized at BTC.

Pursuant to the PAQ, the Administrator self reports the facility has a policy prohibiting staff from searching or physically examining a transgender or intersex resident for the sole purpose of determining the resident's genital status. No such searches occurred in the past 12 months.

BTC Policy 14.1 entitled PREA General Requirements, page 9, section IV(A)(11)(a)(iii) addresses 115.215(e). This policy stipulates the facility shall not search or physically examine any resident, including transgender and intersex residents, for the sole purpose of determining the resident's genital status. If staff cannot determine the biological sex of a resident, the staff shall ask medical personnel for resident verification of the sex of the genitalia. Medical Staff must conduct this inquiry in private and in a professional manner to preserve confidentiality in order to avoid subjecting the resident to abuse or ridicule. Additionally, BTC Policy 14.2 entitled LGBTI Gender Identity and Gender Expression, Housing, Programs, and Searches, page 3, section IV(A)(2) addresses 115.215(e). This policy stipulates that if after reviewing the screening document and other notifications, prior housing assignments while incarcerated, the staff still cannot determine the biological sex, the staff shall ask medical personnel for resident verification of the sex of the genitalia. Medical Staff must conduct this inquiry privately and in a professional manner to preserve confidentiality in order to avoid subjecting the resident to abuse or ridicule.

All 14 of the random staff interviewees advised they are aware of the policy prohibiting staff from searching or physically examining a transgender or intersex resident for the sole purpose of determining that resident's genital status. The majority of interviewees advised they would either ask the residents regarding the same or refer them to Medical.

It is noted there were no transgender/intersex residents confined at BTC during the on-site audit. Accordingly, an interview could not be conducted.

Pursuant to the PAQ, the Administrator asserts that 100% of security staff have received training on conducting pat-down searches and searches of transgender and intersex residents in a professional and respectful manner, consistent with security needs.

BTC Policy 14.1 entitled PREA General Requirements, page 9, section IV(A)(14) and (14)(a) addresses 115.215(f). This policy stipulates BTC will train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex residents in a professional and respectful manner, and

in the least intrusive manner possible, consistent with security needs in the event such search is deemed necessary. Transgender and intersex residents will have the option to complete a Search and Pronoun Preference Form, allowing them to choose the gender of staff, (including medical practitioners) they are most comfortable with conducting clothed and unclothed body searches, and their preferred pronoun in accordance with their current gender identity. Every effort will be made by BTC to meet the transgender or intersex resident's preferences, and will document if not able to. Security supervisory staff will review the documentation.

The auditor reviewed the PREA Resource Center video and slide presentations entitled Guidance on Cross Gender and Transgender Pat Searches, as well as, the instructor's guide entitled Guidance on Cross Gender and Transgender Pat Searches. According to the training schedule, both of these resources are provided to staff. All resources are appropriate to the subject-matter of this provision.

According to the 14 random staff interviewees, they have been trained regarding cross-gender pat searches and searches of transgender and intersex residents in a professional and respectful manner. All interviewees advised they received this training during 2017 however, such training is provided during annual PREA and Orientation training. This training was provided by a combination of instructor-led, presentation of a video, and demonstration.

Standard 115.216: Residents with disabilities and residents who are limited English proficient

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.216 (a)

- Does the agency take appropriate steps to ensure that residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Residents who are deaf or hard of hearing? x□ Yes □ No

- Does the agency take appropriate steps to ensure that residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Residents who are blind or have low vision? x□ Yes □ No

- Does the agency take appropriate steps to ensure that residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Residents who have intellectual disabilities? x□ Yes □ No

- Does the agency take appropriate steps to ensure that residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Residents who have psychiatric disabilities? x□ Yes □ No

- Does the agency take appropriate steps to ensure that residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Residents who have speech disabilities? x□ Yes □ No

- Does the agency take appropriate steps to ensure that residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Other? (if "other," please explain in overall determination notes.) x□ Yes □ No

- Do such steps include, when necessary, ensuring effective communication with residents who are deaf or hard of hearing? x□ Yes □ No

- Do such steps include, when necessary, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary? x□ Yes □ No

- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities including residents who: Have intellectual disabilities? x□ Yes □ No

- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities including residents who: Have limited reading skills? x□ Yes □ No

- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities including residents who: Are blind or have low vision? x□ Yes □ No

115.216 (b)

- Does the agency take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to residents who are limited English proficient? x□ Yes □ No

- Do these steps include providing interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary? x□ Yes □ No

115.216 (c)

- Does the agency always refrain from relying on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-response duties under §115.264, or the investigation of the resident's allegations? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts the agency has established procedures to provide disabled residents equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

BTC Policy 14.3 entitled Intake/Screening, pages 1 and 2, section II(A)(1)(b) addresses 115.216(a). This policy stipulates BTC shall provide resident education in formats accessible to all residents, which will include written material and viewing the video "What You Need to Know". These formats shall be accessible to all residents including those who are limited English proficient by providing interpreters who speak the same language, deaf, visually impaired, or otherwise disabled as well as residents who have limited reading skills. This shall be done by reading the information to the resident and contacting a company employee who will provide the information to the resident with disabilities in understanding the information.

In addition to the above, the auditor reviewed the contract between BTC and the NDDOC&R, determining that BTC staff can deny NDDOC&R inmates based on security concerns. This provision is scripted at page 10, section 15(H)(5) of the afore-mentioned contract.

Pursuant to the PAQ, the Administrator asserts the agency has established procedures to provide residents with limited English proficiency equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

BTC Policy 14.3 entitled Intake/Screening, pages 2 and 3, section II(A)(3) addresses 115.216(b). This policy stipulates that BTC shall take reasonable steps to ensure meaningful access to all efforts to prevent, detect, and respond to sexual abuse and sexual harassment to residents who are limited English proficient, including interpreters, where a list of interpreters can be provided from the program administrator, who are capable of interpreting effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

The auditor reviewed the Language Link contract and finds the same is current and it is comprehensive in terms of the languages available for translation. Pursuant to the contract, over 240 languages can be translated pursuant to the contract.

At the time of the on-site audit, there were no LEP residents confined at BTC. Accordingly, interview(s) with Residents Who are Limited English Proficient could not be completed. This is also true for residents with disabilities.

In view of the above, the auditor finds that BTC is compliant with 115.216(b).

Pursuant to the PAQ, the Administrator asserts agency policy prohibits the use of resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-response duties, or the investigation of the resident's allegations. The Administrator further advised the facility documents the limited circumstances in individual cases where resident interpreters, readers, or other types of resident assistants are used. In the past 12 months, there were 0 instances where resident interpreters, readers, or other types of resident interpreters have been used and it was not the case that an extended delay in obtaining another interpreter could compromise the resident's safety, the performance of first response duties, or the investigation of the resident's allegations.

BTC Policy 14.3 entitled Intake/Screening, page 3, section II(A)(4) addresses 115.216(c). This policy stipulates BTC shall not rely on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances will be promptly documented if they occur where an extended delay in obtaining an effective interpreter could compromise the resident’s safety, the performance of first-response duties under § 115.264, or the investigation of the resident’s allegations.

Of the 14 random staff interviewees, 8 advised resident interpreters or translators can be used in certain circumstances. Six interviewees did not know the circumstances and two staff did. All random staff interviewees advised resident interpreters/translators had not been used in a PREA situation during the past 12 months.

It is recommended that staff be provided refresher information regarding the circumstances under which resident interpreters/ translators can be used in a PREA type situation. The auditor does not find sufficient basis for a non-compliant finding in terms of this provision.

In view of the above, the auditor finds BTC to be compliant with 115.216(c).

Standard 115.217: Hiring and promotion decisions

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.217 (a)

- Does the agency prohibit the hiring or promotion of anyone who may have contact with residents who: Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? x□ Yes □ No

- Does the agency prohibit the hiring or promotion of anyone who may have contact with residents who: Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse? x□ Yes □ No

- Does the agency prohibit the hiring or promotion of anyone who may have contact with residents who: Has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? x□ Yes □ No

- Does the agency prohibit the enlistment of services of any contractor who may have contact with residents who: Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? x□ Yes □ No

- Does the agency prohibit the enlistment of services of any contractor who may have contact with residents who: Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse? x□ Yes □ No

- Does the agency prohibit the enlistment of services of any contractor who may have contact with residents who: Has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? x□ Yes □ No

115.217 (b)

- Does the agency consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents? x□ Yes □ No

115.217 (c)

- Before hiring new employees, who may have contact with residents, does the agency: Perform a criminal background records check? x□ Yes □ No

- Before hiring new employees, who may have contact with residents, does the agency: Consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse? x□ Yes □ No

115.217 (d)

- Does the agency perform a criminal background records check before enlisting the services of any contractor who may have contact with residents? x□ Yes □ No

115.217 (e)

- Does the agency either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with residents or have in place a system for otherwise capturing such information for current employees? x□ Yes □ No

115.217 (f)

- Does the agency ask all applicants and employees who may have contact with residents directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions? x□ Yes □ No

- Does the agency ask all applicants and employees who may have contact with residents directly about previous misconduct described in paragraph (a) of this section in any interviews or written self-evaluations conducted as part of reviews of current employees? x□ Yes □ No

- Does the agency impose upon employees a continuing affirmative duty to disclose any such misconduct? x□ Yes □ No

115.217 (g)

- Does the agency consider material omissions regarding such misconduct, or the provision of materially false information, grounds for termination? x□ Yes □ No

115.217 (h)

- Unless prohibited by law, does the agency provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work? (N/A if providing information on substantiated allegations of sexual abuse or sexual harassment involving a former employee is prohibited by law.) x□ Yes □ No □ NA

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts agency policy prohibits hiring or promoting anyone who may have contact with residents and prohibits enlisting the services of any contractor who may have contact with residents who:
• Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);
• Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
• Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.

CCCS Policy 1.3.1.12 entitled Employee, Contractor and Volunteers Clearance Check, pages 1 and 2, section IV(B) addresses 115.217(a). This policy stipulates CCCS shall not hire or promote anyone who may have contact with residents, and shall not enlist the services of any contractor who may have contact with residents, who:
(1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. § 1997);

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

(3) Has been civilly or administratively adjudicated to have engaged in the activity described in the preceding section.

The auditor reviewed seven employee personnel files, five of which pertain to employees hired since the last PREA audit, particularly assessing the afore-mentioned three questions and whether they were asked upon application for employment. No evidence was provided to substantiate that the relevant questions were asked upon application for employment. Accordingly, the auditor has determined BTC is not compliant with 115.217(a).

Pursuant to the PAQ, the Administrator asserts the agency shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents.

CCCS Policy 1.3.5.12 entitled PREA addresses 115.217(b). This policy stipulates CCCS, Inc. shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents.

According to the CCCS Human Resources (HR) Director interviewee, prior incidents of sexual harassment are considered when determining whether to hire or promote anyone, or to enlist the services of any contractor who may have contact with residents.

Pursuant to the auditor's review of the afore-mentioned five employee personnel files, he found no evidence of contact with previous employers regarding incidents of sexual harassment. Additionally,the auditor has not been provided with any documentation to substantiate review and consideration of the same.

In view of the above, the auditor finds BTC to be non-compliant with 115.217(b).

Pursuant to the PAQ, the Administrator asserts agency policy requires that before it hires any new employees who may have contact with residents, it (a) conducts criminal background record checks, and (b) consistent with federal, state, and local law, makes its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse. The Administrator further asserted 94 persons were hired within the past 12 months who may have contact with residents who have had criminal background record checks. According to the Administrator, this constitutes 100% of the staff fitting this criteria, who were hired during the past 12 months.

CCCS Policy 1.3.1.12 entitled Employee, Contractors and Volunteers Clearance Check, section IV(A) addresses 115.217(c). This policy stipulates CCCS, Inc. will ask all applicants, contractors,

volunteers and employees who may have contact with residents directly about previous misconduct. Before hiring new employees who may have contact with residents, the Director of Human Resources will:

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

According to the HR Director interviewee, criminal record background checks are conducted regarding all newly hired employees who may have contact with residents and all employees who are considered for promotions. Additionally, the interviewee asserts such checks are likewise conducted regarding any contractor who may have contact with residents. Such checks include administrative and/or civil adjudications.

In a follow-up telephonic conversation with the CCCS HR Director, she advised that the BTC Administrator, as her designee, would be responsible for contacting all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

Background investigations were present in all five of the staff personnel files regarding staff hired within the last 12-18 months. However, no evidence was provided substantiating prior institution employers were contacted as part of the background investigation process to determine whether there were any administrative or civil adjudications of sexual abuse or any resignation pending investigation of an allegation of sexual abuse. Accordingly, the auditor finds BTC non-compliant with 115.217(c).

Pursuant to the PAQ, the Administrator asserts agency policy requires a criminal background record check be completed before enlisting the services of any contractor who may have contact with residents. The Administrator further asserts 0 background checks were conducted for 0 contract staff engaged in contracts for services at BTC.

CCCS Policy 1.3.1.12 entitled Employee, Contractors and Volunteers Clearance Check, page 1, section IV(A) addresses 115.217(d). This policy stipulates CCCS, Inc. shall also perform a criminal background records check before enlisting the services of any contractor who may have contact with residents.

The auditor has not been provided copies of any background record checks related to any contractors at BTC. Accordingly, validation of this standard could not be accomplished. The auditor finds BTC to be non-compliant with 115.217(d).

03/05/2018 Update:

Pursuant to follow-up by the auditor and further e-mail correspondence from the Administrator, it has been determined no contractor(s) were on board at BTC during the on-site audit, nor are there any contractors on board at this time. The auditor errantly construed a previous conversation with staff as indicative of contractor presence at BTC.

Specifically, the auditor was advised service technicians provide services on an "as needed" basis. Service technicians are escorted throughout the facility and staff maintain supervision. Accordingly, service technicians do not fall under the umbrella of contract staff.

Pursuant to subsequent follow-up, the auditor has found no policy reference to "service technicians" being defined as contractors. In other words, there is no reference to frequency of delivery of services as a defining characteristic and accordingly, there is no basis for this finding regarding contractors.

It is noted 115.217(d) was compliant during the on-site audit and remains compliant at the time of this writing. Based on the above, the auditor also finds 115.217(e) was compliant during the on-site audit and remains compliant for the same set of circumstances.

Pursuant to the PAQ, the Administrator asserts agency policy requires that either criminal background record checks be conducted at least every five years for current employees and contractors who may have contact with residents or a system is in place for otherwise capturing such information for current employees.

CCCS Policy 1.3.1.12 entitled Employee, Contractors and Volunteers Clearance Check, page 2, section IV(C) addresses 115.217(e). This policy stipulates CCCS, Inc. shall conduct criminal background records checks at least every five years of current employees, contractors and volunteers who may have contact with residents.

Pursuant to a follow-up telephone call with the CCCS HR Director, five-year re-investigation tracking is accomplished by BTC staff as the actual NCIC is facilitated at the location. Corporate Office staff maintain copies of the five-year re-investigations.

The auditor randomly reviewed two personnel files applicable to staff who were hired at BTC in 2009 and 2010. Background re-investigations were conducted in 2013 and accordingly, there is compliance with 115.217(e) in terms of staff.

Facility staff have not provided the auditor with any documentary evidence verifying that five-year background re-investigations were conducted for contractors. In the alternative, an explanation has not been provided regarding the status of five-year background re-investigations for contractors. **(See explanation regarding the auditor's compliance finding for 115.217(e) in the narrative for 115.217(d).**

CCCS Policy 1.3.5.12 entitled PREA, page 7, section 115.217(f) addresses 115.217(f). This policy stipulates CCCS, Inc. shall also ask all applicants and employees who may have contact with residents directly about previous misconduct described in paragraph (a) of 115.217 in written applications or interviews for hiring or promotions and in any interviews or written self- evaluations conducted as part of reviews of current employees. CCCS, Inc. shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.

The HR Director advised all applicants and employees who may have contact with residents are asked about previous misconduct described in section a (above) in written applications for new hires or promotions, and in any interviews or written self-evaluations conducted as part of reviews of current employees. A background records check re-investigation is completed for all promotions. In addition to the above, employees are subjected to a continuing affirmative duty to disclose any such previous misconduct.

It is noted there were no interview notes for new hires and promotions and such documents were not provided to the auditor. Applications for employment were addressed in the narrative for 115.217(a). Likewise, there was no evidence these questions were asked during the performance evaluation process.

In view of the above, the auditor finds BTC to be non-compliant with 115.217(f).

Pursuant to the PAQ, the Administrator asserts agency policy states material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

CCCS Policy 1.3.1.2 entitled Recruiting and Selection, page 1, section 1 addresses 115.217(g). This policy stipulates all prospective employees or current employees under consideration for new positions within CCCS shall be questioned about and disclose all types of sexual misconduct with other persons. Prospective employees or potential employees who neglect to notify CCCS of any type of sexual abuse or sexual harassment the individual was involved in will be subject to termination or will be removed from consideration for employment.

Additionally, CCCS Policy 1.3.5.12 entitled PREA, page 7, section 115.217(g) addresses 115.217(g). This policy stipulates material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

The auditor finds substantial compliance with 115.217(g).

CCCS Policy 1.3.5.12 entitled PREA, page 7, section 115.217(h) addresses 115.217(h). This policy stipulates unless prohibited by law, CCCS, Inc. shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

According to the HR Director, when a former employee applies for work at another institution and upon request from that institution, the facility provides information on substantiated allegations of sexual abuse or sexual harassment involving the former employee.

In view of the above, the auditor finds substantial compliance with 115.217(h).

It appears policies address each provision of 115.217. However, to ensure compliance with all provisions of this standard, some employee and contractor application modifications to address the three questions identified in 115.217(a), possibly interview notes to be used during employment interviews and/or promotion interviews reflecting the three questions identified in 115.217(a), a document executed by staff during performance review discussions wherein they attest to their status regarding the three questions identified in 115.217(a), and a vouchering/vetting template (applicable for both new employee and contractor applicants) for use in assessing allegations of sexual abuse/resignation during a pending investigation of any allegation of sexual abuse/allegations and outcomes of sexual harassment investigations conducted by prior institutional employers, may be prudent.

If the above recommendations are adopted and/or included in a new policy or whatever strategy is implemented, training regarding the same will be required to ensure institutionalization as all hiring managers at BTC will be impacted. Copies of relevant documents associated with corrective strategies, as well as, evidence of training will be forwarded to the auditor for review and assessment regarding institutionalization. Additionally, completed documents demonstrating compliance with policy and the afore-mentioned PREA provisions will be forwarded to the auditor for review.

To ensure compliance with the 180 day corrective action period, the above will be completed on or before March 30, 2018. This will provide adequate assessment time to ensure institutionalization.

03/05/2018 Update:

The auditor's review of three employee hiring packets (January and February, 2018) reflects substantial compliance with 115.217(a), (b), (c), and (f). Specifically, the CCCS employment application generally reflects the three questions captured in provision 115.217(a). Additionally, the three questions are reflected on the Interview Response Rating Form and responses to the same are documented. It is apparent the information reflected on the completed forms is considered during hiring decision-making. Accordingly, the auditor finds BTC to be compliant with 115.217(a).

In regard to 115.217(b), a question regarding sexual harassment is reflected in the Interview Response Rating Form, as well as, the CCCS Reference Check Form. Either the former employer or a BTC staff member conducting the Reference Check, documents response(s) to the question.

It is recommended, in the case of BTC staff interviewers, the name of the interviewer and date of interview be documented on the form (signature and date of completion were not reflected on the Reference Check Forms in one of the three hiring packets). Responses were reflected on the completed CCCS Reference Checks for two of the staff selected for employment. It is apparent the information reflected therein is considered for purposes of employment decision-making. Accordingly, the auditor finds BTC to be compliant with 115.217(b) and (c).

Of note, given the new PREA procedures implemented during the hiring process, all staff respond to the afore-mentioned issues identified in 115.217(a) on or about the first day of work. In addition to written responses to the three questions, the employee signs and dates the document. Specific verbiage reflected in the document reflects staff is asked the questions as part of the performance evaluation process.

The auditor's review of 53 forms, all completed during January, 2018, reflects no evidence of conduct violating the questions articulated in 115.217(a). The Administrator advises performance evaluations will be completed in May, 2018. Evaluators must ensure this document is executed again at the time the performance evaluation is completed.

It is noted the continuing affirmative duty to report misconduct identified in 115.217(a), is addressed in both Orientation and In-Service PREA Training.

In view of the above, the auditor finds BTC to be compliant with 115.217(f).

The auditor's review of eight Staff Development and Training Record Forms reflects training regarding the afore-mentioned hiring procedures was presented in early January, 2018. Training recipients included hiring managers and those staff who may involved in the hiring process.

Standard 115.218: Upgrades to facilities and technologies

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.218 (a)

- If the agency designed or acquired any new facility or planned any substantial expansion or modification of existing facilities, did the agency consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect residents from sexual abuse? (N/A if agency/facility has not acquired a new facility or made a substantial expansion to existing facilities since August 20, 2012, or since the last PREA audit, whichever is later.) □ Yes □ No X□ NA

115.218 (b)

- If the agency installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology, did the agency consider how such technology may enhance the agency's ability to protect residents from sexual abuse? (N/A if agency/facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012, or since the last PREA audit, whichever is later.)
  □ Yes □ No X□ NA

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

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

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

x NA

Pursuant to the PAQ, the Administrator asserts the facility has not acquired a new facility or made a substantial expansion or modification to existing facilities since the last PREA audit. This is also confirmed by memorandums presented by the Administrator.

Pursuant to the PAQ, the Administrator asserts the facility has not installed or updated a video monitoring system, electronic, surveillance system, or other monitoring technology since the last PREA audit. This is also confirmed by memorandums presented by the Administrator. The last video monitoring upgrade was facilitated in 2013.

RESPONSIVE PLANNING

Standard 115.221: Evidence protocol and forensic medical examinations

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.221 (a)

- If the agency is responsible for investigating allegations of sexual abuse, does the agency follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)
  x□ Yes □ No □ NA

115.221 (b)

- Is this protocol developmentally appropriate for youth where applicable? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.) x□ Yes □ No □ NA

- Is this protocol, as appropriate, adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.) x□ Yes □ No □ NA

115.221 (c)

- Does the agency offer all residents who experience sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate? x□ Yes □ No

- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible? x□ Yes □ No

- If SAFEs or SANEs cannot be made available, is the examination performed by other qualified medical practitioners (they must have been specifically trained to conduct sexual assault forensic exams)? x□ Yes □ No

- Has the agency documented its efforts to provide SAFEs or SANEs? x□ Yes □ No

115.221 (d)

- Does the agency attempt to make available to the victim a victim advocate from a rape crisis center? x□ Yes □ No

- If a rape crisis center is not available to provide victim advocate services, does the agency make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member? x□ Yes □ No

- Has the agency documented its efforts to secure services from rape crisis centers? x□ Yes □ No

115.221 (e)

- As requested by the victim, does the victim advocate, qualified agency staff member, or qualified community-based organization staff member accompany and support the victim through the forensic medical examination process and investigatory interviews? x□ Yes □ No

- As requested by the victim, does this person provide emotional support, crisis intervention, information, and referrals? x□ Yes □ No

115.221 (f)

- If the agency itself is not responsible for investigating allegations of sexual abuse, has the agency requested that the investigating entity follow the requirements of paragraphs (a) through (e) of this section? (N/A if the agency/facility is responsible for conducting criminal AND administrative sexual abuse investigations.) x□ Yes □ No □ NA

115.221 (g)

- Auditor is not required to audit this provision.

115.221 (h)

- If the agency uses a qualified agency staff member or a qualified community-based staff member for the purposes of this section, has the individual been screened for appropriateness to serve in this role and received education concerning sexual assault and forensic examination issues in general? (Check N/A if agency attempts to make a victim advocate from a rape crisis center available to victims per 115.221(d) above.) x□ Yes □ No □ NA

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts the facility is responsible for conducting administrative sexual abuse investigations (including resident-on-resident sexual abuse or staff sexual misconduct). The Administrator further asserts the Bismarck Police Department conducts criminal investigations. Pursuant to Memorandum of Understanding (MOU) dated August 14, 2017, the Bismarck Police Department (BPD) Chief of Police and the BTC Administrator agree that certain investigative protocols will be employed by BPD investigators in the event of a criminal investigation.

In terms of a BTC uniform evidence protocol, BTC Policy 14.11 entitled Coordinated Response/ Staff First Response Duties, pages 1 and 2, section II(2)(A)(1-13) addresses 115.221(a). This policy identifies First Responder duties, inclusive of evidence preservation. Specifically, this policy stipulates the first staff member responding to an allegation of sexual abuse must physically separate the alleged victim from the alleged abuser. Notify all necessary staff (Immediate supervisor, Chief of Security and the Program Administrator) of BTC. Address the need for acute medical treatment and contact community medical (hospital) personnel if needed.

Follow universal precautions for bodily fluids. Ensure a staff member stays with the alleged victim until the alleged victim is placed in the care of another staff member at all times. Preserve and protect any potential crime scene until law enforcement arrives. Escort Residents to “dry” areas where water may not be accessed, ensuring sight and sound separation of the alleged victim and alleged abuser.

If the alleged abuse occurred within 96 hours, first responder staff shall immediately request the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

Refrain from asking the alleged victim detailed questions about the incident to avoid possible traumatization.

If the abuse occurred within 96 hours, first responder staff shall immediately ensure the alleged perpetrator not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. Ensure pictures are taken of any scratches, abrasions, wounds, or other visible signs of injury except in cases where the injury is to the genitals or breasts. One security staff member is to supervise each Resident (alleged victim and alleged offender). One staff member will stay with the alleged victim until the alleged victim is placed in the care of another staff member via directive of the Chief of Security or Program Administrator. Consult with the Supervisor and complete the necessary significant incident report. This incident report must include:

The date and time of the incident;
Name of the resident or residents involved;
Nature and extent of the abuse; person or persons involved in the abuse; and as much detail as possible describing the incident.

The same policy at pages 2 and 3, section II(2)(B)(1-9) provides further guidance to shift supervisors or the supervisor of the first responder. This policy provision stipulates the supervisor is to ensure the first responder duties are completed. Supervisor may order facility lock-down status at any time. Preserve and protect any potential crime scene until appropriate steps can be taken to collect evidence. This area will remain secured as a potential crime scene until released by the Chief of Security, or in the event of a criminal investigation, by the Bismarck Police Department. If the alleged abuser is a staff member, contractor, or volunteer, notify the Program Administrator, CCCS' Human Resources Director and Law Enforcement immediately, ask the alleged abuser to remain in the facility. Remain with him/her until law enforcement arrives. The Shift Supervisor notifies and consults with the Program Administrator and Chief of Security, the Programs Administrator or designee.

If alleged abuser is staff, place staff on administrative leave. Notify NDDOC&R and the CCCS, Inc.'s PREA Coordinator. If directed by the Programs Administrator or designee, contact the Bismarck Police Department and request a sexual assault/abuse criminal investigation. The Shift Supervisor becomes Bismarck Police Department's central contact during the shift. The Shift Supervisor will relay all directives from the Bismarck Police Department to the Chief of Security.

If a criminal sexual abuse/assault investigation has been referred to the Bismarck Police Department, the Shift Supervisor continues to ensure preservation and protection of any crime scene until appropriate steps can be taken to collect evidence, as indicated and overseen by the Bismarck Police Department. The area will remain secured as a crime scene until released by the Bismarck Police Department.

If the alleged abuse occurred within 96 hours, the Shift Supervisor will make arrangements for the alleged victim to be transported to St. Alexius or Sanford Hospital for a sexual assault exam, which will be provided by a SANE if available. All biological DNA evidence will be collected at the St. Alexius or Sanford Hospital. Complete the necessary reports required for any significant incident. This incident report must include:

The date and time of the incident;
Name of the resident or resident involved;
Nature and extent of the abuse; Person or persons involved in the abuse; and as much detail as possible describing the incident.

It is noted the Shift Supervisor duties are to occur simultaneously with the First Responder performance of duties.

BTC Policy 14.4 entitled Reporting Sexual Abuse and Sexual Harassment, page 8, section II(e)(a) also addresses this provision. Specifically, this policy stipulates BTC is responsible for investigating all allegations of administrative sexual abuse and sexual harassment, BTC follows a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. Section II(e)(b) stipulates the protocol is victim centered and protects and secures the crime scene until Law Enforcement arrives.

Eight of the fourteen random staff interviewees articulated the evidence protocol requires that the victim and perpetrator be separated, the crime scene is secured, the victim is asked not to destroy physical evidence by brushing teeth, changing clothes, showering, eating, drinking, urinating, and defecating. Staff are to ensure the perpetrator does not destroy evidence as stipulated in the preceding sentence. Of the 8 interviewees, many asserted the perpetrator would be placed in a sterile and secure room near the Resident Assistant Office. This is commensurate with the provisions of the afore-mentioned policy.

In addition to the above, 13 random staff interviewees stated the Facilities Manager facilitated PREA administrative investigations while 12 asserted the Bismarck Police Department (BPD) facilitated PREA criminal investigations.

The auditor finds BTC to be in substantial compliance with 115.221(a).

Pursuant to the PAQ, the Administrator asserts youth are not housed at BTC. The Administrator further asserts the protocol was adapted from or otherwise based on the most recent edition of the DOJ's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents", or similarly comprehensive and authoritative protocols developed after 2011.

It is noted forensic medical examinations and evidence collection are not facilitated by BTC staff or at BTC. It is also noted the BTC PREA investigator has received appropriate evidence collection and interviewing techniques training as articulated in the narrative for 115.271.

The auditor reviewed an MOU dated August 14, 2017 between the Chief of Police, Bismarck Police Department and the BTC Administrator. The verbiage of the articulated evidence protocol, as reflected in this provision, is also reflected in the MOU.

The auditor finds substantial compliance with 115.221(b).

Pursuant to the PAQ, the Administrator asserts the facility offers to all residents who experience sexual abuse access to forensic medical examinations. The Administrator further asserts forensic medical examinations are offered without financial cost to the victim. Forensic examinations are facilitated by SAFE/SANE Nurses at the two hospitals used by BTC, if possible. When SAFE/ SANE Nurses are not available, a qualified medical practitioner performs forensic medical examinations. The facility does document efforts to provide SANE/SAFE Nurse forensic examinations at the two afore-referenced hospitals. In the past 12 months, 0 forensic medical examinations were conducted.

BTC Policy 14.5 entitled Medical and Mental Health, page 3, section II(C)(1) addresses 115.221(c). This policy stipulates BTC will refer residents for a medical and mental health evaluation, at no financial cost, and if appropriate; treatment to all residents who have been victimized by sexual abuse in any community corrections facility, jail, lockup or juvenile facility. As previously mentioned in the narrative for 115.221(a), if the sexual assault occurred within 96 hours, the Shift Supervisor will make arrangements for the victim to be transported to St. Alexius or Sanford Hospitals for the conduct of a forensic examination by a SAFE/SANE Nurse, if available. Page 4 of BTC Policy 14.11 entitled Coordinated Response, section II(2)(C)(1) provides further substantiation of compliance as this provision stipulates if a sexual assault examination is appropriate, BTC staff will explain the necessity and process of a sexual assault examination to the victim. Sexual assault examinations must be performed by a trained SANE or SAFE when available.

The examination may include a DNA mouth swab test, before an examination. The victim must be advised to not wipe or touch the areas of injury or sexual contact, or apply any treatment, including ointment or ice, to the area of injury of sexual contact.

BTC Policy 14.4 entitled Reporting Sexual Abuse and Sexual Harassment, pages 8 and 9, section II(e)(c) also addresses this provision. Specifically, this policy stipulates forensic examinations will be conducted at no cost to the resident. Every attempt will be made to have the exam conducted by a Sexual Assault Forensic Examiner (SAFE) or a Sexual Assault Nurse Examiner (SANE) through St. Alexius Hospital in which an MOU is in place between BTC and Sanford Hospital and this can be found at CCCS Inc. website at cccscorp.com. If SAFE or SANE examiners are not available, the

examinations will be performed by another qualified medical practitioner. Staff will document their efforts to provide SAFE or SANE professionals in the resident's progress notes and in all incident reports. BTC shall document its efforts to provide SAFEs or SANEs.

The auditor reviewed two letters dated August 15, 2017 regarding SAFE/SANE services provided to BTC residents. A response dated August 24, 2017, has been received from a CHI/St. Alexius Hospital Executive regarding the provision of SAFE/SANE Nurse examinations to sexual assault victims at BTC. Pursuant to this letter, CHI/St. Alexius contracts with the Central Dakota Forensic Nurse Examiner Program regarding provision assistance in this matter.

According to the SAFE/SANE interviewee, he/she is responsible for coordinating the conduct of all forensic medical examinations for Western North Dakota. He/she is likewise a SAFE/SANE Nurse. In the event of a rare occasion wherein SAFE/SANE Nurses were not available, SAFE/SANE Nursing staff would be directed to report to the hospital.

Pursuant to the PAQ, the Administrator asserts the facility attempts to make a victim advocate from a rape crisis center available to the victim, either in person or by other means. These efforts are documented. The Administrator asserts when a rape crisis center is not available to provide victim advocate services, the facility provides a qualified staff member from a community-based organization or a qualified agency staff member.

BTC Policy 14.5 entitled Medical and Mental Health, page 2, section II(B)(1) addresses 115.221(d). This policy stipulates BTC provides residents with access to outside victim advocates through RAINN and other outside agencies like the Abused Adult Resource Center (AARC) for emotional support services related to sexual abuse by giving Residents mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and by enabling reasonable communication between residents and these organizations, in as confidential a manner as possible. These numbers are posted near the phones and throughout the facility as well as located in the PREA brochure. Brochures are located throughout the facility.

Page 4 of BTC Policy 14.11 entitled Coordinated Response, section II(2)(D)(1) also addresses victim advocate implementation in the chronology of incident management. This policy stipulates qualified staff members will immediately assess the victim and provide counsel and support. The qualified agency staff member(s) may sit in on interviews with the victim if requested to do so by the victim, or by law enforcement. Refrain from asking detailed questions to the victim about the incident to avoid re-traumatization, and in anticipation of a formal investigation.

BTC Policy 14.4 entitled Reporting Sexual Abuse and Sexual Harassment, page 9, sections II(e)(d) and II(e)(e) also addresses this provision. These provisions stipulate BTC shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, BTC shall make available to provide these services a

qualified staff member from a community-based organization or a qualified staff member. BTC shall document efforts to secure services from rape crisis centers.

For purposes of this standard, a rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g(b)(2)(C), to victims of sexual assault of all ages. BTC may utilize a rape crisis center that is part of a governmental unit as long as the facility is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services. Additionally, as requested by the victim, the victim advocate, qualified staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.

The auditor reviewed training documentation dated August 2, 2017 verifying that a facility staff member is certified as a Victim Advocate. Specifically, he completed the PREA Resource Center course entitled PREA and Victim Services: A Trauma Informed Approach. Additionally, pursuant to the preceding BTC PREA Audit report, the auditor reported a PREA Resource Center trained staff member was available to facilitate Victim Advocate (VA) services in accordance with this provision, at BTC. She is still employed by CCCS and BTC and can still be utilized in that capacity.

According to the BTC PREA Manager (Administrator), BTC is engaged in an MOU with AARC. Pursuant to this MOU, AARC provides VA services by State certified (North Dakota) VAs.

In addition to the above, the auditor interviewed the afore-mentioned VA mentioned in the previous PREA Audit Report for BTC. She advised she has been a VA for eight years at the North Dakota Council on Abused Women Services. She participated in a 40 hour North Dakota VA Training and did receive a Certificate for this training. She is a certified VA.

As a VA, she was activated one time in the past three years. Activation focused on a resident who allegedly engaged in a sexual act with staff. No physical evidence was available as the initial report exceeded the 96 hour threshold. The resident was not taken to the hospital for SAFE/SANE forensic examination.

According to this interviewee, the City of Bismarck has a Sexual Abuse Response Team (SART). The concept includes law enforcement, medical (hospitals and SAFE/SANEs), community based Victim Advocacy (AARC) and the Prosecutor's Office.

As there were no resident(s) who reported a sexual abuse, confined at BTC during the on-site audit, the auditor did not complete the Residents Who Reported a Sexual Abuse interview.

The auditor reviewed a finalized and signed MOU with AARC dated August 31, 2017. The same is signed by both the BTC Administrator and AARC Executive Director. It is noted the MOU, covering the provision of VA services at and for BTC, is in force and effect.

The auditor has determined there has been substantial compliance with this provision throughout the audit period. VA services have been readily available, if required.

Pursuant to the PAQ, the Administrator asserts that if requested by the victim, a victim advocate, qualified agency staff member, or qualified community-based organization staff member accompanies and supports the victim through the forensic medical examination process and investigatory interviews and provides emotional support, crisis intervention, information, and referrals.

The narrative for 115.221(d) provides additional policy language and information in support of 115.221(e). Additionally, the BTC PREA Manager asserts that if requested by the victim, a community VA or a qualified facility VA will accompany and provide emotional support, crisis intervention, information, and referrals during the forensic medical examination process and investigatory interviews.

If requested by the victim, the BTC PREA Manager advises a victim advocate, qualified agency staff member, or qualified community-based organization staff member will accompany and provide emotional support, crisis intervention, information, and referrals during the forensic medical examination process and investigatory interviews.

In view of the above, the auditor finds substantial compliance with 115.221(e).

BTC investigators facilitate administrative PREA investigations. Accordingly, 115.221(f) has been determined to be NA.

Standard 115.222: Policies to ensure referrals of allegations for investigations

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.222 (a)

- Does the agency ensure an administrative or criminal investigation is completed for all allegations of sexual abuse? x□ Yes □ No

- Does the agency ensure an administrative or criminal investigation is completed for all allegations of sexual harassment? x□ Yes □ No

115.222 (b)

- Does the agency have a policy and practice in place to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior? x□ Yes □ No

- Has the agency published such policy on its website or, if it does not have one, made the policy available through other means? x□ Yes □ No

- Does the agency document all such referrals? x□ Yes □ No

115.222 (c)

- If a separate entity is responsible for conducting criminal investigations, does such publication describe the responsibilities of both the agency and the investigating entity? [N/A if the agency/ facility is responsible for conducting criminal investigations. See 115.221(a).] x□ Yes □ No □ NA

115.222 (d)

- Auditor is not required to audit this provision.

115.222 (e)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts the agency ensures an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment (including resident-on-resident sexual abuse and staff sexual misconduct). In the past 12 months, the Administrator reports that nine allegations of sexual abuse and sexual harassment were received, eight of which resulted in an administrative investigation. Additionally, one allegation was referred for criminal investigation. The Administrator further asserts that all administrative and/or criminal investigations (initiated during the past 12 months) were completed.

BTC Policy 14.10 entitled Investigations, page 1, section I addresses 115.222(a) addresses 115.222(a). This policy stipulates investigations are carried to completion, even if the victim or reporter recants the allegation or if the alleged abuser or victim left the control or employment of the facility.

The CCCS CEO asserts the agency ensures an administrative or criminal investigation is completed for all allegations of sexual abuse or sexual harassment. In regard to administrative investigations, qualified investigators complete all steps of the investigative process with the exception of physical evidence collection (e.g. DNA), and the conduct of compelled interviews. A report is then completed. If evidence and the fact pattern suggests the criminal standard, the matter is referred to law enforcement. Again, referral is dependent upon the evidence and circumstances.

The auditor has reviewed all administrative investigation reports for 2017 cases, two random reports from 2016, and five random reports from 2015. However, the auditor was not provided with a copy of the criminal report, nor has he reviewed the same.

The auditor finds substantial compliance with 115.222(a).

Pursuant to the PAQ, the Administrator asserts the agency has a policy that requires allegations of sexual abuse or sexual harassment be referred for investigation to an agency with the legal authority to conduct criminal investigations, including the agency if it conducts its own investigations, unless the allegation does not involve potentially criminal behavior. The Administrator further asserts agency policy regarding the referral of allegations of sexual abuse or harassment for criminal investigation is published on the agency website or made publicly available via other means. The agency does document all referrals of allegations of sexual abuse or sexual harassment for criminal investigation.

BTC Policy 14.10 entitled Investigations, page 2, section II(B) addresses 115.222(b). This policy stipulates that it is the policy of CCCS, Inc. and BTC to refer criminal investigations of sexual abuse to the Bismarck Police Department (BPD), who will further refer substantiated allegations for prosecution if warranted.

The preceding BTC Investigations policy is currently posted on the CCCS website. The CCCS PREA Coordinator has directed that the current policy be posted to update the website. A copy of the e-mail directive was provided to the auditor.

According to the BTC PREA Investigator, agency policy requires that all allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, if warranted, unless the allegation does not involve potentially criminal behavior. He assesses statute and the evidentiary standard to determine whether criminal referral is prudent. Review of documentation and video, etc. is essential in determining whether to refer a matter for criminal investigation.

The auditor reviewed documentation from the Administrator to BPD, referring case(s) for criminal investigation.

Pursuant to the auditor's review, BTC Policy 14.10 entitled Investigations clearly delineates BTC PREA investigator responsibilities in terms of assistance provided to BPD investigators during a criminal investigation.

TRAINING AND EDUCATION

Standard 115.231: Employee training

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.231 (a)

- Does the agency train all employees who may have contact with residents on: Its zero-tolerance policy for sexual abuse and sexual harassment? x□ Yes □ No
- Does the agency train all employees who may have contact with residents on: How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures? x□ Yes □ No
- Does the agency train all employees who may have contact with residents on: Residents' right to be free from sexual abuse and sexual harassment x□ Yes □ No
- Does the agency train all employees who may have contact with residents on: The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment? x□ Yes □ No
- Does the agency train all employees who may have contact with residents on: The dynamics of sexual abuse and sexual harassment in juvenile facilities? x□ Yes □ No
- Does the agency train all employees who may have contact with residents on: The common reactions of juvenile victims of sexual abuse and sexual harassment? x□ Yes □ No
- Does the agency train all employees who may have contact with residents on: How to detect and respond to signs of threatened and actual sexual abuse? x□ Yes □ No
- Does the agency train all employees who may have contact with residents on: How to avoid inappropriate relationships with residents? x□ Yes □ No
- Does the agency train all employees who may have contact with residents on: How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents? x□ Yes □ No
- Does the agency train all employees who may have contact with residents on: How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities? x□ Yes □ No

115.231 (b)

- Is such training tailored to the gender of the residents at the employee's facility? x□ Yes □ No

- Have employees received additional training if reassigned from a facility that houses only male residents to a facility that houses only female residents, or vice versa? x□ Yes □ No

115.231 (c)

- Have all current employees who may have contact with residents received such training? x□ Yes □ No

- Does the agency provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures? x□ Yes □ No

- In years in which an employee does not receive refresher training, does the agency provide refresher information on current sexual abuse and sexual harassment policies? x□ Yes □ No

115.231 (d)

- Does the agency document, through employee signature or electronic verification, that employees understand the training they have received? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

It is noted that all staff training is geared towards adult resident offenders, as opposed to, juvenile offenders. While these areas were checked as "Yes", the responses apply to adult resident offenders.

In addition to the above, as reflected in the narrative for 115.231(d) below, continuous compliance with the provision throughout the three year audit period, was not maintained. Hence, the provision and consequently, the standard, were found to be non-compliant.

Pursuant to the PAQ, the Administrator asserts the agency trains all employees who may have contact with residents on the following matters:

1. Its zero-tolerance policy for sexual abuse and sexual harassment;
2. How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
3. Residents' rights to be free from sexual abuse and sexual harassment;

4. The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
5. The dynamics of sexual abuse and sexual harassment in confinement;
6. The common reactions of sexual abuse and sexual harassment victims;
7. How to detect and respond to signs of threatened and actual sexual abuse;
8. How to avoid inappropriate relationships with residents;
9. How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender non-conforming residents; and
10. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

BTC Policy 14.6 entitled Training, pages 1 and 2, section II(A)(1-10) addresses 115.231(a). This policy stipulates that all new employees receive PREA training prior to contact with residents. This training is completed by the PREA Investigator or Program Administrator of BTC. The following training shall be presented through PREA trainers via Power Point presentation, handouts and audio-visual aides to all employees, volunteers, and contractors who may have contact with residents on:

The facility's zero-tolerance policy for sexual abuse/sexual harassment;

How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies;

Residents' rights to be free from sexual abuse/sexual harassment;

Residents and staffs' right to be free from retaliation when reporting sexual abuse and sexual harassment procedures;

The dynamics of sexual abuse and sexual harassment in confinement;

The common reactions of sexual abuse and sexual harassment victims;

How to detect and respond to signs of threatened and actual sexual abuse.

How to avoid inappropriate relationships with Residents.

How to communicate effectively/professionally with Residents and staff; including lesbian/gay/bisexual/transgender/questioning/intersex/gender nonconforming Residents.

How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

The auditor reviewed the following training resources provided pursuant to the PAQ and finds that the ten topics listed above are included in the PREA training format:

PREA Resource Center course outline regarding Adult Gender Responsive strategies;
LGBTI Lesson Plan; and
PREA Refresher Course.

The auditor reviewed CCCS (BTC) Staff Development and Training Forms from 2015, 2016, and 2017, which include Orientation PREA and Annual In-Service. A total of 46 Resident Assistant (RA) (Security staff) records were reviewed, inclusive of 25 Orientation records in this category of employees. Additionally, ten specialty staff (e.g. Case Managers, Cook) records were included in this review. The auditor is convinced that staff PREA training is institutionalized as all requisite topics were covered.

All of the 14 random staff interviewees asserted they have received training regarding the 10 topics identified in this provision. Such training was reportedly received during Orientation, annual PREA training and minimally, over the course of the last three to five months.

Given the above, the auditor finds substantial compliance with 115.231(a).

Pursuant to the PAQ, the Administrator asserts training is tailored to the gender of the residents at the facility. The Administrator further asserts employees who are reassigned from facilities housing the opposite gender are given additional training. Additionally, pursuant to the policy citation referenced above, all new staff participate in PREA training prior to assignment.

Both male and female residents are housed at BTC. As reflected above, the training is sensitive to the gender of all residents.

The auditor reviewed five BTC Employee PREA Training Forms wherein the employee attested to (by virtue of their signature) that the PREA training received was specific to the gender of the residents represented at the facility.

Pursuant to the PAQ, the Administrator asserts that 61 staff who have contact with residents, were trained or retrained in PREA requirements. This represents 100% of that staff class. The Administrator further asserts that employees are expected to review PREA policies between Orientation and Annual Refresher Training (PREA).

BTC Policy 14.6 entitled Training, page 2, sections II(B) and (C) likewise address this standard. These policy provisions stipulate all current employees will receive refresher training annually to ensure that they know BTC current sexual abuse and sexual harassment policies and procedures and changes that may have been made. Additionally, employee training shall be documented through employee signature that employees understand the training they have received. The signed acknowledgment form will be maintained in the employee's personnel files.

Pursuant to the PAQ, the Administrator asserts the agency documents that employees who may have contact with residents understand the training they have received through employee signature or electronic verification.

The auditor reviewed 13 Staff Development and Training Record Forms (covering 2015, 2016, and 2017) and finds these training records are absent indication that the employee understands the information presented during the training sessions. These forms essentially referenced Annual In-Service PREA training for staff of all levels. It is also noted the auditor reviewed 23 Orientation training records for security and non-security staff (dated 2015, 2016 and 2017) and the same reflect the "understand" caveat.

In view of the above, the auditor has determined this provision is non-compliant based on the lack of substantial compliance with the same throughout the audit period. However, it is noted that corrective action was and has been implemented as BTC is now using a CCCS Staff Development and Training Record Form wherein the "understand"caveat is clearly reflected and staff sign the same.

While BTC is deemed to be non-compliant with 115.231(d) and is subject to corrective action until March 30, 2018, the same can be terminated at an earlier date. The CCCS PREA Coordinator will forward additional completed Staff Development and Training Record Forms to the auditor to ensure institutionalization of the practice.

12/20/2017 Update:

The auditor has reviewed an Orientation training packet for a new employee hired on September 22, 2017 and finds all Staff Development and Training Record Forms to be compliant with 115.231(d). Specifically, the "understand"caveat is reflected on the afore-mentioned forms for all requisite topics. The training topics were facilitated during the first two days of entry on duty and prior to contact with residents.

02/17/2018 Update:

The auditor has received and reviewed an In-Service PREA training packet for a Resident Assistant. The packet consisted of individual Staff Development and Training Record Forms for five PREA courses with a training date of December 28, 2017. All Staff Development and Training Record Forms are compliant with 115.231(d), specifically, the "understand"caveat is reflected on the afore-mentioned forms for all requisite topics.

In addition to the above, the auditor received and reviewed five Staff Development and Training Record Forms for Resident Assistants who were provided three hours of quarterly training regarding PREA-related topics. Commensurate with this provision, the "understand"caveat was reflected on the afore-mentioned form.

The auditor is satisfied this practice is institutionalized at BTC and accordingly, compliance with 115.231(d) has been accomplished.

Standard 115.232: Volunteer and contractor training

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.232 (a)

- Has the agency ensured that all volunteers and contractors who have contact with residents have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures? x□ Yes □ No

115.232 (b)

- Have all volunteers and contractors who have contact with residents been notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents (the level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with residents)? x□ Yes □ No

115.232 (c)

- Does the agency maintain documentation confirming that volunteers and contractors understand the training they have received? x□ Yes □ No

Auditor Overall Compliance Determination

x☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

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

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts that all volunteers and contractors who have contact with residents have been trained on their responsibilities under the agency's policies and procedures regarding sexual abuse/harassment prevention, detection and response. The Administrator further asserts four volunteers or contractors who have contact with residents have been trained in agency policies and procedures regarding sexual abuse/harassment prevention, detection, and response, which constitutes 100% of the on-board strength.

BTC Policy 14.6 entitled Training, page 2, section II(D) addresses 115.232(a). This policy stipulates volunteers, contractors, and victim advocates who work with or have contact with Residents will be trained on:

Responsibilities under the agency's sexual abuse/harassment prevention, detection, and response policies and procedures;

The Zero-tolerance policy regarding sexual abuse and sexual harassment; and

Method of reporting such incidents.

The auditor reviewed the PREA Volunteer and Contractor Training slides. The same are commensurate with the PREA training necessary for volunteers and contractors. According to the Training Schedule included in the PAQ information, the video "What You Need to Know" is also presented to volunteers and contractors during PREA training. Copies of both company and BTC policies are also distributed to volunteers and contractors wherein "zero tolerance" is clearly articulated. The auditor also reviewed six PREA training signature sheets wherein volunteers/contractors signature attested to review and understanding of the 10 training points referenced in 115.231.

The PREA Training Forms are identified as Employee/Volunteer/Contractor Training PREA/Sexual Harassment. Four participants completed the training and signed the form in 2014, one in 2015, and one in 2016.

The Volunteer interviewee asserted she last received PREA training, possibly May, 2017. She further related she is re-trained every two years.

Pursuant to the PAQ, the Administrator asserts the level and type of training provided to volunteers and contractors is based on the services they provide and level of contact they have with residents. The Administrator further asserts that all volunteers and contractors who have contact with residents have been notified of the agency's zero tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

BTC Policy 14.6 entitled Training, page 2, section II(E) addresses 115.232(b). This policy stipulates that the level and type of training provided to volunteers, contractors, and victim advocates shall be based on the services they provide and level of contact they have with Residents, but all volunteers and contractors who have contact with Residents shall be notified of BTC's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

According to the Volunteer interviewee, PREA training addresses zero tolerance, reporting (report to staff immediately), What does sexual abuse/sexual harassment look like?, red flags, and response. Accordingly, she asserts she has been informed regarding the major tenets of the PREA program at BTC.

In view of the above, the auditor finds substantial compliance with 115.232(b).

Pursuant to the PAQ, the Administrator asserts the agency maintains documentation confirming volunteers/contractors understand the training they have received.

BTC Policy 14.6 entitled Training, page 2, section II(F) addresses 115.232(b). This policy stipulates BTC will maintain documentation confirming volunteers and contractors understand the training they have received.

Within the PAQ materials, the auditor reviewed executed PREA Compliance Acknowledgment- Visitors, contractors, and volunteers document likewise reflects substantial PREA training information. Specifically, MCS' zero tolerance for sexual assault/abuse and sexual harassment of MPRC residents and reporting requirements (contacts, etc.), and definitions of sexual assault/abuse and sexual harassment are clearly defined in this document. This document is provided to all facility and resident visitors, contractors, and volunteers requiring a signature of understanding.

This document and its use is clearly above and beyond PREA standards expectations. This practice clearly encourages participation in the PREA program at an expanded rate. Accordingly, the Auditor finds that MPRC staff have exceeded expectations relative to this standard.

Standard 115.233: Resident education

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.233 (a)

- During intake, do residents receive information explaining: The agency's zero-tolerance policy regarding sexual abuse and sexual harassment? x□ Yes □ No
- During intake, do residents receive information explaining: How to report incidents or suspicions of sexual abuse or sexual harassment? x□ Yes □ No
- During intake, do residents receive information explaining: Their rights to be free from sexual abuse and sexual harassment? x□ Yes □ No
- During intake, do residents receive information explaining: Their rights to be free from retaliation for reporting such incidents? x□ Yes □ No
- During intake, do residents receive information regarding agency policies and procedures for responding to such incidents? x□ Yes □ No

115.233 (b)

- Does the agency provide refresher information whenever a resident is transferred to a different facility? x□ Yes □ No

115.233 (c)

- Does the agency provide resident education in formats accessible to all residents, including those who: Are limited English proficient? x□ Yes □ No

- Does the agency provide resident education in formats accessible to all residents, including those who: Are deaf? x□ Yes □ No

- Does the agency provide resident education in formats accessible to all residents, including those who: Are visually impaired? x□ Yes □ No

- Does the agency provide resident education in formats accessible to all residents, including those who: Are otherwise disabled? x□ Yes □ No

- Does the agency provide resident education in formats accessible to all residents, including those who: Have limited reading skills? x□ Yes □ No

115.233 (d)

- Does the agency maintain documentation of resident participation in these education sessions? x□ Yes □ No

115.233 (e)

- In addition to providing such education, does the agency ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts that residents receive information at time of intake about the zero-tolerance policy, how to report incidents or suspicions of sexual abuse or harassment, their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents. The Administrator further asserts that 597 residents received this information during the past 12 months and this represents 99% of residents admitted to BTC/WSU during the past 12 months.

BTC Policy 14.3 entitled Intake/Screening, page 1, section II(A)(1)(a)(i-iv) addresses 115.233(a). This policy stipulates during a resident's admission/intake into the facility, staff will
communicate to the resident, verbally and in writing, information about the Prison Rape Elimination Act, including:
the center’s zero tolerance policy regarding sexual activity, abuse, or harassment;

how to report incidents or suspicions of sexual abuse or sexual harassment, and consequences for false reporting;
their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents; and
information on prevention/intervention, self-protection, and availability of treatment and/or counseling.

The auditor reviewed pages 3-10 of the CCCS (BTC) PREA Handbook and found information regarding zero tolerance (as described above), how to report incidents or suspicions of sexual abuse or sexual harassment, resident's right to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents, to be incorporated therein.

The auditor reviewed 43 BTC/WSU Resident /Inmate Orientation Training Forms (PREA) and determined that 1 of the 43 residents was provided Orientation outside a 30-day window in comparison to Intake Screening. Specifically, the resident arrived on 5/24/2017 and Orientation was conducted on June 20, 2017. Of these 43 residents, there was only two forms reflecting Receipt of a PREA Handbook. This receipt substantiates the resident's receipt of the Handbook which contains all relevant information as required by this provision. With respect to the remaining 41 residents, the date of receipt of the Handbook is unknown.

It is noted that the BTC/WSU Resident /Inmate Orientation Training Forms (PREA) cover a span of one year.

The BTC/WSU Resident/Inmate Orientation Training Forms reflect resident initials for each of the requisite topics as prescribed by the provision. This is a unique method of documenting receipt of requisite training.

The Auditor has determined that the PREA Handbook is now being issued at Intake and residents are signing for receipt of the same pursuant to the receipt attached as the last page of the PREA Handbook. Residents are signing the same and that document is subsequently filed in the resident's file. This process has evidently become effective on September 7, 2017. Accordingly, BTC has not been compliant with provision 115.233(a) during the entire audit period.

Prior to the afore-mentioned date, facility staff were disseminating a PREA Brochure to residents during Intake. Pursuant to review of the PREA Brochure, the auditor has determined the same does not meet the requirements of resident education as articulated in provision 115.233(a). While the same is an excellent resource, the document does not address the resident's right to be free from sexual abuse/sexual harassment/retaliation for reporting such incidents and agency policies and procedures for responding to such incidents. It is also noted the resident did not sign for this document until completion of PREA Orientation (generally four to seven days following Intake).

In view of the above, BTC is deemed to be non-compliant with provision 115.233(a) and will be subject to a period of corrective action to be completed on or before March 30, 2018. Facility staff will forward copies of PREA Handbook receipts, as well as, admission rosters to the auditor so he can validate institutionalization of the practice. Once satisfied with institutionalization, the auditor will close the finding.

02/19/2018 Update:

The auditor received and reviewed "BTC Arrival Rosters" covering the months of October through December, 2017 and 11 corresponding Receipt of BTC PREA Handbook Receipts for 11 residents who arrived on specific dates throughout this period. Dates of receipt of the BTC PREA Handbook correspond with resident arrival dates. The receipt (attached to the last page of the BTC PREA Handbook) as described above, is being executed during Intake.

In view of the above, the auditor is satisfied the practice is institutionalized and BTC is compliant with 115.233(a).

Nineteen of the twenty random resident interviewees related they received either a PREA Handbook or PREA Brochure during Intake. Additionally, some of these interviewees advised staff provided verbal PREA instruction and education during Intake. Both Intake Staff interviewees stated PREA Handbooks were issued starting one month ago. The PREA Brochure was issued prior to that. PREA Orientation is conducted every Tuesday.

Pursuant to the PAQ, the Administrator asserts the facility provides residents who are transferred from a different community confinement facility with refresher information as referenced above. The Administrator further asserts within the past 12 months, 46 residents were transferred from a different community confinement facility and all received refresher training.

BTC Policy 14.3 entitled Intake/Screening, page 1, section I addresses 115.233(b). This policy stipulates that the Bismarck Transition Center (BTC) will screen all residents residing at the center, to identify residents likely to engage in sexual or assaultive behavior with peers, or be at risk of sexual victimization upon intake into the center. Residents shall receive Prison Rape Elimination Training upon initial entry to the BTC. Additionally, page 2, section II(A)(1)(d) of the same policy addresses this provision. This policy stipulates that BTC training staff shall provide refresher information whenever a resident is transferred to and from a different facility.

According to the Intake Staff interviewees, all incoming residents are educated regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding policies and procedures for responding to such incidents pursuant to receipt of the PREA Handbook and at Orientation. The PREA Handbook is distributed to all new arrivals during Intake and Orientation is provided within a week thereafter.

Eighteen of the twenty random resident interviewees asserted they were transferred from other facilities. Two interviewees advised they were Parole Violators.

BTC Policy 14.3 entitled Intake/Screening, pages 1 and 2, section II(A)(1)(b) addresses 115.233(c). This policy stipulates that BTC shall provide resident education in formats accessible to all residents, which will include written material and viewing the video "What You Need to Know". These formats shall be accessible to all residents including those who are limited English proficient by providing interpreters who speak the same language, deaf, visually impaired, or otherwise disabled as well as residents who have limited reading skills. This shall be done by reading the information to the resident and contacting a company employee who will provide the information to the resident with disabilities in understanding the information.

BTC Policy 14.3 entitled Intake/Screening, pages 2 and 3, section II(A)(3) also addresses 115.233(c). This policy stipulates that BTC shall take reasonable steps to ensure meaningful access to all efforts to prevent, detect, and respond to sexual abuse and sexual harassment to residents who are limited English proficient, including interpreters, where a list of interpreters can be provided from the program administrator, who are capable of interpreting effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

The auditor did review the BTC PREA Handbook which is produced in large print to assist those with low vision. He also reviewed the contract with Language Link. The same addresses 240 plus languages and accordingly, non-English speaking residents have ample opportunity to take advantage of PREA education.

The Agency Head designee advised that, if needed, a Corporate Special Education Teacher could be called on to translate/interpret for developmentally delayed/cognitively impaired resident(s). She is on-call on a 24/7 basis via telephone or in-person.

In addition to the above, the auditor reviewed the contract between BTC and the North Dakota Department of Corrections and Rehabilitation, determining BTC staff can deny NDDOC&R inmates based on security concerns. This provision is scripted at page 10, section 15(H)(5) of the afore-mentioned contract.

Pursuant to the PAQ, the Administrator asserts the agency maintains documentation of resident participation in PREA education sessions.

BTC Policy 14.3 entitled Intake/Screening, page 2, section II(A)(1)(f) addresses 115.233(d). This policy stipulates that Residents shall sign the Resident PREA Acknowledgment form, verifying they have been given this information.

The auditor did review 43 BTC/WSU Resident/Inmate Orientation Training Forms, bearing the resident's signature, and attesting to their receipt and understanding of the requisite information required

by this standard. Generally, 41 of these forms reflect receipt of Orientation 3-20 days subsequent to arrival at the facility.

In view of the above, the auditor has determined there is substantial compliance with this provision based on documentation review.

Pursuant to the PAQ, the Administrator self reports the agency ensures key information about the agency's PREA policies is continuously and readily available or visible through posters, resident handbooks, or written formats.

BTC Policy 14.3 entitled Intake/Screening, page 2, section II(A)(1)(c) addresses 115.233(e). This policy stipulates that in addition to providing such education, BTC shall ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, and brochures throughout the facility.

Prior to the on-site audit and pursuant to the PAQ review process, the auditor reviewed three posters available in the male and female units. The posters provide reporting information and reinforce the zero tolerance policy. Additionally, the auditor thoroughly reviewed the BTC PREA Handbook and found the same to be very informative in terms of contact numbers, reporting processes, the grievance process (inclusive of Emergency Grievances), self protection strategies, and PREA definitions.

During the facility tour, the auditor noted posters in all living areas, in the vicinity of resident telephones, in program and operational areas.

Standard 115.234: Specialized training: Investigations

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.234 (a)

- In addition to the general training provided to all employees pursuant to §115.231, does the agency ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.221(a).] x□ Yes □ No □ NA

115.234 (b)

- Does this specialized training include: Techniques for interviewing sexual abuse victims? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.221(a).] x□ Yes □ No □ NA

- Does this specialized training include: Proper use of Miranda and Garrity warnings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.221(a).] x□ Yes □ No □ NA

- Does this specialized training include: Sexual abuse evidence collection in confinement settings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.221(a).] x□ Yes □ No □ NA

- Does this specialized training include: The criteria and evidence required to substantiate a case for administrative action or prosecution referral? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.221(a).]
  x□ Yes □ No □ NA

115.234 (c)

- Does the agency maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.221(a).]
  x□ Yes □ No □ NA

115.234 (d)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts agency policy requires that investigators are trained in conducting sexual abuse investigations in confinement settings.

BTC Policy 14.6 entitled Training, page 3, section II(H)(1) addresses 115.234(a). This policy stipulates in addition to the general training provided to all employees pursuant to § 115.231, BTC shall ensure that, to the extent BTC itself conducts the initial sexual abuse investigations, its investigators, PREA Manager, and Program Administrator have received training in conducting such investigations in confinement settings through the NIC learning website, particularly PREA, and any Department of Corrections trainings for investigators they may provide. Even though the PREA Manager and Program Administrator may not participate in an initial sexual abuse or sexual harassment investigation, completion of the Specialized Investigator training is key in understanding and supporting the SART process.

BTC Policy 14.10 entitled Investigations, page 1, section II(A) also addresses 115.234(a). This policy stipulates BTC shall use investigators that have received specialized training in handling sexual abuse and sexual harassment cases. BTC will use the Program Administrator or Chief of Investigation/Facility Manager for administrative cases.

The Facilities and Vehicle Manager has been designated as the BTC PREA Investigator. Pursuant to the PAQ information received from the Administrator, the Facilities and Vehicle Manager completed the North Dakota PREA Investigator Training conducted December 15 and 16, 2014. He was awarded a Certificate for the program on December 16, 2014. Additionally, the Administrator has completed the National Institute of Corrections (NIC) course entitled PREA: Investigating Sexual Abuse in a Confinement Setting. The auditor reviewed all relevant certificates during the PAQ review of documentation and follow-up.

According to the PREA Investigator, he did receive specialized training regarding the conduct of sexual abuse investigations in confinement settings. The training was presented by the North Dakota Department of Corrections and Rehabilitation and US Department of Justice. Training focused specifically on PREA investigations including checking mental health, injury assessment, sexual abuse victim interviewing techniques (male/female/juveniles), standard of evidence in administrative investigations, Miranda and Garrity warnings, and investigative strategies.

BTC Policy 14.6 entitled Training, page 3, section II(H)(2) addresses 115.234(b). This policy stipulates that specialized Investigator training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.

The auditor reviewed the syllabus for the North Dakota PREA Investigator Training and finds the same included techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or criminal prosecution. It appears the training was presented by the Moss Group and was specifically designed to address the requirements of 115.234. The auditor also reviewed the course syllabus for the NIC course entitled PREA: Investigating Sexual Abuse in a Confinement Setting. The same clearly meets the requirements of 115.234(b).

Pursuant to the PAQ, the Administrator asserts the agency maintains documentation showing that investigators have completed the required training. He further asserts the agency currently employs two PREA investigators however, the auditor has learned there is one primary investigator who is used. In fact, the Facilities and Vehicle Manager facilitated all administrative investigations reviewed by the auditor for all three years of the audit period.

BTC Policy 14.6 entitled Training, page 3, section II(H)(3) addresses 115.234(c). This policy stipulates BTC will maintain documentation that the facility's investigators have completed the required specialized training in conducting sexual abuse investigations.

The Certificate for the Facilities and Vehicle Manager is addressed in the narrative for 115.234(a).

Standard 115.235: Specialized training: Medical and mental health care

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.235 (a)

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in: How to preserve physical evidence of sexual abuse? □ Yes □ No xNA

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in: How to respond effectively and professionally to victims of sexual abuse and sexual harassment? □ Yes □ No xNA

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in: How and to whom to report allegations or suspicions of sexual abuse and sexual harassment? □ Yes □ No xNA

115.235 (b)

- If medical staff employed by the agency conduct forensic examinations, do such medical staff receive appropriate training to conduct such examinations? N/A if agency medical staff at the facility do not conduct forensic exams.) □ Yes □ No x□ NA

115.235 (c)

- Does the agency maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere? □ Yes □ No xNA

115.235 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.231? □ Yes □ No xNA

- Do medical and mental health care practitioners contracted by and volunteering for the agency also receive training mandated for contractors and volunteers by §115.232? [N/A for circumstances in which a particular status (employee or contractor/volunteer) does not apply.] □ Yes □ No □ NA xNA

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

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

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

x NA

According to a memorandum dated September 1, 2015-2017, the Administrator asserts there are no on-site medical or mental health providers employed by BTC. All care is provided by community providers. Accordingly, this standard has been deemed to be Not Applicable.

This is validated pursuant to BTC Policy 14.5 entitled Medical and Mental Health, page 1, section I. This policy stipulates the Bismarck Transition Center (BTC) mental health and medical services are delivered to Women's Services Unit residents by Department of Corrections & Rehabilitation (DOC&R) staff. Services provided are consistent with the community level of care. BTC residents residing in Transitional Services housing units are responsible for their own medical and mental health care.

BTC Policy 14.5 entitled Medical and Mental Health, page 3, section III addresses 115.235(c). This policy stipulates BTC has an MOU with St. Alexius and Sanford Hospital to conduct forensic examinations.

It is noted that the auditor reviewed the contract between BTC and NDDOC&R and finds the same to substantiate the afore-mentioned policy and assertions.

In view of the above, the auditor finds this provision to be Not Applicable.

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Standard 115.241: Screening for risk of victimization and abusiveness

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.241 (a)

- Are all residents assessed during an intake screening for their risk of being sexually abused by other residents or sexually abusive toward other residents? x□ Yes □ No

- Are all residents assessed upon transfer to another facility for their risk of being sexually abused by other residents or sexually abusive toward other residents? x□ Yes □ No

115.241 (b)

- Do intake screenings ordinarily take place within 72 hours of arrival at the facility? x□ Yes □ No

115.241 (c)

- Are all PREA screening assessments conducted using an objective screening instrument? x□ Yes □ No

115.241 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident has a mental, physical, or developmental disability? x□ Yes □ No

- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: The age of the resident? x□ Yes □ No

- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: The physical build of the resident? x□ Yes □ No

- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident has previously been incarcerated? x□ Yes □ No

- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident's criminal history is exclusively nonviolent? x□ Yes □ No

- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident has prior convictions for sex offenses against an adult or child? x□ Yes □ No

- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the resident about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the resident is gender non-conforming or otherwise may be perceived to be LGBTI)? x□ Yes □ No

- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident has previously experienced sexual victimization? x□ Yes □ No

- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: The resident's own perception of vulnerability? x□ Yes □ No

115.241 (e)

- In assessing residents for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: prior acts of sexual abuse? x□ Yes □ No

- In assessing residents for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: prior convictions for violent offenses? x□ Yes □ No

- In assessing residents for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: history of prior institutional violence or sexual abuse? x□ Yes □ No

115.241 (f)

- Within a set time period not more than 30 days from the resident's arrival at the facility, does the facility reassess the resident's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening? x□ Yes □ No

115.241 (g)

- Does the facility reassess a resident's risk level when warranted due to a: Referral? x□ Yes □ No
- Does the facility reassess a resident's risk level when warranted due to a: Request? x□ Yes □ No
- Does the facility reassess a resident's risk level when warranted due to a: Incident of sexual abuse? x□ Yes □ No
- Does the facility reassess a resident's risk level when warranted due to a: Receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness? x□ Yes □ No

115.241 (h)

- Is it the case that residents are not ever disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (d)(1), (d)(7), (d)(8), or (d)(9) of this section? x□ Yes □ No

115.241 (i)

- Has the agency implemented appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the resident's detriment by staff or other residents? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts the agency has a policy that requires screening (upon admission to a facility or transfer to another facility) for risk of sexual abuse victimization or sexual abusiveness toward other residents.

BTC Policy 14.3 entitled Intake/Screening, page 3, section II(B) addresses 115.241(a). This policy stipulates residents are screened through the BTC screening tool within 24 hours of arrival at the facility

for potential vulnerabilities or tendencies of being sexually abused by other residents or sexually abusive toward other residents. Staff meets with the resident within twenty four (24) hours and completes the medical and mental health –screening instrument. Medical staff will screen the Resident within fourteen (14) days of arrival. Housing and program assignments are made accordingly on a case-by-case basis by the Shift Supervisor, Program Administrator, Chief of Security and Case Manager.

According to the two Staff Who Screen for Risk of Victimization and Abusiveness interviewees, they do screen residents upon admission to the facility or transfer from another facility for risk of sexual victimization or sexual abusiveness toward other residents. A PREA Assessment Tool is used and the same is administered at Intake.

Nineteen of the twenty random resident interviewees stated upon arrival at the facility, they were asked questions like whether they had been in jail or prison before, whether they had ever been sexually abused, whether they identify as being gay, lesbian, or bisexual, and whether they thought they might be in danger of sexual abuse at the facility. According to these respondents, these questions, along with many others, were asked during the Intake process.

The auditor did review the file of the one resident who advised he/she had not been screened as reflected in the preceding paragraph. Pursuant to review, the resident was admitted to BTC on February 24, 2017 and he/she was screened on the same date.

The auditor finds substantial compliance with both policy and 115.241(a).

Pursuant to the PAQ, the Administrator asserts that in the past 12 months, 567 residents entering the facility (either through intake or transfer), whose length of stay in the facility was for 72 hours or more, were screened for risk of sexual victimization or risk of sexually abusing other residents, within 72 hours of entry into the facility. This represents 99% of the total number of residents admitted during the afore-mentioned time frame.

As referenced in the afore-mentioned policy, residents are screened pursuant to the BTC screening tool within 24 hours of arrival at the facility for potential vulnerabilities or tendencies of being sexually abused by other residents or sexually abusive toward other residents.

According to the two staff who perform screening for risk of victimization and abusiveness interviewees, residents are screened for the same within 72 hours of their Intake. According to both interviewees, residents are screened at Intake. Nineteen of the twenty random resident interviewees advised they received the requisite screening at Intake.

The auditor reviewed 15 BTC Initial Assessment/Re-Assessment Prison Rape Elimination Act (PREA) screening tools related to residents who arrived in 2016. With two exceptions, all Initial Assessments were completed within 24 hours of arrival at the facility. The auditor also reviewed 27 BTC Initial

Assessment/Re-Assessment Prison Rape Elimination Act (PREA) screening tools related to residents who arrived at BTC in 2017. All Initial Assessments were completed within 24 hours of arrival.

In view of the above and the narrative reflected for 115.241(a), the auditor finds substantial compliance with both policy and 115.241(b).

Pursuant to the PAQ, the Administrator asserts that such assessments are conducted using an objective screening instrument.

BTC Policy 14.3 entitled Intake/Screening, page 3, section II(B)(1) addresses 115.241(c). This policy stipulates the objective PREA screening instrument shall assess the resident's risk of sexual victimization through information pertaining to:

Whether the resident has a mental, physical, or developmental disability;
The age of the resident;
The physical build of the resident;
Whether the resident has previously been incarcerated;
Whether the resident's criminal history is exclusively nonviolent;
Whether the resident has prior convictions for sex offenses against an adult or child;
If the Resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming. The transgender or intersex Resident's gender identity; whether the Resident self-identifies as male or female;
Whether the resident has previously experienced sexual victimization; and
The residents' own perception of vulnerability.

As reflected in the policy cited above, the BTC PREA Assessment addresses all of the objective criteria identified in 115.241(d).

The Auditor reviewed the objective BTC Initial Assessment/Re-Assessment Prison Rape Elimination Act (PREA) screening tool and found the same to minimally address the following provision requirements:
(1) Whether the resident has a mental, physical, or developmental disability;
(2) The age of the resident;
(3) The physical build of the resident;
(4) Whether the resident has previously been incarcerated;
(5) Whether the resident's criminal history is exclusively nonviolent;
(6) Whether the resident has prior convictions for sex offenses against

an adult or child;
(7) Whether the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
(8) Whether the resident has previously experienced sexual victimization; and
(9) The resident's own perception of vulnerability.

The screening tool is separated into Vulnerability Factors and Aggressive/Predatory Factors, with related questions in each section. At the bottom of each section, there is a matrix wherein specific responses to specific questions and cumulative responses to total questions are used to identify the resident being screened as a Known Victim or Potential Victim or Known Aggressor or Potential Aggressor. Additionally, there is a criteria for those residents who do not activate any of the key indicators specified in both sections. These residents are neither victims or aggressors.

The tool reflects the name of the resident, resident number, date of arrival to the facility and the assessment date. Additionally, there is a box wherein either Initial Assessment or Re-Assessment can be checked.

The auditor's review of BTC Initial Assessment/Re-Assessment Prison Rape Elimination Act (PREA) screening tools as reflected above confirmed the information reflected in this provision.

When questioned as to what the initial risk screening entails, both Staff Who Perform Risk Screening for Risk of Victimization and Abusiveness interviewees articulated issues including: Have you ever been forced into sex or have you forced someone else either in custody or in the community?; Have you ever been sexually abused?; Are you LGBTI?; Height; Weight; Vulnerability; Aggressors and Victims; Non-Aggressors; prior criminal history; mental history; and physical build.

When questioned as to the process for conducting the initial screening, interviewees related the assessment is facilitated in a private room utilizing the PREA Assessment Tool. The RA and the resident are present during the screening. Pursuant to the screening process, a determination is made as to whether the resident is a victim, aggressor, or non-aggressor.

Pursuant to the PAQ, the Administrator asserts the intake screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in assessing residents for risk of being sexually abusive.

BTC Policy 14.3 entitled Intake/Screening, page 4, section II(B)(2) addresses 115.241(e). This policy stipulates the intake screening shall consider prior acts of sexual abuse, prior convictions for violent

offenses, and history of prior institutional violence or sexual abuse, as known to BTC in assessing residents for risk of being sexually abusive. If screening results indicate the resident is likely to be an aggressor, or to be vulnerable to sexually abusive or assaultive behavior, the resident's status will be logged in the staff log of this individual's resident status.

According to the two staff responsible for risk screening interviewees, resident's and staff's assessment of vulnerability, whether they are aggressors and victims, whether they are non-aggressors, prior criminal history, mental history, whether they have ever been sexually assaulted or abused, and have you sexually abused anyone in a confinement setting or in the community, physical build, whether the resident self-identifies as LGBTI, height, and weight are addressed pursuant to this screening. A screening tool is administered in a private room by the RA and the resident. The PREA screening tool determines whether the resident is or has been a sexual abuse victim, aggressor, or non-aggressor.

The auditor's review of BTC Initial Assessment/Re-Assessment Prison Rape Elimination Act (PREA) screening tools, as addressed above, confirmed the information reflected in this provision.

Pursuant to the PAQ, the Administrator asserts the policy requires the facility to reassess each resident's risk of victimization or abusiveness within a set time period, not to exceed 30 days after the resident's arrival at the facility, based upon any additional, relevant information received by the facility since the intake screening. The Administrator further asserts that within the past 12 months, 567 residents entered the facility (either through intake or transfer) and were reassessed within 30 days of arrival at the facility based upon any additional, relevant information received since intake, for their risk of sexual victimization or of being sexually abusive. This represents 99% of the total number of residents admitted to BTC during the past 12 months.

BTC Policy 14.3 entitled Intake/Screening, page 4, section II(B)(3) addresses 115.241(f). This policy stipulates that within a set time period, not to exceed 30 days from the resident's arrival at the facility, the facility's case managers will reassess the resident's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening. Upon completion of the reassessment, it will be forwarded to the Program Administrator for approval and then given to an Administrative Assistant who will maintain the reassessment.

The two Staff Who Perform Screening for Risk of Victimization and Abusiveness interviewees both stated PREA reassessments are completed within 30 days of arrival at BTC.

Of the 20 random resident interviewees, 14 stated they either hadn't been reassessed or they didn't know. The auditor reviewed Initial Assessments and Reassessments and determined that two reassessments were not completed from this group of interviewees however, one of these two reassessments could not be completed as the resident was placed in a County Jail prior to the due date for the reassessment. Notably, all of the completed reassessments were completed in a timely manner.

The auditor reviewed 15 BTC Initial Assessment/Re-Assessment Prison Rape Elimination Act (PREA) screening tools related to residents who arrived in 2016. The auditor also reviewed 27 BTC Initial Assessment/Re-Assessment Prison Rape Elimination Act (PREA) screening tools related to residents who arrived at BTC in 2017. While a re-assessment was facilitated in each case, some disparity was noted in terms of the timely conduct of the reassessments as required in policy. Specifically, the facilitation of some re-assessments exceeded the 30-day threshold by generally 1-4 days. The auditor has determined that the same does not detract from this provision and the implementation of the BTC PREA program and accordingly, the same will not be documented as a finding. However, BTC staff are admonished to address this issue.

It is noted that the Administrator initiated corrective action with respect to this situation prior to the conduct of the on-site audit. Specifically, he issued a memorandum advising staff of the process to ensure quality control with this process, as well as, ensuring timeliness.

The auditor reviewed eight resident files and determined that six of the eight re-assessments were completed in a timely manner. In one case, a reassessment was not completed or was not located in the file. In the other case, the reassessment was quite untimely as the Initial Assessment was completed on May 9, 2017 and the reassessment was completed on July 26, 2017. This appears to be the exception, as opposed to the rule, however.

In view of the above, the auditor finds substantial compliance with 115.241(f).

Pursuant to the PAQ, the Administrator asserts policy requires a resident's risk level be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness. This policy stipulates a resident’s risk level shall be reassessed by case managers when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident’s risk of sexual victimization or abusiveness.

BTC Policy 14.3 entitled Intake/Screening, page 4, section II(B)(4) addresses 115.241(g). This policy stipulates that a resident’s risk level shall be reassessed by case managers when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident’s risk of sexual victimization or abusiveness.

Both Staff Who Perform Screening for Risk of Victimization and Abusiveness stated resident's risk levels are reassessed as needed due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness. In the event of receipt of additional information that may bear on sexual abusiveness or victimization, the same would be immediately reported to the supervisor, PREA Manager, Chief of Security (COS), and Administrator.

Pursuant to the PAQ, the Administrator asserts the policy prohibits disciplining residents for refusing to answer (or for not disclosing complete information related to) questions regarding:

Whether or not the resident has a mental, physical, or developmental disability;

Whether or not the resident is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming;

Whether or not the resident has previously experienced sexual victimization; and

The resident's own perception of vulnerability.

BTC Policy 14.3 entitled Intake/Screening, page 4, section II(B)(6) addresses 115.241(h). This policy stipulates residents may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to this section. Residents will sign a disclaimer prior to all questions being asked.

The above is generally addressed in the BTC PREA Assessment Disclaimer which is completed by the resident and a staff member prior to implementation of the screening tool during Initial Assessment or Reassessment. This Disclaimer Form must be signed by the resident every time a reassessment is conducted.

When questioned as to whether residents are disciplined in any way for refusing to respond to (or for not disclosing complete information related to):

Whether the resident has a mental, physical, or development disability;
Whether the resident is or is perceived to be LGBTI;
Whether the resident has previously experienced sexual victimization; or
The resident's own perception of vulnerability,
both Staff Who Perform Screening for Risk of Victimization and Abusiveness responded in the negative. Both staff advised the Disclaimer tells them they will not be disciplined.

BTC Policy 14.3 entitled Intake/Screening, page 4, section II(B)(7) addresses 115.241(i). This policy stipulates BTC shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the resident’s detriment by staff or other residents. BTC enforces the breach of confidentiality through our personnel policies and BTC policies.

According to the PREA Coordinator, the agency has outlined who should have access to a resident's risk assessment within the facility in order to protect sensitive information from exploitation. According to the PREA Coordinator, access is limited to the screener, Chief of Security, Administrator, Case Managers.

According to the Staff Who Perform Screening for Risk of Victimization and Abusiveness, distribution of screening information to the RA to supervisor to COS to Administrator. The Administrator signs and then the Administrative Assistant files in the glass house. The information is stored in double locked fashion (in a safe and then the door to the glass house is secured). One of these interviewees was somewhat unsure of the information distribution in this scenario.

Standard 115.242: Use of screening information

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.242 (a)

- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Housing Assignments? x□ Yes □ No
- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Bed assignments? x□ Yes □ No
- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Work Assignments? x□ Yes □ No
- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Education Assignments? x□ Yes □ No
- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Program Assignments? x□ Yes □ No

115.242 (b)

- Does the agency make individualized determinations about how to ensure the safety of each resident? x□ Yes □ No

115.242 (c)

- When deciding whether to assign a transgender or intersex resident to a facility for male or female residents, does the agency consider on a case-by-case basis whether a placement would ensure the resident's health and safety, and whether a placement would present management or security problems (NOTE: if an agency by policy or practice assigns residents to a male or female facility on the basis of anatomy alone, that agency is not in compliance with this standard)? x□ Yes □ No

- When making housing or other program assignments for transgender or intersex residents, does the agency consider on a case-by-case basis whether a placement would ensure the resident's health and safety, and whether a placement would present management or security problems? x□ Yes □ No

115.242 (d)

- Are each transgender or intersex resident's own views with respect to his or her own safety given serious consideration when making facility and housing placement decisions and programming assignments? x□ Yes □ No

115.242 (e)

- Are transgender and intersex residents given the opportunity to shower separately from other residents? x□ Yes □ No

115.242 (f)

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex residents, does the agency always refrain from placing: lesbian, gay, and bisexual residents in dedicated facilities, units, or wings solely on the basis of such identification or status? x□ Yes □ No

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex residents, does the agency always refrain from placing: transgender residents in dedicated facilities, units, or wings solely on the basis of such identification or status? x□ Yes □ No

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex residents, does the agency always refrain from placing: intersex residents in dedicated facilities, units, or wings solely on the basis of such identification or status? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts the facility uses information from the risk screening to inform housing, bed, work, education, and program assignments with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive.

BTC Policy 14.3 entitled Intake Screening, page 5, section II(B)(9)(b) addresses 115.242(a). This policy stipulates BTC shall use information, through the use of ELITE and Docstars, from the risk screening required by § 115.241 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive.

At BTC, a system of housing is used to ensure Known Victims and Aggressors are not housed in the same room, etc. The auditor reviewed 09/01/2017 housing documents and found no deviation from practice. Additionally, during the on-site review, he randomly reviewed other documents and found no deviations from the stated practice.

According to the PREA Coordinator, housing assignments are the primary use for information gleaned during risk screening. Specifically, Known Aggressors are not housed with Known Victims.

The auditor noted that in view of the nature of the facility, the contract with NDDOC&R, supervision during group processes, etc., and facility operations, the CCCS PREA Coordinator's statement as reflected in the preceding paragraph is logical.

The two Staff who Perform Risk Screening for Victimization and Abusiveness related housing assignments are primarily based on information gleaned from the risk assessment conducted during Intake. Specifically, Aggressors are assigned to rooms near the Resident Assistant Office. Non-Aggressors are assigned down the hall. Aggressors and victims are never assigned to the same room. Additionally, Known Aggressors are housed in the back building near the RA Office.

Pursuant to the PAQ, the Administrator asserts the facility makes individualized determinations about how to ensure the safety of each resident.

BTC Policy 14.3 entitled Intake/Screening, page 5, section II(B)(9)(c) addresses 115.242(b). This policy stipulates the Program Administrator, Chief of Security, and Case Manager shall make individualized determinations about how to ensure the safety of each resident.

Pursuant to the PAQ, the facility makes housing and program assignments for transgender or intersex residents in the facility on a case-by-case basis.

BTC Policy 14.3 entitled Intake/Screening, page 5, section II(B)(9)(d) addresses 115.242(c). This policy stipulates in deciding whether to assign a transgender or intersex resident to a housing unit for male or female residents, including possible transfer to another facility if most appropriate, and in making other housing and programming assignments, BTC shall consider on a case-by-case basis whether a placement would ensure the resident's health and safety, and whether the placement would present management or security problems.

According to the BTC PREA Manager, transgender/intersex residents have not been housed at BTC. Some of the considerations for housing transgender/intersex resident at BTC would be a determination of the comfort level of the transgender/intersex resident, evaluation of potential risk factors, evaluation of facility security, as well as, resident security. The transgender/intersex resident's own views of his/her own safety would be a consideration.

Given the above, the auditor was unable to complete a transgender/intersex resident interview.

BTC Policy 14.3 entitled Intake/Screening, page 5, section II(B)(9)(f) addresses 115.242(d). This policy stipulates a transgender or intersex resident's own views with respect to his or her own safety shall be given serious consideration.

As mentioned in the narrative for 115.242(c), the BTC PREA Manager stated a transgender/intersex resident's own views with respect to his/her safety are given serious consideration. According to the Staff Who Perform Screening for Risk of Victimization and Abusiveness interviewees, a transgender/ intersex resident's own views of his or her own safety are given serious consideration in placement and programming assignments. The safety perception is addressed in the Screening Tool.

BTC Policy 14.2 entitled LGBTI Gender Identity and Gender Expression, Housing, Programs, and Searches, page 4, section IV(B)(4) addresses 115.242(e). This policy stipulates transgender and intersex residents shall be given the opportunity to shower separately from other residents. Such individuals will utilize the shower in the administrative building for privacy.

According to the BTC PREA Manager, transgender/intersex resident(s) would be given the opportunity to shower separately from other residents. Specifically, they would be given the opportunity to shower in a bathroom in the administrative building. The two Staff Who Perform Screening for Risk of Victimization and Abusiveness confirmed the BTC PREA Manager's statement.

BTC Policy 14.3 entitled Intake/Screening, page 6, section II(B)(9)(j) addresses 115.242(e). This policy stipulates BTC shall not place lesbian, gay, bisexual, transgender, or intersex residents in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such residents.

According to the BTC PREA Manager, the facility is not subject to a consent decree, legal judgment requiring that it establish a dedicated facility, unit, or wing for LGBTI residents. There are no dedicated wings.

The one LGBTI resident interviewee advised he/she had not been placed in a housing area only for LGBTI residents.

REPORTING

Standard 115.251: Resident reporting

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.251 (a)

- Does the agency provide multiple internal ways for residents to privately report: Sexual abuse and sexual harassment? x□ Yes □ No
- Does the agency provide multiple internal ways for residents to privately report: Retaliation by other residents or staff for reporting sexual abuse and sexual harassment? x□ Yes □ No
- Does the agency provide multiple internal ways for residents to privately report: Staff neglect or violation of responsibilities that may have contributed to such incidents? x□ Yes □ No

115.251 (b)

- Does the agency also provide at least one way for residents to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency? x□ Yes □ No
- Is that private entity or office able to receive and immediately forward resident reports of sexual abuse and sexual harassment to agency officials? x□ Yes □ No
- Does that private entity or office allow the resident to remain anonymous upon request? x□ Yes □ No

115.251 (c)

- Do staff members accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties? x□ Yes □ No
- Do staff members promptly document any verbal reports of sexual abuse and sexual harassment? x□ Yes □ No

115.251 (d)

- Does the agency provide a method for staff to privately report sexual abuse and sexual harassment of residents? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts the agency has established procedures allowing for multiple internal ways for residents to report privately to agency officials about:

Sexual abuse or sexual harassment;
Retaliation by other residents or staff for reporting sexual abuse and sexual harassment; and
Staff neglect or violation of responsibilities that may have contributed to such incidents.

BTC Policy 14.4 entitled Reporting Sexual Abuse and Sexual Harassment, pages 1 and 2, section II(a)(i-v) addresses 115.251(a). This policy stipulates that staff, residents volunteers, and contractors can make private reports orally, in writing, by phone, or through a third party, and will be considered confidential. This information is available in the Resident PREA Handbook as well.

Staff shall inform Residents on the multiple internal ways (another staff, email, write a letter, call one of the numbers listed) to privately report sexual abuse and sexual harassment, retaliation by other Residents or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents, through Resident intake, and orientation. Also point to Resident PREA handbook as well.

Staff and Residents may report abuse, harassment, retaliation, or neglect, to any staff, director, volunteer, parole officer, attorney, RAINN (Rape, Abuse & Incest National Network, or AARC (Abused Adult Resource Center).

Information about how to report sexual abuse and sexual harassment for a Resident, staff, and outside agencies will be posted in the facility.

Contact information for AARC and RAINN will be posted next to phones. Reports to these agencies allow the Resident to remain anonymous upon request.

Pages 4, 5, and 6 of the BTC PREA Handbook also address 115.251(a). Relevant provisions in the Handbook are as follows:

How to Report an Incident of Sexual Assault

It is important that you tell a staff member if you have been sexually assaulted. You can tell your case manager, counselor, security staff, the administrator or any other staff member you trust. BTC staff members are instructed to keep the reported information confidential and only discuss it with the appropriate officials on a need to know basis.

You may also report abuse or harassment to a public or private entity or office that is not part of the agency who will be able to receive and immediately forward resident reports of sexual abuse and sexual harassment to BTC officials, allowing you to remain anonymous upon request. You may call the

Bismarck Police Department at 223-1212, as well as the Abused Adult Resource Center at 1-866-341-7009. Your communication with those facilities will be in a completely confidential manner.

Third Party Reporting

The following people may assist you in filing requests for administrative remedies relating to allegations of sexual abuse, and to file on behalf of yourself: fellow resident, staff member, attorneys, family members, and outside advocates.

Other Ways to Report
Write directly to the Program Chief of Security, Program Administrator, PREA Coordinator or North Dakota Department of Corrections and Rehabilitation. You can send the Chief of Security or Program Administrator a Request to Speak to Staff form or a letter reporting the sexual misconduct.

If a third party files a request on behalf of yourself, BTC may require as a condition of processing the request that the alleged victim agree to have the request filed on her or his behalf, and may also require the alleged victim to personally pursue any subsequent steps in the Administrative remedy process. Should the alleged victim decline to have the request filed on his or her behalf, the BTC will document the residents' decision.

Emergency Grievance

BTC has established procedures for the filing an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse. (2) After receiving an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse, BTC will immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken, and will provide an initial response within 48 hours, and will issue a final agency decision within 5 calendar days. The initial response and final agency decision will document BTC's determination whether the resident is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

All fourteen random staff interviewees identified at least three methods which resident(s) can use to report sexual abuse and sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, or staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment. Reporting methods mentioned were as follows; report to any staff member, write a letter, submit an Emergency Grievance, contact the Hotline as identified in the PREA Handbook and on wall posters, submit a kite to staff, contact the Administrator and Executive Staff by the resident's cell phone while out in the community, contact the Bismarck Police Department, and contact Advocacy groups.

All 20 random resident interviewees were able to identify at least one method of reporting the afore-mentioned sexual abuse and sexual harassment allegations. Methods of reporting included verbal

reports to staff, reporting to family or community resource(s), submission of a kite to staff, submission of an Emergency Grievance, contact the Hotline, and contact the Bismarck Police Department.

Pursuant to the PAQ, the Administrator asserts the agency provides at least one way for residents to report abuse or harassment to a public or private entity or office that is not part of the agency.

Relevant policy and PREA Handbook citations (inclusive of specific instructions in this regard) are reflected in the narrative for 115.251(a), above.

According to the BTC PREA Manager, residents can contact the Hotline and call NDDOC&R to report abuse or harassment to a public or private entity or office that is not part of the agency. These procedures enable receipt and immediate transmission of resident reports of sexual abuse and sexual harassment to agency officials that allow the resident to remain anonymous upon request.

The majority of the 20 random resident interviewees minimally stated they could report an incident of sexual abuse or sexual harassment that happened to them or someone else via the Hotline or Emergency Grievance. They also advised they could ask family to make such reports, ensuring their anonymity. All advised they thought a report could be made without providing their name.

Pursuant to the PAQ, the Administrator asserts the agency has a policy mandating that staff accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties. The Administrator further asserts staff are required to document verbal reports immediately.

CCCS Policy 1.3.5.12 entitled Prison Rape Elimination Act, page 14, section 115.251(c) addresses 115.251(c). This policy stipulates staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports.

All 14 random staff interviewees advised residents can make reports verbally and they would immediately document such verbal reports subsequent to receipt of the same.

Nineteen of the twenty random residents advised they can make verbal reports of sexual abuse or sexual harassment either in person or in writing. Additionally, they asserted someone else may make the report for them so they do not have to be named. Several interviewees expounded stating family members and friends can make the report as a Third Party.

Pursuant to the PAQ, the Administrator asserts the agency has established procedures for staff to privately report sexual abuse and sexual harassment of residents. The Administrator further asserts staff can verbally,written, electronically, or via mail submit a report. Third party reporting forms are a means, as well.

All 14 random staff interviewees were aware of multiple methods for reporting sexual abuse and sexual harassment of residents. Some of the methods cited were as follows; verbal report to supervisor/

Administrator/COS, telephone call to same individuals during regular work hours, telephone call to cell phones during non-regular business hours (cell phone numbers are listed in the RA Office), send e-mail to the afore-mentioned staff, send written memorandum to the afore-mentioned staff, drop a note in the Emergency Grievance box, contact AARC, and contact Bismarck Police Department. The auditor did observe a document maintained in the RA Office wherein company cell phone numbers were listed.

Standard 115.252: Exhaustion of administrative remedies

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.252 (a)

- Is the agency exempt from this standard? NOTE: The agency is exempt ONLY if it does not have administrative procedures to address resident grievances regarding sexual abuse. This does not mean the agency is exempt simply because a resident does not have to or is not ordinarily expected to submit a grievance to report sexual abuse. This means that as a matter of explicit policy, the agency does not have an administrative remedies process to address sexual abuse. □ Yes x□ No □ NA

115.252 (b)

- Does the agency permit residents to submit a grievance regarding an allegation of sexual abuse without any type of time limits? (The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.) (N/A if agency is exempt from this standard.) x□ Yes □ No □ NA

- Does the agency always refrain from requiring a resident to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse? (N/A if agency is exempt from this standard.) x□ Yes □ No □ NA

115.252 (c)

- Does the agency ensure that: A resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) x□ Yes □ No □ NA

- Does the agency ensure that: Such grievance is not referred to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) x□ Yes □ No □ NA

115.252 (d)

- Does the agency issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance? (Computation of the 90-day time period does not include time consumed by residents in preparing any administrative appeal.) (N/A if agency is exempt from this standard.) x□ Yes □ No □ NA

- If the agency determines that the 90-day timeframe is insufficient to make an appropriate decision and claims an extension of time [the maximum allowable extension of time to respond is 70 days per 115.252(d)(3)] , does the agency notify the resident in writing of any such

extension and provide a date by which a decision will be made? (N/A if agency is exempt from this standard.) x□ Yes □ No □ NA

- At any level of the administrative process, including the final level, if the resident does not receive a response within the time allotted for reply, including any properly noticed extension, may a resident consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.) x□ Yes □ No □ NA

115.252 (e)

- Are third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, permitted to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse? (N/A if agency is exempt from this standard.) x□ Yes □ No □ NA

- Are those third parties also permitted to file such requests on behalf of residents? (If a third-party files such a request on behalf of a resident, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.) (N/A if agency is exempt from this standard.) x□ Yes □ No □ NA

- If the resident declines to have the request processed on his or her behalf, does the agency document the resident's decision? (N/A if agency is exempt from this standard.) x□ Yes □ No □ NA

115.252 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) x□ Yes □ No □ NA

- After receiving an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse, does the agency immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken? (N/A if agency is exempt from this standard.). x□ Yes □ No □ NA

- After receiving an emergency grievance described above, does the agency provide an initial response within 48 hours? (N/A if agency is exempt from this standard.) x□ Yes □ No □ NA

- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.) x□ Yes □ No □ NA

- Does the initial response and final agency decision document the agency's determination whether the resident is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) x□ Yes □ No □ NA

- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) x□ Yes □ No □ NA

- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) x□ Yes □ No □ NA

115.252 (g)

- If the agency disciplines a resident for filing a grievance related to alleged sexual abuse, does it do so ONLY where the agency demonstrates that the resident filed the grievance in bad faith? (N/A if agency is exempt from this standard.) x□ Yes □ No □ NA

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts the agency has an administrative procedure for dealing with resident grievances regarding sexual abuse.

BTC Policy 14.4 entitled Reporting Sexual Abuse and Sexual Harassment, pages 3-5, section entitled II(a)(xiii)(1-6) addresses 115.252(a).

Pursuant to the PAQ, the Administrator asserts agency policy or procedure allows a resident to submit a grievance regarding an allegation of sexual abuse at any time regardless of when the incident is alleged to have occurred. The Administrator further asserts agency policy does not require a resident to use an informal grievance process, or otherwise to attempt to resolve with staff, an alleged incident of sexual abuse.

BTC Policy 14.4 entitled Reporting Sexual Abuse and Sexual Harassment, page 3, section II(a)(iii)(1-4) addresses 115.252(b). This policy stipulates BTC shall not impose a time limit on when a resident may submit a grievance regarding an allegation of sexual abuse. Any report given shall be dealt with immediately by the Program Administrator and the Security Chief.

BTC may apply otherwise-applicable time limits on any portion of a grievance that does not allege an incident of sexual abuse, this coincides with the BTC Resident Grievance process.

BTC shall not require a resident to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse. Residents are advised upon entry to use the emergency grievance form located on the floor or contacting staff immediately to any alleged incident of sexual abuse/assault or sexual harassment.

Nothing in this section shall restrict BTC's ability to defend against a lawsuit filed by a resident on the ground that the applicable statute of limitations has expired.

The auditor reviewed the BTC PREA Handbook and determined this information is clearly articulated on page 5 of the same.

Pursuant to the PAQ, the Administrator asserts agency policy and procedure allow a resident to submit a grievance alleging sexual abuse without submitting it to the staff member who is the subject of the complaint. The Administrator further asserts agency policy and procedure require that a resident grievance alleging sexual abuse not be referred to the staff member who is the subject of the complaint.

BTC Policy 14.4 entitled Reporting Sexual Abuse and Sexual Harassment, page 4, section II(a)(xiii)(5)(e) addresses 115.252(c). This policy stipulates BTC shall ensure (1) A resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint. Grievance forms are located on all floors of BTC, and there is a locked grievance box as well for all Residents and (2) Such grievance is not referred to a staff member who is the subject of the complaint. Grievances are reviewed by the Program Administrator.

Page 5 of the BTC PREA Handbook, section entitled Grievance Procedure (b) and (b)(2), also addresses this provision.

Pursuant to the PAQ, the Administrator asserts agency policy and procedure requires that a decision on the merits of any grievance or portion of a grievance alleging sexual abuse be made within 90 days of the filing of a grievance. In the past 12 months, the Administrator self reports there were 8 grievances alleging sexual abuse. However, pursuant to e-mail follow-up with the Administrator, it has been learned there is an error in PAQ grievance reporting as no such grievances were filed during the past 12 months. The Administrator asserts the agency always notifies the resident, in writing, when the agency files for an extension, including notice of the date by which a decision will be made.

BTC Policy 14.4 entitled Reporting Sexual Abuse and Sexual Harassment, page 4, section II(a)(xiii)(6)(a-d) addresses 115.252(d). This policy stipulates BTC shall issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance.

Computation of the 90-day time period shall not include time consumed by Residents in preparing any administrative appeal.

BTC may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. BTC shall notify the Resident, in writing, of any such extension and provide a date by which a decision will be made.

At any level of the administrative process, including the final level, if the Resident does not receive a response within the time allotted for reply, including any properly noticed extension, the Resident may consider the absence of a response to be a denial at that level.

Pursuant to the PAQ, the Administrator asserts agency policy and procedure permits third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, to assist residents in filing requests for administrative remedy relative to allegations of sexual abuse and to file such requests on behalf of residents. The Administrator further asserts agency policy and procedure requires that if the resident declines to have third-party assistance in filing a grievance alleging sexual abuse, the agency documents the resident's decision to decline. According to the PAQ, 0 grievances alleging sexual abuse were filed within the past 12 months in which the resident declined third-party assistance.

BTC Policy 14.4 entitled Reporting Sexual Abuse and Sexual Harassment, page 7, section II(d)(ii) addresses 115.252(e). This policy stipulates third parties, including fellow residents, resident's family members, staff members, residents, attorneys, and outside advocates, shall be permitted to assist residents in filing requests for administrative remedies, such as filing grievances relating to allegations of sexual abuse and sexual harassment, and will also be permitted to file such requests on behalf of residents.

In addition to the above policy, page 5, section (d)(1) under Grievance Procedure of the PREA Handbook, reflects the same information. The two documents are commensurate with each other and residents have access to the PREA Handbook.

If a third party files a grievance on behalf of the Resident, the facility may require, as a condition of processing the request, that the alleged victim agrees to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the Administrative remedy process. Should the alleged victim decline to have the request filed on his or her behalf, the center shall document the resident’s decision.

Pursuant to the PAQ, the Administrator asserts the agency has a policy and established procedures for filing an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse. The Administrator further asserts agency policy and procedure for emergency grievances alleging substantial risk of imminent sexual abuse requires an initial response within 48 hours. During the past 12 months, 0 emergency grievances alleging substantial risk of imminent sexual abuse, were filed. The Administrator asserts agency policy and procedure for emergency grievances alleging substantial risk of imminent sexual abuse requires that a final agency decision be issued within five days.

BTC Policy 14.4 entitled Reporting Sexual Abuse and Sexual Harassment, pages 3 and 4, section II(a)(xiii)(5)(a and b) addresses 115.252(f). This policy stipulates BTC has an emergency grievance procedure in place for alleging a resident is in imminent risk of sexual abuse/assault or sexual

harassment. All emergency grievances are dealt with immediately and an initial response will be provided within 48 hours upon receipt. Upon receiving an emergency grievance, the Chief of Security along with Program Administrator, shall review and make a final decision within 5 calendar days.

The initial response and final decision shall document BTC's determination whether the resident is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance. This decision shall be documented by the Administrator.

Pursuant to the PAQ, the Administrator asserts the agency has a written policy that limits its ability to discipline a resident for filing a grievance alleging sexual abuse to occasions where the agency demonstrates that the resident filed the grievance in bad faith. The Administrator, via memorandums dated 2014, 2015, and 2016, asserts that 0 resident grievances alleging sexual abuse resulted in disciplinary action by the agency against the resident for having filed the grievance in bad faith.

BTC Policy 14.4 entitled Reporting Sexual Assault and Sexual Harassment, page 4, section II(a)(xiii)(5)(c) addresses 115.252(g). This policy stipulates BTC may discipline a resident for filing a grievance related to alleged sexual abuse only where BTC demonstrates that the resident filed the grievance in bad faith.

Standard 115.253: Resident access to outside confidential support services

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.253 (a)

- Does the facility provide residents with access to outside victim advocates for emotional support services related to sexual abuse by giving residents mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations? x□ Yes □ No

- Does the facility enable reasonable communication between residents and these organizations and agencies, in as confidential a manner as possible? x□ Yes □ No

115.253 (b)

- Does the facility inform residents, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws? x□ Yes □ No

115.253 (c)

- Does the agency maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide residents with confidential emotional support services related to sexual abuse? x□ Yes □ No

- Does the agency maintain copies of agreements or documentation showing attempts to enter into such agreements? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts the facility provides residents with access to outside victim advocates for emotional support services related to sexual abuse by giving residents mailing addresses and telephone numbers (including toll-free hotline numbers where available) for local, state, or national victim advocacy or rape crisis organizations. The Administrator further asserts the facility provides residents with access to outside victim advocates for emotional support services related to sexual abuse by enabling reasonable communication between residents and these organizations in as confidential a manner as possible.

BTC Policy 14.5 entitled Medical and Mental Health, page 2, section II(B)(1) addresses 115.253(a). This policy stipulates BTC provides residents with access to outside victim advocates through RAINN and other outside agencies like the Abused Adult Resource Center for emotional support services related to sexual abuse by giving Residents mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and by enabling reasonable communication between residents and these organizations, in as confidential a manner as possible. These numbers are posted near the phones and throughout the facility as well as located in the PREA brochure. Brochures are located throughout the facility.

Pursuant to the auditor's review of the Resident PREA Handbook, page 4, section entitled Resident Access to Outside Confidential Support Services addresses 115.253(a). The auditor has determined ample information is available to residents to address this provision.

All 20 random resident interviewees advised they are aware services are available outside of the facility for dealing with sexual abuse, if needed. While some were not aware of the kind of services, they did articulate that the information could be gleaned from PREA posters, the PREA Handbook, documents posted on the walls, and pursuant to contact with Case Managers.

Additionally, interviewees were aware that addresses and telephone numbers for the services were available in the PREA Handbook, noted on posters, and available pursuant to contact with their Case Manager. Interviewees also stated the numbers are toll-free. Finally, they asserted they could contact staff from these services anytime.

It is noted there were no residents who reported a sexual abuse confined at BTC during the time of the on-site audit. Accordingly, that interview could not be conducted.

Pursuant to the PAQ, the Administrator asserts the facility informs residents, prior to giving them access to outside support services, of the extent to which communications will be monitored. The Administrator further asserts the facility informs residents, prior to giving them access to outside support services, of the mandatory reporting rules governing privacy, confidentiality, and/or privilege that apply to disclosures of sexual abuse made to outside victim advocates, including any limits to confidentiality under relevant federal, state, or local law.

BTC Policy 14.5 entitled Medical and Mental Health, page 2, section II(B)(2) addresses 115.253(b). This policy stipulates BTC shall inform Residents, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws regarding PREA incidents.

Page 7 of the BTC PREA Handbook, section entitled Counseling Programs for Victims of Sexual Assault also addresses 115.253(b). This provision stipulates if you have been the victim of an assault by staff or residents, you may seek counseling and/or advice from a psychologist, mental health professional, or chaplain. Crisis counseling, coping skills, suicide prevention and mental health counseling are all available to you within the Bismarck community. Most people need help to recover from the emotional effects of sexual assault. If you are the victim of a sexual assault, whether recent or in the past, mental health services are available to you within the Bismarck community. Please keep in mind Medical and Mental Health Practitioners are mandated to report sexual abuse that occurs in the facility. If you feel that you need help to keep from sexually assaulting someone else, psychological services are available to help you gain control over these impulses.

While 14 of the 20 random resident interviewees believed what was said to staff from outside support services in response to a sexual abuse incident would remain private, they also stated information may be shared based on mandatory reporting, for law enforcement use, medical concerns, or safety concerns. It is noted that some of the random resident interviewees advised they did not read the PREA Handbook, when asked previous questions. The information is available for reader consumption, as captured in previous paragraphs.

The CCCS PREA Coordinator advised that a PREA Handbook has now been issued to all BTC residents. Since the issuance of the PREA Handbook has not been accomplished during the entire three year audit period (see narrative for 115.233), residents have not received the requisite information

regarding confidential access to support services and mandatory reporting. Accordingly, the auditor finds BTC to be non-compliant with 115.253(b) throughout the entire three year audit period.

In view of the above, BTC is deemed to be non-compliant with 115.253(b) and will be subject to a period of corrective action to be completed on or before March 30, 2018. Facility staff will forward copies of PREA Handbook receipts, as well as, admission rosters to the auditor so he can validate institutionalization regarding provision of information to residents relating to contact with support service providers following an incident of sexual abuse. Once satisfied with institutionalization, the auditor will close the finding.

March 4, 2018 Update:

The auditor has received and reviewed 12 PREA Handbook Receipts covering the months of October through December, 2017. As previously indicated, the auditor found the BTC PREA Handbook to be sufficiently informative regarding 115.253(b) however, there was a question regarding institutionalization throughout the entire three-year audit period. This assessment was based on the results of interviews.

Based on the rosters received and date checks on PREA Handbook receipts, the auditor is satisfied 115.253(b) is institutionalized at BTC. The PREA Handbook was provided in a timely manner and the information contained therein is substantially compliant with the provision. The auditor finds BTC is substantially compliant with 115.253(b).

Pursuant to the PAQ, the Administrator asserts the facility does not maintain memoranda of understanding (MOUs) with community service providers that are able to provide residents with emotional support services related to sexual abuse. The Administrator further asserts the facility has attempted to enter into MOUs or other agreements with community service providers that are able to provide such services.

As previously indicated in the 115.221(d) narrative, the auditor reviewed a finalized and signed MOU with the Abused Adult Resource Center (AARC) dated August 31, 2017. The same is signed by both the BTC Administrator and AARC Executive Director. It is noted that the MOU, covering the provision of VA services and crisis intervention services at and for BTC, is in force and effect.

Standard 115.254: Third-party reporting

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.254 (a)

- Has the agency established a method to receive third-party reports of sexual abuse and sexual harassment? x□ Yes □ No

- Has the agency distributed publicly information on how to report sexual abuse and sexual harassment on behalf of a resident? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts the facility provides a method to receive third-party reports of resident sexual abuse or sexual harassment. According to the Administrator, a third party reporting form is located on all floors and the www.cccscorp.com website. All reports go directly to the PREA Coordinator who, in turn, distributes the same to each facility. All phone calls will be taken by the Administrator or PREA Manager at the facility. If the PREA Coordinator is contacted, he will immediately contact the Administrator. Emails are another source of receiving third party reports and they will be brought to the Administrator immediately. The Administrator further asserts the facility publicly distributes information on how to report resident sexual abuse or sexual harassment on behalf of residents.

BTC Policy 14.4 entitled Reporting Sexual Abuse and Sexual Harassment, pages 7 and 8, section II(d)(i) addresses 115.254(a). This policy stipulates CCCS, Inc. has posted a method for third-party reporting and the reporting forms on the corporate website at www.cccscorp.com.

Third party reports may be sent via mail, or email to the BTC PREA Manager or CCCS PREA Coordinator. Third Party reporters may call or report to the PREA Coordinator or PREA Manager personally. Third Party reporting forms are available on each facility floor; however, they can be accessed by asking any staff member, case manager, resident, volunteer, contractor, the Administrator or Chief of Security.

The Auditor reviewed the BTC Third Party Reporting Form. The same does provide specific directions for making a report in terms of the information to be reported. There is also a provision on the form wherein the third party reporter can enter their telephone number. The CCCS PREA Coordinator's address, e-mail address, and telephonic contact number are also reflected on the form.

The auditor has verified that the Third Party Reporting Form is available to members of the general public via the afore-mentioned website. Additionally, residents are at liberty to mail such forms to potential third-party reporters. Finally, Third-Party Report Forms are available at facility entrances for visitors, etc.

OFFICIAL RESPONSE FOLLOWING A RESIDENT REPORT

Standard 115.261: Staff and agency reporting duties

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.261 (a)

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency? x□ Yes □ No

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding retaliation against residents or staff who reported an incident of sexual abuse or sexual harassment? x□ Yes □ No

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment or retaliation? x□ Yes □ No

115.261 (b)

- Apart from reporting to designated supervisors or officials, do staff always refrain from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions? x□ Yes □ No

115.261 (c)

- Unless otherwise precluded by Federal, State, or local law, are medical and mental health practitioners required to report sexual abuse pursuant to paragraph (a) of this section? □ Yes □ No xNA

    - Are medical and mental health practitioners required to inform residents of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services? □ Yes □ No xNA

115.261 (d)

- If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, does the agency report the allegation to the designated State or local services agency under applicable mandatory reporting laws? x□ Yes □ No

115.261 (e)

- Does the facility report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts the agency requires all staff to report immediately and according to agency policy:

Any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency;

Any retaliation against residents or staff who reported such an incident;

Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

BTC Policy 14.4 entitled Reporting Sexual Abuse and Sexual Harassment, page 6, section II(c)(i) addresses 115.261(a). This policy stipulates staff, volunteers, and contractors will immediately report to the Program Administrator or Security Chief any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in BTC, and any other facility, whether or not the facility is part of CCCS, Inc.; retaliation against Residents or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

All 14 random staff interviewees stated the agency does require all staff to report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility; retaliation against residents or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Twelve of the fourteen random staff interviewees related that immediate reporting, minimally, to their supervisor was required pursuant to policy. The other two interviewees advised reporting must be completed ASAP.

Pursuant to the PAQ, the Administrator asserts that apart from reporting to designated supervisors or officials and designated state or local service agencies, agency policy prohibits staff from revealing any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.

BTC Policy 14.4 entitled Reporting Sexual Abuse and Sexual Harassment, page 6, section II(c)(ii and iii) also addresses 115.261(b). This policy stipulates the reporting staff member, volunteer, or contractor will complete an incident report form before leaving shift. This report must include:

The date and time of the incident;
Name of the Resident(s) involved;
Nature and extent of the abuse;
Person or persons involved in the abuse;
As much objective detail as possible describing the incident.

Staff will take pictures of visible signs of injury except in cases where the injury is to the genitals or breasts. Other evidence shall be preserved and protected. Apart from reporting to the Program Administrator, Security Chief, Shift Supervisor or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in BTC policy, to make treatment, investigation, and other security and management decisions.

The auditor has determined this provision [115.261(c)]is not applicable. Specifically, medical and mental health staff are not employed by CCCS or BTC at BTC. Health and Mental Health practitioners are educated regarding Mandatory Reporting and informing residents of their duty to report as the result of their education process. Per contract with NDDOC&R, female residents are treated by both NDDOC&R health professionals and thereby fall under their guidelines and requirements and male residents would be treated by community clinicians or community hospital clinicians.

While BTC Policy 14.4 entitled Reporting Sexual Assault and Sexual Harassment, pages 6 and 7, section II(c)(v) addresses 115.261(c), the narrative reflected in the preceding paragraph is applicable to BTC. This policy specifies unless otherwise precluded by Federal, State, or local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to paragraph (1) of this section, regarding 115.261, and to inform residents of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.

It is noted there are no CCCS or BTC medical or mental health staff on board at BTC.

BTC Policy 14.4 entitled Reporting Sexual Abuse and Sexual Harassment, page 6, section II(c)(iv) addresses 115.261(d). This policy stipulates if the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable person's statute, BTC shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws.

According to the Administrator, residents under the age of 18 are not accepted at BTC. In terms of vulnerable adults, CCCS policy allows the Administrator to make a determination regarding acceptance of residents. If the potential resident cannot work, comprehend groups/regulations/perform basic functions, acceptance could be declined. A vulnerable adult population is non-existent or minimal, at

best, at BTC. If reporting requirements were invoked, BTC staff would report and coordinate future action with NDDOC&R and coordinate.

It is noted that the contract between BTC and the NDDOC&R also allows for acceptance or denial of residents.

BTC Policy 14.4 entitled Reporting Sexual Assault and Sexual Harassment, page 2, section II(a)(vi) addresses 115.261(e). This policy stipulates all reports of sexual abuse or sexual harassment will be forwarded to the Facility Investigator and the Program Administrator for further investigation. The internal investigation will not replace the investigation conducted by the Bismarck Police Department.

According to the Administrator, all allegations of sexual abuse and sexual harassment (including those from third-party and anonymous sources) are reported directly to facility investigators.

As noted in the narrative for 115.271, the auditor has reviewed numerous investigations spanning each year of the audit period and has determined substantial timeliness in referral to the facility PREA Investigator.

Standard 115.262: Agency protection duties

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.262 (a)

- When the agency learns that a resident is subject to a substantial risk of imminent sexual abuse, does it take immediate action to protect the resident? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts when the facility learns that a resident is subject to a substantial risk of imminent sexual abuse, it takes immediate action to protect the resident (i.e. it takes some action to assess and implement appropriate protective measures without unreasonable delay. The Administrator asserts that in the past 12 months, there was 0 times when the facility determined a resident was subject to substantial risk of imminent sexual abuse. The Administrator further asserts immediate action would be taken to address imminent sexual abuse.

BTC Policy 14.4 entitled Reporting Sexual Abuse and Sexual Harassment, page 2, section II(a)(vii) addresses 115.262(a). This policy stipulates in the event sexually abusive or assaultive behaviors are alleged, threatened, or have occurred, staff will take immediate action to intervene and ensure the safety of all persons involved. Staff will immediately document all reports and notify their Shift Supervisor, who will then consult the Program Administrator for guidance.

Slide 40 of the First Responder Training set specifies procedures to be employed in the event of substantial risk of imminent sexual abuse. This slide stipulates:

Staff would immediately note in the log of potential risk so all staff are aware and able to monitor;

Contact Chief of Security;

Contact Program Administrator;

Contact resident's Case Manager; and

Should move the resident to a room near staff for extra monitoring.

According to the Agency Head designee, when staff learn a resident is subject to a substantial risk of imminent sexual abuse, the offender may be removed from the facility. The Administrator would also be contacted with a recommendation that the offender be moved to another cell or unit.

When it is learned a resident is subject to a substantial risk of imminent sexual abuse, the Administrator advises staff would talk to the potential victim and suspect(s). Additionally, the potential victim would be moved to a room closer to staff with an increase in crisis welfare checks. Additionally, dependent upon the circumstances, players may be moved to another facility.

All 14 random staff interviewees advised action would be implemented immediately. Responses included removing the potential victim from the situation by placing them in another area with staff supervision. Proper reporting and documentation would likewise be completed. Additionally, dependent upon the information known at the time, the potential perpetrator might be moved and placed under constant surveillance.

Standard 115.263: Reporting to other confinement facilities

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.263 (a)

- Upon receiving an allegation that a resident was sexually abused while confined at another facility, does the head of the facility that received the allegation notify the head of the facility or appropriate office of the agency where the alleged abuse occurred? x□ Yes □ No

115.263 (b)

- Is such notification provided as soon as possible, but no later than 72 hours after receiving the allegation? x□ Yes □ No

115.263 (c)

- Does the agency document that it has provided such notification? x□ Yes □ No

115.263 (d)

- Does the facility head or agency office that receives such notification ensure that the allegation is investigated in accordance with these standards? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts the agency has a policy requiring that, upon receiving an allegation a resident was sexually abused while confined at another facility, the head of the facility must notify the head of the facility or appropriate office of the agency or facility where sexual abuse is alleged to have occurred. In the past 12 months, facility staff have received one allegation that a resident was abused , but not in a confinement facility. Reportedly, the Administrator contacted the Probation Office to report the allegation.

BTC Policy 14.4 entitled Reporting Sexual Abuse and Sexual Harassment, page 7, section II(c)(x) addresses 115.263(a). This policy stipulates if staff receives information that a Resident was sexually abused or sexually harassed while confined in another facility, they will immediately report it to the Program Administrator. The Program Administrator will then notify the head of the facility where the alleged abuse occurred within twenty-four (24) hours; although this standard allows for notification to occur within seventy-two (72) hours. Documentation of notification will be maintained in the Program Administrator's office. Once notification is made, it is up to the facility head or agency office which received notification to ensure the allegation is fully investigated according to state law and PREA standards.

The auditor did not find any instances wherein an alleged abuse occurred while a resident was confined at another facility. However, the auditor reviewed an e-mail dated October 12, 2015, referring a resident complaint against a Probation Officer, and accompanying investigative materials, to a supervisor at the appropriate agency. While the alleged incident was reported on August 8, 2015, the investigator concluded his inquiry on August 9, 2015.

As noted above, this alleged incident did not occur within a confinement setting.

Pursuant to the PAQ, the Administrator asserts agency policy requires the facility head provide such notification as soon as possible, but no later than 72 hours after receiving the allegation. As reflected above, BTC policy requires reporting by the BTC Administrator to the head of the facility at which the sexual abuse allegedly occurred, within 24 hours.

Pursuant to the PAQ, the Administrator asserts the facility documents it has provided such notification within 72 hours of receiving the allegation.

Pursuant to the PAQ, the Administrator asserts the facility policy requires allegations received from other facilities/agencies are investigated in accordance with the PREA standards. The Administrator further asserts in the past 12 months, 0 allegations of sexual abuse, that allegedly occurred at BTC, have been received from other facilities/agencies.

This provision is addressed in the above policy citation.

According to the Agency Head interviewee, the Administrator or designee at the receiving facility is the designated point of contact to receive such allegations. When such allegations are received, the incident is to be investigated immediately. If evidence is found, a message is relayed to the facility head who sent the message, advising of the outcome.
.
When questioned as to whether there were any examples of such allegations being reported from another facility, the CCCS PREA Coordinator advised of one at another facility, totally unrelated to BTC. The reporting individual claimed unknown offenders on an unknown date sexually abused him. There were no facts from which to investigate. The interviewee was not aware of any such reports referencing any BTC residents.

According to the Administrator, a telephone call is made to the Contract Office with NDDOC&R. An investigation is subsequently initiated. The Administrator would send a copy of the investigation to the reporting Administrator or Warden, etc. Follow-up with the resident regarding findings of the investigation (Substantiated, Unsubstantiated, or Unfounded) would subsequently occur.

The Administrator also advised there are no examples of another facility or agency reporting such allegations.

Standard 115.264: Staff first responder duties

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.264 (a)

- Upon learning of an allegation that a resident was sexually abused, is the first security staff member to respond to the report required to: Separate the alleged victim and abuser? x□ Yes □ No

- Upon learning of an allegation that a resident was sexually abused, is the first security staff member to respond to the report required to: Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence? x□ Yes □ No

- Upon learning of an allegation that a resident was sexually abused, is the first security staff member to respond to the report required to: Request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence? x□ Yes □ No

- Upon learning of an allegation that a resident was sexually abused, is the first security staff member to respond to the report required to: Ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence? x□ Yes □ No

115.264 (b)

- If the first staff responder is not a security staff member, is the responder required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts the agency has a first responder policy for all allegations of sexual abuse. The Administrator further asserts the agency policy requires that upon learning of an allegation that a resident was sexually abused, the first security staff member to respond to the report shall be required to :

Separate the alleged victim and abuser;

Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;

If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as

appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and

If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

The Administrator asserts that in the past 12 months, there were eight allegations a resident was sexually abused. He further reports First Responder duties, as articulated in this provision, were not invoked in any of these situations.

BTC Policy 14.11 entitled Coordinated Response/First Response Duties, page 2, section II(A)(1, 6, 8, and 10) address 115.264(a). This policy stipulates the first staff member responding at an allegation of sexual abuse must physically separate the alleged victim from the alleged abuser; preserve and protect any potential crime scene until law enforcement arrives; if the alleged abuse occurred within 96 hours, first responder staff shall immediately request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and if the abuse occurred within 96 hours, first responder staff shall immediately ensure that the alleged perpetrator not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

The auditor did review the First Responder Checklist which was included with the PAQ information. The same is comprehensive in accordance with this standard and provides a solid reference for First Responders. Additionally, the BTC Coordinated Response to PREA Incidents flow chart corresponds with the above-mentioned policy.

Since all staff are trained as first responders, the majority of random staff interviewees and non-security staff interviewees essentially corroborated the policy verbiage as reflected above. All interviewees (14) asserted that the victim and perpetrator would be separated and the crime scene would be secured.

Eight of the fourteen advised that If the abuse occurred within a time period that still allows for the collection of physical evidence, the alleged victim would be requested to not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating and staff would ensure the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, and eating.

In view of the above, the auditor finds substantial compliance with 115.264(a).

Pursuant to the PAQ, the Administrator asserts that if the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could

destroy physical evidence, and then notify security staff. The Administrator further asserts that of the allegations a residents was sexually abused within the past 12 months, there were no instances wherein a non-security staff member was the first responder.

As reflected above, the cited BTC policy applies to all staff, volunteers, and contractors. Accordingly, there is no differentiation between security and non-security staff first responder duties and responsibilities.

According to the Non-Security Staff Who Has Acted as a First Responder, when responding as a first responder, she would call for back-up, separate the victim and perpetrator, secure the crime scene, tell both victim and perpetrator not to use the bathroom, no clothes changing, no talking, no eating, no drinking, and no showering. She would also secure the victim and perpetrator in separate rooms. Additionally, if no supervisor or administrative staff were on duty, she would notify Bismarck Police Department and medical staff.

She further advised she received annual PREA training regarding first responder duties. According to this individual, all staff receive the same First Responder training.

Although there was some variation in this individual's response and the standard regarding preservation of evidence, she still articulated the need to maintain tight supervision over both victim and perpetrator. The auditor recommends that all staff be re-trained regarding this particular component of First Responder Training to ensure all staff are clear regarding requirements.

Standard 115.265: Coordinated response

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.265 (a)

- Has the facility developed a written institutional plan to coordinate actions among staff first responders, medical and mental health practitioners, investigators, and facility leadership taken in response to an incident of sexual abuse? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

Pursuant to the PAQ, the Administrator asserts the facility has developed a written institutional plan to coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

BTC Policy 14.11 entitled Coordinated Response/Staff Response Duties, pages 1-8 addresses 115.265(a). The auditor has thoroughly reviewed this document and has determined the same is comprehensive and provides sufficient detail to guide staff through response to sexual abuse and sexual harassment incidents.

Additionally, the auditor has reviewed the BTC Coordinated Response to PREA Incidents Matrix and finds the same to be another good resource for staff to utilize in response to sexual abuse incidents.

According to the Administrator, the facility does have a plan to coordinate actions among staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse. The same is scripted in a local policy and staff are trained annually regarding the same.

Standard 115.266: Preservation of ability to protect residents from contact with abusers

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.266 (a)

- Are both the agency and any other governmental entities responsible for collective bargaining on the agency's behalf prohibited from entering into or renewing any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with any residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted? □ Yes □ No xNA

115.266 (b)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

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

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

x NA

Pursuant to the PAQ, the Administrator asserts BTC has not entered into or renewed any collective bargaining agreement or other agreement with labor since the last PREA audit.

The Administrator articulated in a memorandum dated August 15, 2015- August 15, 2017, BTC and its administrators have not participated in any collective bargaining activities during this time frame. Therefore, it has been determined this standard is Not Applicable.

Standard 115.267: Agency protection against retaliation

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.267 (a)

- Has the agency established a policy to protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff? x□ Yes □ No

- Has the agency designated which staff members or departments are charged with monitoring retaliation? x□ Yes □ No

115.267 (b)

- Does the agency employ multiple protection measures, such as housing changes or transfers for resident victims or abusers, removal of alleged staff or resident abusers from contact with victims, and emotional support services for residents or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations? x□ Yes □ No

115.267 (c)

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of residents or staff who reported the sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff? x□ Yes □ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff? x□ Yes □ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Act promptly to remedy any such retaliation? x□ Yes □ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor any resident disciplinary reports? x□ Yes □ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor resident housing changes? x□ Yes □ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor resident program changes? x□ Yes □ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff? x□ Yes □ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff? x□ Yes □ No

- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need? x□ Yes □ No

115.267 (d)

- In the case of residents, does such monitoring also include periodic status checks? x□ Yes □ No

115.267 (e)

- If any other individual who cooperates with an investigation expresses a fear of retaliation, does the agency take appropriate measures to protect that individual against retaliation? x□ Yes □ No

115.267 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts the agency has a policy to protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff. The Administrator further asserts the agency designates staff member(s) or charge(s) departments with monitoring for possible retaliation. The Administrator or Case Manager responsible for the retaliation victim's case are responsible for retaliation monitoring.

BTC Policy 14.9 entitled Findings, Sanctions, and False Reporting, page 4, section II(J)(1) addresses 115.267(a). This policy stipulates retaliation against offenders, employees, or other parties, for reporting or cooperating with an investigation of sexual abuse or sexual harassment shall not be tolerated. Individuals that retaliate will face disciplinary action. The Program Administrator and Case Manager shall be in charge of monitoring retaliation for BTC. If neither is available, the PREA Manager will assume the responsibility.

BTC Policy 14.9 entitled Findings, Sanctions, and False Reporting, page 4, section II(J)(2) addresses 115.267(b). This policy stipulates staff who fear retaliation can access the CCCS, Inc. Employee Assistance Program. Residents who fear retaliation can speak to the Program Administrator or Chief of Security. Alternative protection against retaliation may include moving a Resident to another housing unit or to another contracted NDDOC&R facility if deemed necessary by the Program Administrator. Alternative protection for staff may include transfer to another unit(floor), or option to transfer to another CCCS Inc. facility.

According to the Agency Head interviewee, movement of offenders from pod to pod, unit to unit, or facility to facility are some of the strategies available to protect residents from sexual abuse or sexual harassment allegations. Movement of staff from shift to shift, post to post, or facility to facility, along with a recommendation for the Employee Assistance Program are a few of the strategies available to protect staff from retaliation for sexual abuse or sexual harassment allegations.

According to the Administrator, the following measures can be implemented to protect residents and staff from retaliation in the event of reporting allegations of sexual abuse or sexual harassment: Residents- The Administrator contacts the Case Manager, invoking weekly contact and monitoring. The aggressor is moved, possibly to another facility. Minimally, staff perpetrators of retaliation could be given a post assignment change. Support services would be offered to the victims. Resident victims would be moved within the facility. Ultimately, placement of the victim would be the call of NDDOC&R officials.

In regard to the role played by staff charged with retaliation monitoring of residents, two case managers were interviewed. They advised there has been no monitoring cases at BTC during their tenure. If there were cases, a Retaliation Form would be used for tracking purposes, as well as,

documentation purposes. The form covers four questions. They would meet with the residents weekly. They would meet with them as long as they are at BTC. If retaliation is found, they would alert the Case Manager Supervisor and subsequently, meet with the Administrator.

Both interviewees advised they had always been instructed to meet with residents weekly. The Administrator has provided those instructions.

In regard to the different measures that can be employed to protect residents, retaliation victims can request transfer. Other strategies might include movement of resident(s) to another room and increasing welfare watches. Meet with victims of retaliation more than one time per week. Recommend removal of the alleged abuser. Recommend services.

According to the two staff who monitor resident retaliation, monitoring would be triggered by the Administrator. However, if they know the need for retaliation monitoring, they would reach out to the resident victim.

Pursuant to the PAQ, the Administrator asserts the facility monitors the conduct or treatment of residents or staff who reported sexual abuse and of residents who were reported to have suffered sexual abuse to see if there are any changes that may suggest possible retaliation by residents or staff. This period of monitoring is facilitated for 90 days however, the facility can extend monitoring beyond 90 days if a continuing need is indicated. The facility acts promptly to remedy any such retaliation. The Administrator asserts there were 0 occurrences of retaliation during the last 12 months.

BTC Policy 14.9 entitled Findings, Sanctions, and False Reporting, pages 4 and 5, section II(J)(3)(a-c) addresses 115.267(c). This policy stipulates the Program Administrator shall monitor the conduct or treatment of Residents and staff for a minimum of ninety (90) days after a report of abuse has been made. This measure is an attempt to ensure retaliatory behavior towards those individuals is not occurring.

This includes initiating documented periodic checks with the resident, monitoring resident incident reports, housing changes, program changes, and negative performance of staff.

If it has been found retaliation has taken place, the Program Administrator shall take action in attempt to remedy the situation.

The Program Administrator may elect to continue monitoring beyond ninety (90) days to ensure safety and security of residents and staff.

In regard to the measures to be taken when retaliation is suspected, the Administrator advised he would first assess the known facts. Subsequently, the situation would be investigated, using the Investigator. The outcome of the investigation will dictate subsequent steps.

In regard to warning signs of potential retaliation, resident retaliation monitors stated that changes in behavior, emotional changes, body language changes, requests for transfer, requests for room changes, isolation, decreased hygiene, and an increase in receipt of misconduct reports, are all indicators.

Retaliation monitoring would be implemented for the entire time the resident(s) are at BTC. The Administrator has advised retaliation monitoring is to be conducted for at least six months.

However, according to both resident retaliation monitors, retaliation monitoring would be implemented the entire time the resident is at BTC.

Pursuant to the auditor's review of investigations for the last 12 months, there were six investigations addressing the definition of sexual assault as defined in the PREA Community Confinement Standards. Of these six investigations, one investigation was Unsubstantiated and five investigations were determined to be Unfounded. It is noted that no distinction is found in the standard regarding investigation determination however, the report format clearly reflects "Unfounded" allegations are exempt from retaliation monitoring.

In addition to the above, the auditor also randomly reviewed two additional investigations completed on December 17, 2014, and October 17, 2015, finding retaliation monitoring was not facilitated in any of these cases. One investigation was "Substantiated" and the other case was "Unsubstantiated". There is no evidence of retaliation monitoring in either case.

A second "Unsubstantiated" investigation was completed on July 3, 2015 and retaliation monitoring was initiated on July 8, 2015. Contacts were made on July 8, 2015, July 20, 2015, and July 22, 2015. In other words, contacts/monitoring meetings were conducted during a 14 day period of time, as opposed to, 90 days.

In view of the above, the auditor has found BTC to be non-compliant with 115.267(c) and the same is in corrective action status. With a due date of March 30, 2018, BTC staff will forward a copy of any "Substantiated" or "Unsubstantiated" PREA investigation(s) and any accompanying retaliation monitoring documents to the auditor for review and assessment of institutionalization.

If no incidents of this nature occur prior to the above date, the CCCS PREA Coordinator and/or BTC PREA Manager will develop a mock scenario(s) involving sexual abuse investigation(s) (administrative or criminal). Additionally, the accompanying retaliation monitoring documents, if deemed appropriate by facility staff, will be forwarded to the auditor for review.

Upon receipt of the above, the auditor will review the same and make a determination regarding institutionalization.

02/19/2018 Update:

The auditor has received and reviewed four separate resident PREA retaliation monitoring packets (occurring between late September, 2017 and January, 2018), each including a PREA Monthly Retaliation Monitoring Report and PREA Retaliation Follow-up Forms. These documents accurately address the requirements of 115.267(c) in terms of timeliness of weekly contacts, completion of forms, and inclusion of relevant information. It is noted retaliation monitoring has been implemented in "Substantiated" and "Unsubstantiated" sexual harassment cases, as well as, sexual abuse cases as evidenced in these documents.

Of note, associated documents now reflect the rationale for terminating retaliation monitoring prior to the expiration of 90 days. Generally, the resident is released and therefore, retaliation monitoring is terminated.

The auditor is satisfied, based on the documents received and review of the same, 115.267(c) is institutionalized at BTC. Accordingly, it is determined that BTC is now compliant with the provision.

BTC Policy 14.9 entitled Findings, Sanctions, and False Reporting, page 5, section II(J)(3)(a) addresses 115.267(d). This policy stipulates retaliation monitoring shall occur once every week for the first sixty (60) days and once every thirty (30) days after the initial sixty (60) days until the victimized resident discharge or as needed.

BTC Policy 14.9 entitled Findings, Sanctions, and False Reporting, page 5, section II(J)(3)(a) addresses 115.267(e). This policy stipulates the Program Administrator shall monitor the conduct or treatment of Residents and staff for a minimum of ninety (90) days after a report of abuse/ harassment has been made. This measure is an attempt to ensure that retaliatory behavior towards those individuals is not occurring.

This includes initiating documented periodic checks with the resident, monitoring resident incident reports, housing changes, program changes, and negative performance of staff.

According to the Agency Head interviewee, if or when an individual who cooperates with an investigation expresses a fear of retaliation, the individual is monitored. The Administrator would monitors staff victim(s).

It is noted policy citations regarding 115.267(e) are reflected in the narrative for 115.267(a) and (b).

INVESTIGATIONS

Standard 115.271: Criminal and administrative agency investigations

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.271 (a)

- When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, does it do so promptly, thoroughly, and objectively? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.221(a).] x□ Yes □ No □ NA

- Does the agency conduct such investigations for all allegations, including third party and anonymous reports? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.221(a).]
  x□ Yes □ No □ NA

115.271 (b)

- Where sexual abuse is alleged, does the agency use investigators who have received specialized training in sexual abuse investigations as required by 115.234? x□ Yes □ No

115.271 (c)

- Do investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data? □ Yes x□ No

- Do investigators interview alleged victims, suspected perpetrators, and witnesses?
  x□ Yes □ No

- Do investigators review prior reports and complaints of sexual abuse involving the suspected perpetrator? □ Yes x□ No

115.271 (d)

- When the quality of evidence appears to support criminal prosecution, does the agency conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution? □ Yes x□ No

115.271 (e)

- Do agency investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and not on the basis of that individual's status as resident or staff?
  x□ Yes □ No

- Does the agency investigate allegations of sexual abuse without requiring a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding? x□ Yes □ No

115.271 (f)

- Do administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse? x□ Yes □ No

- Are administrative investigations documented in written reports that include a description of the physical evidence and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings? x□ Yes □ No

115.271 (g)

- Are criminal investigations documented in a written report that contains a thorough description of the physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible? x□ Yes □ No

115.271 (h)

- Are all substantiated allegations of conduct that appears to be criminal referred for prosecution? x□ Yes □ No

115.271 (i)

- Does the agency retain all written reports referenced in 115.271(f) and (g) for as long as the alleged abuser is incarcerated or employed by the agency, plus five years? x□ Yes □ No

115.271 (j)

- Does the agency ensure that the departure of an alleged abuser or victim from the employment or control of the agency does not provide a basis for terminating an investigation? x□ Yes □ No

115.271 (k)

- Auditor is not required to audit this provision.

115.271 (l)

- When an outside entity investigates sexual abuse, does the facility cooperate with outside investigators and endeavor to remain informed about the progress of the investigation? [N/A if an outside agency does not conduct administrative or criminal sexual abuse investigations. See 115.221(a).] x□ Yes □ No □ NA

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts the facility has a policy related to criminal and administrative agency investigations.

BTC Policy 14.10 entitled Investigations, page 1 , section I addresses 115.271(a). This policy stipulates the Bismarck Transition Center (BTC) ensures all reports of sexual abuse and sexual harassment are investigated promptly, thoroughly, and objectively, regardless of the source, and notifies all victims and other reporters, in writing, of outcomes of the investigation and sanctions imposed.

According to the PREA Investigator interviewee, an investigation into an allegation of sexual abuse or sexual harassment is initiated immediately. The Administrator would be contacted immediately and he would, in turn, contact the investigator immediately. In regard to third-party or anonymous reports of sexual abuse or sexual harassment, they would be treated the same as any other investigation.

Pursuant to the auditor's review of nine sexual abuse or sexual harassment investigations conducted during the past 12 months, investigations appear to have been initiated in a timely manner. In one instance, the date of the alleged incident was unclear. Additionally, two incidents occurred when the resident was not confined at BTC. It is noted the trained and designated PREA Investigator conducted all interviews.

While all relevant interviews were conducted in each matter, there is a lack of camera review in one incident. There is no justification (in the investigation) regarding the lack of camera review to determine if both resident and staff member entered the area in which the incident allegedly occurred. Camera review could have added to the validity or lack thereof of the allegation, etc. Additionally, memorandums or written statements from alleged staff perpetrators were present only in a few investigative files. Rather, the investigator documented their statements and it appears all specific allegations were not addressed. It is recommended memorandums be secured from staff during each investigation to facilitate fact finding.

In addition to the afore-mentioned investigations, the auditor reviewed two additional investigations covering Year 2 of the PREA audit cycle. Both of these sexual abuse investigations were determined to be Unsubstantiated. Again the above recommendations are likewise relevant to these investigations.

BTC Policy 14.10 entitled Investigations, page 1, section II(A) addresses 115.271(b). This policy stipulates BTC shall use investigators that have received specialized training in handling sexual abuse and sexual harassment cases. BTC will use the Program Administrator or Facility Manager for administrative cases.

The investigative interviewee advised he did receive training specific to conducting sexual abuse investigations in confinement settings. The certificate for this training was presented by

NDDOC&R and the U.S. Department of Justice. The training focused specifically on PREA investigations. Checking mental health, injury assessments, interviewing techniques (male/female/ juveniles), standard of evidence in administrative investigations, Miranda and Garrity warnings, and investigative strategies were addressed during this training.

BTC Policy 14.10 entitled Investigations, page 2, section II(C)(3) addresses 115.271(c). This policy stipulates during a sexual abuse/harassment investigation, BTC shall ensure all preserved direct and circumstantial evidence, including physical evidence, electronic monitoring data, interviews of alleged victims, suspected perpetrators, and witnesses and prior complaints regarding the alleged perpetrator are reviewed. BTC Policy 14.11 entitled Coordinated Response/Staff First Response Duties, page 2, section II(B)(3) also addresses 115.271(c). This policy stipulates the Supervisor of the First Responder or Shift Supervisor is responsible to preserve and protect any potential crime scene until appropriate steps can be taken to collect evidence. This area will remain secured as a potential crime scene until released by the Chief of Security, or in the event of a criminal investigation, by the Bismarck Police Department.

According to the PREA investigative interviewee, he would respond immediately whenever notified of a sexual abuse or sexual harassment allegation. He would secure information from staff (consuming 10-15 minutes). Securing memorandums from staff would follow. A victim interview (15-45 minutes) would follow. Note taking throughout the process is a major component of the investigative process. Interviewing the witnesses and suspect(s) is estimated to take two hours. Additionally, video review would take approximately three hours.

The investigative interviewee advised he is responsible for collecting video footage, statements, interview notes, and files. He would not collect DNA.

As reflected in the narrative for 115.271(a), all components of this provision were reflected in administrative investigation reports, with the exception of an analysis of prior complaints and reports of sexual abuse involving the suspected perpetrator. Accordingly, the auditor recommends the investigator complete such an analysis in reports, henceforth.

BTC Policy 14.10 entitled Investigations, page 2, section II(B) addresses 115.271(d). This policy stipulates it is the policy of CCCS, Inc. and BTC to refer criminal investigations of sexual abuse to the Bismarck Police Department, who will further refer substantiated allegations for prosecution if warranted. CCCS, Inc. and BTC do not conduct compelled interviews.

According to the BTC investigative interviewee, he does not consult with prosecutors. Bismarck Police Department would handle that aspect of the case. He advised he was not sure about compelled interviews.

BTC Policy 14.10 entitled Investigations, page 2, section II(C)(4 and 5) addresses 115.271(e). This policy stipulates that during a sexual abuse/sexual harassment investigation, BTC will assess the

credibility of an alleged victim, suspect, or witness on an individual basis and will not determine credibility by the person's status as resident or staff. Further, CCCS, Inc. and BTC will not require a Resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with an investigation.

The BTC investigative interviewee stated residents, suspects, or witnesses are credible until proven otherwise. Further, in response to whether he would require a resident who alleges sexual abuse to submit to a polygraph examination or truth-telling device as a condition for proceeding with an investigation, he stated he could not require the same. Pursuant to the auditor's review of the afore-reference investigations, he found no evidence wherein a truth-telling device was even entertained.

BTC Policy 14.10 entitled Investigations, pages 1 and 2, section II(A)(1)(a and b) addresses 115.271(f). This policy stipulates administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse and shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

The BTC investigative interviewee advised he assesses staff actions in every investigation and would note any issues when staff actions or failure to act contributed to the sexual abuse.
He further stated administrative investigations are documented in written reports. He addresses the Who? What? When? Where? and Why? of the fact pattern. He looks at every allegation as a potential criminal matter.

A discussion regarding the conduct of investigations and investigative reports is reflected throughout the narratives for 115.271. A description of physical and testimonial evidence and the reasoning behind credibility assessments, investigative facts, and findings are reflected in such written reports.

The auditor reviewed one e-mail wherein the Administrator advised NDDOC&R officials regarding referral of a PREA investigation to the Bismarck Police Department on September 9, 2016. The actual incident giving rise to the referral occurred on September 8, 2016.

When asked if criminal reports are documented, the BTC investigative interviewee responded in the affirmative. He stated a criminal report would include everything he would include in an Administrative report. A credibility assessment would be a major part of the report, as it would be in an administrative report. Bismarck Police Department would provide a copy of the criminal investigation or a sanitized version thereof.

Pursuant to the PAQ, the Administrator asserts substantiated allegations of conduct that appear to be criminal are referred for prosecution. The Administrator further asserts there were two substantiated allegations of conduct that appeared to be criminal that were referred for prosecution since the last PREA audit.

When questioned as to when he refers a case for prosecution, the BTC investigative interviewee advised he assesses statute and the evidentiary standard to determine criminal referral. He reviews documentation and video, etc. in determining whether to refer for criminal investigation. Of course, the Bismarck Police Department would refer a case for prosecution.

The auditor reviewed a 2016 staff-on resident criminal investigation and finds the same to be commensurate with 115.271(g). The criminal investigation was predicated upon the results of an administrative investigation/review.

As previously referenced, the Administrator advised an additional matter was referred for criminal investigation during the past 12 months. It is noted the matter was referred to Bismarck Police Department investigators by departmental administrators.

in view of the above, the auditor finds substantial compliance with 115.271(g).

Pursuant to the PAQ, the Administrator asserts the agency retains all written reports pertaining to the administrative or criminal investigation of alleged sexual abuse or sexual harassment for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.

BTC Policy 14.10 entitled Investigations, page 3, section II(D) addresses 115.271(i). This policy stipulates BTC retains all written reports as long as the alleged abuser is incarcerated or employed by the agency, plus five years.

BTC Policy 14.10 entitled Investigations, page 1, section I addresses 115.271(j). This policy stipulates investigations are carried to completion, even if the victim or reporter recants the allegation or if the alleged abuser or victim left the control or employment of the facility.

According to the BTC investigative interviewee, when a staff member alleged to have committed sexual abuse terminates employment prior to completion of an investigation into his/her conduct, the investigation continues. The same is true when a victim who alleges sexual abuse or sexual harassment or an alleged abuser leaves the facility prior to completion of an investigation into the incident.

BTC Policy 14.10 entitled Investigations, page 2, section II(C)(2) addresses 115.271(l). This policy stipulates during a sexual abuse/sexual harassment investigation, BTC cooperates with outside investigators, and endeavors to remain informed about the outside agency's progress with the investigation.

According to the Administrator, the investigator would contact the agency conducting the criminal investigation on a weekly basis, to stay informed of the progress of the sexual abuse investigation. According to the BTC investigative interviewee, he would provide any investigative support he

could when an outside agency investigates an incident of sexual abuse in the facility. He further stated the Administrator would maintain contact with the investigating agents weekly to monitor the status.

While it is clear there would be weekly follow-up regarding the status of the investigation, there appears to be some confusion regarding follow-up responsibilities. Accordingly, the auditor recommends that follow-up responsibilities be clearly delineated in policy.

With respect to the 2016 criminal investigation, the administrative investigation was completed in March, 2016 and the matter was referred for criminal investigation. Evidence provided to the auditor substantiates only one follow-up with Bismarck Police Department investigators. The document reflects the follow-up occurred on October 30, 2017.

In view of the above, the auditor finds BTC to be in non-compliance with 115.271(l). As reflected above, while policy is not specific regarding follow-up contact regarding the status of a criminal investigation, both the Administrator and Investigator advised contact would be weekly. Accordingly, evidence does not substantiate stated practice.

With a due date of March 30, 2018, BTC staff will forward a copy of a criminal investigation, if the same occurs on or before the above date, and accompanying requests for investigation status regarding finding(s), to the auditor for review.

If no incidents of this nature occur prior to the above date, the CCCS PREA Coordinator and/or BTC PREA Manager will develop a mock scenario involving a criminal investigation and subsequent follow-up to determine the status of the investigation. This will include any documentation related to follow-up with the investigating agency as to the status of the investigation.

Upon receipt of the above, the auditor will review the same and make a determination regarding institutionalization.

02/24/2018 Update:

The auditor has received and reviewed the partial police report for a criminal investigative PREA referral regarding an incident that occurred on or about August 21, 2017 and was referred for criminal investigation on September 7, 2017.

While the incident and referral of criminal investigation occurred prior to the on-site audit, all follow-up contact with law enforcement occurred subsequent to the on-site visit. Accordingly, the auditor is considering this evidence as viable for corrective action purposes.

The Administrator facilitated all follow-up contacts, as required, and documented the same in a memorandum for the record. In consideration of the stated weekly follow-up contacts articulated during interviews, the evidence provided reflects significant progress in terms of weekly follow-up. While there are some gaps, the contact notes are quite comprehensive.

It is noted the victim of this incident was released from custody and therefore, notification of investigative results was not facilitated.

It is also noted relevant policy [BTC Policy 14.10 entitled Investigations, page 2, section II(C)(2)] has been amended to reflect the Administrator is responsible for these law enforcement contacts on a monthly basis or, as required. The standard is silent in terms of a requisite contact schedule.

In view of the above, the auditor is satisfied that corrective action has been institutionalized at BTC. Accordingly, the auditor finds BTC compliant with 115.271(l).

Standard 115.272: Evidentiary standard for administrative investigations

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.272 (a)

- Is it true that the agency does not impose a standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts the agency imposes a standard of a preponderance of the evidence or a lower standard of proof when determining whether allegations of sexual abuse or sexual harassment are substantiated.

BTC Policy 14.10 entitled Investigations, page 3, section II(E) addresses 115.272(a). This policy stipulates all allegations will be considered substantiated if supported by no standard higher than a preponderance of the evidence. If evidence is insufficient, the allegations will be considered unsubstantiated, but not unfounded.

According to the Investigative Staff interviewee, the requisite standard of evidence for an Administrative investigation is Preponderance (51%) while the Criminal standard is Beyond a Reasonable Doubt.

Standard 115.273: Reporting to residents

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.273 (a)

- Following an investigation into a resident's allegation that he or she suffered sexual abuse in an agency facility, does the agency inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded? x□ Yes □ No

115.273 (b)

- If the agency did not conduct the investigation into a resident's allegation of sexual abuse in an agency facility, does the agency request the relevant information from the investigative agency in order to inform the resident? (N/A if the agency/facility is responsible for conducting administrative and criminal investigations.) x□ Yes □ No □ NA

115.273 (c)

- Following a resident's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The staff member is no longer posted within the resident's unit? x□ Yes □ No

- Following a resident's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The staff member is no longer employed at the facility? x□ Yes □ No

- Following a resident's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The agency learns that the staff member has been indicted on a charge related to sexual abuse in the facility? x□ Yes □ No

- Following a resident's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility? x□ Yes □ No

115.273 (d)

- Following a resident's allegation that he or she has been sexually abused by another resident, does the agency subsequently inform the alleged victim whenever: The agency learns that the

alleged abuser has been indicted on a charge related to sexual abuse within the facility? x□ Yes □ No

- Following a resident's allegation that he or she has been sexually abused by another resident, does the agency subsequently inform the alleged victim whenever: The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility? x□ Yes □ No

115.273 (e)

- Does the agency document all such notifications or attempted notifications? x□ Yes □ No

115.273 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts the agency has a policy requiring that any resident who makes an allegation he or she suffered sexual abuse in an agency facility is informed, verbally or in writing, as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation by the agency. The Administrator further asserts nine criminal and/or administrative investigations of alleged resident sexual abuse were completed by the agency within the past 12 months and residents were notified verbally, or in writing, of the results of the investigation.

BTC Policy 14.10 entitled Investigations, page 3, section II(F)(1) addresses 115.273(a). This policy stipulates following an investigation into a Resident's allegation of sexual abuse/sexual harassment in the facility, the Program Administrator informs the resident of the findings whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

According to the Administrator, the facility does notify a resident who makes an allegation of sexual abuse when the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation. According to the Investigative Staff interviewee, the agency requires that a resident who makes an allegation of sexual abuse be informed as to whether the allegation had been determined to be substantiated, unsubstantiated, or unfounded. He further advised the Administrator makes the notification.

Pursuant to the auditor's review of investigations for the last 12 months, there were six investigations meeting the definition of sexual assault as defined in the PREA Community

Confinement Standards. Of these six sexual abuse investigations, there is evidence substantiating the victim was informed whether the allegation had been determined to be substantiated, unsubstantiated, or unfounded in five of the six cases.

The auditor reviewed two additional investigations from Year 2 and found the proper notification was made in one case. Finally, the auditor reviewed five Year 1 investigations and found that a Notification was issued in each case.

In view of the above, it has been determined that BTC is compliant with 115.273(a).

Pursuant to the PAQ, the Administrator asserts if an outside entity conducts such investigations, the agency requests the relevant information from the investigative entity in order to inform the resident of the outcome of the investigation. The Administrator further asserts one investigation of alleged resident sexual abuse in the facility was completed by an outside agency and the resident was notified verbally, or in writing, of the results of the investigation.

BTC Policy 14.10 entitled Investigations, page 3, section II(F)(2) addresses 115.273(b). This policy stipulates BTC shall request the relevant information from the Bismarck Police Department or other outside agencies who may have completed the investigation in order to inform the Resident.

As previously referenced, the Administrator advised an additional matter was referred for criminal investigation during the past 12 months. It is noted the matter was not referred to Bismarck Police Department investigators by departmental administrators.

With respect to a 2016 criminal investigation, the administrative investigation was completed in March, 2016 and the matter was referred for criminal investigation. Evidence provided to the auditor substantiates only one follow-up with Bismarck Police Department investigators. The document reflects the follow-up occurred on October 30, 2017. It is also noted the auditor was not provided a copy of the resident notification in this matter.

While policy is not specific regarding follow-up contact regarding the status of a criminal investigation, both the Administrator and Investigator advised contact would be weekly. However, evidence does not substantiate stated practice.

In view of the above, the auditor has found BTC to be non-compliant with 115.273(b) and the same is in corrective action status. With a due date of March 30, 2018, BTC staff will forward a criminal investigation, if the same occurs on or before the above date, and accompanying request for investigation status regarding finding(s) plus the notification to the victim, to the auditor for review.

If no incidents of this nature occur prior to the above date, the CCCS PREA Coordinator and/or BTC PREA Manager will develop a mock scenario involving a criminal investigation and subsequent notification of the victim regarding the outcome of the investigation. This will include

any documentation related to follow-up with the investigating agency as to the status of the investigation.

Upon receipt of the above, the auditor will review the same and make a determination regarding institutionalization.

02/24/2018 Update:

The auditor has received and reviewed the partial police report for a criminal investigative PREA referral regarding an incident that occurred on or about August 21, 2017 and was referred for criminal investigation on September 7, 2017.

While the incident and referral of criminal investigation occurred prior to the on-site audit, all follow-up contact with law enforcement occurred subsequent to the on-site visit. Accordingly, the auditor is considering this evidence as viable for corrective action purposes.

The Administrator facilitated all follow-up contacts, as required, and documented the same in a memorandum for the record. In consideration of the stated weekly follow-up contacts articulated during interviews, the evidence provided reflects significant progress in terms of weekly follow-up. While there are some gaps, the contact notes are quite comprehensive.

It is noted the victim of this incident was released from custody and therefore, notification of investigative results was not facilitated, nor required.

It is also noted relevant policy [BTC Policy 14.10 entitled Investigations, Page 2, section II(C)(2)] has been amended to reflect the Administrator is responsible for these law enforcement contacts on a monthly basis or, as required. The standard is silent in terms of a requisite contact schedule.

In view of the above, the auditor is satisfied that corrective action has been institutionalized at BTC. Accordingly, the auditor finds BTC compliant with 115.273(b).

Pursuant to the PAQ, the Administrator asserts following a resident's allegation that a staff member has committed sexual abuse against the resident, the facility subsequently informs the resident (unless the agency has determined that the allegation is unfounded) whenever:

The staff member is no longer posted within the resident;s unit;

The staff member is no longer employed at the facility;

The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or

The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

The Administrator further asserts there has been a substantiated complaint (i.e. not unfounded) of sexual abuse committed by a staff member against a resident in an agency facility within the past 12 months. Finally, the Administrator asserts the agency subsequently informed the resident at each step articulated above.

BTC Policy 14.10 entitled Investigations, pages 3 and 4, section entitled II(G)(1-4) addresses 115.273(c). This policy stipulates following a Resident's allegation of sexual abuse by a staff member, BTC informs the resident (unless the allegation is unfounded) whenever:

The staff member is no longer assigned to the resident's floor;

The staff member is no longer employed at the facility;

BTC learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or

BTC learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

The auditor reviewed this investigation wherein staff-on-resident sexual abuse occurred during this audit period. The investigation was not "Unfounded". The requisite notifications were made, as prescribed in 115.273(c).

Pursuant to the PAQ, the Administrator asserts following a resident's allegation he or she has been sexually abused by another resident in an agency facility, the agency subsequently informs the alleged victim whenever:

The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or

The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

BTC Policy 14.10 entitled Investigations, page 4, section II(H)(1 and 2) addresses 115.273(d). This policy stipulates following a Resident's allegation of sexual abuse by another Resident, the BTC shall subsequently inform the alleged victim whenever:

BTC learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or

BTC learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

Pursuant to the PAQ, the Administrator asserts the agency has a policy that all notifications to residents described under this standard are documented. The Administrator further asserts in the past 12 months, nine notifications to residents were provided pursuant to this standard and all were documented.

BTC Policy 14.10 entitled Investigations, page 4, section II(I) addresses 115.273(e). This policy stipulates all such notifications or attempted notifications shall be documented.

A discussion regarding documentation of notification(s) appears throughout this standard narrative.

DISCIPLINE

Standard 115.276: Disciplinary sanctions for staff

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.276 (a)

- Are staff subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies? x□ Yes □ No

115.276 (b)

- Is termination the presumptive disciplinary sanction for staff who have engaged in sexual abuse? x□ Yes □ No

115.276 (c)

- Are disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories? x□ Yes □ No

115.276 (d)

- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Law enforcement agencies unless the activity was clearly not criminal? x□ Yes □ No

- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Relevant licensing bodies? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts staff is subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.

BTC Policy 14.9 entitled Findings, Sanctions, and False Reporting, page 3, section II(H) addresses 115.276(a). This policy stipulates BTC staff shall be subject to disciplinary sanctions up to and including termination for violating CCCS Inc./BTC sexual abuse or sexual harassment policies. CCCS Policy 1.3.5.9 entitled Standards of Conduct Corrective Action, pages 1 and 2, section IV(A-F) also addresses 115.276(a) to the extent that corrective strategies are identified. This policy stipulates dependent upon the facts and circumstances involved in each situation, management may choose to begin corrective action at any step up to and including immediate discharge. However, in most cases, the following steps should be followed:

A. Verbal Warning. For infractions CCCS, Inc. deems to be minor, the employee should at a minimum be issued a verbal warning. If the situation does not improve within a reasonable time, the supervisor may repeat the measure or implement a more severe option.

B. Written Warning Notice. For repeated minor infractions or more substantial infractions, the employee should, at a minimum, be issued a written warning notice. Generally, the written notice will include:
a statement of the problem including rule or policy violations,
prior corrective actions taken, statement of policy, corrective action to be taken, and the consequences of continuing failure to improve or correct behavior. The written notice will include the employee appeal rights granted under 1.3.6.4.

C. Suspension Without Pay. If the situation does not improve within a reasonable time the supervisor may repeat the measure or take increasingly more severe actions such as suspension without pay.

D. Termination. For infractions management deems to be sufficiently serious, or continued failure to respond appropriately to prior corrective action, discharge is appropriate. The approval of the Director of Human Resources must be obtained prior to the discharge of an employee under any circumstances.

Pursuant to the PAQ, the Administrator asserts in the past 12 months, one facility staff has violated agency sexual abuse or sexual harassment policies and has been terminated or resigned prior to termination.

BTC Policy 14.9 entitled Findings, Sanctions, and False Reporting, page 3, section II(H)(1) addresses 115.276(b). This policy stipulates termination shall be the presumptive disciplinary sanction for staff who has engaged in sexual abuse.

The auditor reviewed one termination packet regarding a staff member who violated sexual abuse or sexual harassment policies. The auditor categorized the incident as sexual abuse. The employee was terminated based on unsatisfactory completion of his/her probationary period/PREA Violation.

Pursuant to the PAQ, the Administrator asserts disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) are commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. The Administrator further asserts in the past 12 months, one facility staff has been disciplined, short of termination, for violation of agency sexual abuse or sexual harassment policies.

BTC Policy 14.9 entitled Findings, Sanctions, and False Reporting, page 3, section II(H)(2) addresses 115.276(c). This policy stipulates disciplinary sanctions for violations of CCCS Inc./BTC policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

Pursuant to the PAQ, the Administrator asserts all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, are reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. The Administrator further asserts in the past 12 months, one facility staff has been reported to law enforcement or licensing boards following their termination (or resignation prior to termination) for violating agency sexual abuse or sexual harassment policies.
As previously indicated, the incident, in question, resulted in termination during probationary status. The auditor reviewed the investigation packet and accompanying letter to Bismarck Police Department. The auditor did not review any letters to licensing bodies as the employee who was terminated from employment was a Resident Assistant and the same would not be applicable.

BTC Policy 14.9 entitled Findings, Sanctions, and False Reporting, pages 3 and 4, section II(H)(3) addresses 115.276(d). This policy stipulates all terminations for violations of CCCS Inc./BTC sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to the Bismarck Police Department (BPD), unless the activity was clearly not criminal, and to any relevant licensing bodies.

Standard 115.277: Corrective action for contractors and volunteers

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.277 (a)

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with residents? x□ Yes □ No
- Is any contractor or volunteer who engages in sexual abuse reported to: Law enforcement agencies unless the activity was clearly not criminal? x□ Yes □ No
- Is any contractor or volunteer who engages in sexual abuse reported to: Relevant licensing bodies? x□ Yes □ No

115.277 (b)

- In the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer, does the facility take appropriate remedial measures, and consider whether to prohibit further contact with residents? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts any contractor or volunteer who engages in sexual abuse is prohibited from contact with residents and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. The Administrator further asserts agency policy requires that any contractor or volunteer who engages in sexual abuse is prohibited from contact with residents. In the past 12 months, 0 contractors or volunteers have been reported to law enforcement agencies and relevant licensing bodies for engaging in sexual abuse of residents.

BTC Policy 14.9 entitled Findings, Sanctions, and False Reporting, page 4, section II(I)(1) addresses 115.277(a). This policy stipulates any contractor or volunteer who engages in sexual abuse/sexual harassment shall be prohibited from contact with Residents and shall be reported to BPD law enforcement, unless the activity was clearly not criminal, and to relevant licensing bodies.

Pursuant to memorandum authored by the Administrator dated September 1, 2015 through August 15, 2017, in the past (3) years there have been no reports of contractors or volunteers who have engaged in sexual abuse/harassment at the BTC.

Pursuant to the PAQ, the Administrator asserts the facility takes appropriate remedial measures and considers whether to prohibit further contact with residents in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

BTC Policy 14.9 entitled Findings, Sanctions, and False Reporting, page 4, section II(I)(2) addresses 115.277(b). This policy stipulates BTC shall take appropriate remedial measures, and shall consider whether to prohibit further contact with Residents, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

The Administrator asserts that in the case of any violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer, the matter would be investigated and he would suspend privileges. No contact would be allowed with residents pending conclusion of the investigation.

Standard 115.278: Interventions and disciplinary sanctions for residents

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.278 (a)

- Following an administrative finding that a resident engaged in resident-on-resident sexual abuse, or following a criminal finding of guilt for resident-on-resident sexual abuse, are residents subject to disciplinary sanctions pursuant to a formal disciplinary process? x□ Yes □ No

115.278 (b)

- Are sanctions commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories? x□ Yes □ No

115.278 (c)

- When determining what types of sanction, if any, should be imposed, does the disciplinary process consider whether a resident's mental disabilities or mental illness contributed to his or her behavior? x□ Yes □ No

115.278 (d)

- If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, does the facility consider whether to require the offending resident to participate in such interventions as a condition of access to programming and other benefits? x□ Yes □ No

115.278 (e)

- Does the agency discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact? x□ Yes □ No

115.278 (f)

- For the purpose of disciplinary action does a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred NOT constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation? x□ Yes □ No

115.278 (g)

- Does the agency always refrain from considering non-coercive sexual activity between residents to be sexual abuse? (N/A if the agency does not prohibit all sexual activity between residents.) x□ Yes □ No □ NA

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts residents are subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding the resident engaged in resident-on- resident sexual abuse. The Administrator further asserts residents are subject to disciplinary sanctions only pursuant to a formal disciplinary process following a criminal finding of guilt for resident-on-resident sexual abuse. In the past 12 months, there were 0 administrative or criminal findings of resident-on-resident sexual abuse that have occurred at BTC.

BTC Policy 14.9 entitled Findings, Sanctions, and False Reporting, page 2, section II(C) addresses 115.278(a). This policy stipulates residents who have been found to have engaged in offender-on-offender sexual abuse/sexual harassment, or following a criminal investigation that has substantiated offender-on-offender sexual abuse/sexual harassment shall be subject to a formal disciplinary process.

BTC Policy 14.9 entitled Findings, Sanctions, and False Reporting, page 2, section II(C)(1-3) addresses 115.278(b). This policy stipulates the disciplinary sanctions shall take into consideration the following:

Nature and circumstances of the abuse committed;

Resident's disciplinary history;

Sanctions imposed for comparable offenses by other Resident's with similar histories.

According to the Administrator, a resident who engaged in resident-on-resident sexual abuse would be removed from BTC following a disciplinary hearing. This sanction is proportionate to the nature and circumstances of the abuses committed, the residents' disciplinary histories, and the sanction(s) imposed for similar offenses by other residents with similar histories. Disciplinary proceedings and imposition of sanction(s) would be the same for everybody based on the nature of the facility and NDDOC&R contract. Mental disability or mental illness would be considered when determining sanction(s).

BTC Policy 14.9 entitled Findings, Sanctions, and False Reporting, page 2, section II(D)and (D)(1) address 115.278(b). This policy stipulates when determining the type of sanction, if any, to be imposed, the Program Administrator shall consider whether or not a Resident's mental disabilities or mental illness contributed to their behavior.

When questioned as to what disciplinary sanctions residents are subject to following an administrative or criminal finding that the resident engaged in resident-on-resident sexual abuse, the Administrator advised removal from BTC following a disciplinary hearing. He further stated the sanctions are the same for everybody based on nature of facility and the NDDOC&R contract. Finally, the Administrator advised NDDOC&R staff do consider mental disability or mental illness when determining sanctions.

Pursuant to side conversations with the Administrator, dependent on the severity of the incident, administrative disciplinary hearings are facilitated by NDDOC&R staff pursuant to their guidelines. It is at these hearings that removal from BTC could be administered as a sanction.

The auditor reviewed NDDOC&R Policy 3C-2 entitled Rules of Conduct, Resolution of Minor Infractions, Criminal Violations, Disciplinary Reports…, pages 8 through 11 and finds sufficient detail and information is evident to ensure mental health concerns are taken into account relative to sanctioning. Accordingly, the auditor finds substantial compliance with 115.278(c).

Pursuant to the PAQ, the Administrator asserts the facility offers therapy, counseling, or other interventions designed to address and correct the underlying reasons or motivations for abuse. The Administrator further asserts the facility offers therapy, counseling, or other interventions designed to address and correct the underlying reasons or motivations for abuse and the facility considers whether to require the offending resident to participate in such interventions as a condition of access to programming or other benefits.

BTC Policy 14.9 entitled Findings, Sanction, and False Reporting, pages 2 and 3, section II(D) and (D)(2 and 3) address 115.278(d). This policy stipulates when determining the type of sanction, if any, to be imposed, the Program Administrator may offer therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse and may consider whether to require the offending Resident to participate in these interventions as a condition of access to any type of behavior based programming, but not to general programming or education.

According to the Administrator, the perpetrator in a sexual abuse case would, more than likely, be removed from the facility and returned to NDDOC&R custody. As mentioned throughout this report, medical and mental health staff are neither employed by CCCS or BTC. Accordingly, any treatment would have to be provided in the community unless appropriate treatment could be provided pursuant to normal BTC treatment protocols.

BTC Policy 14.9 entitled Findings, Sanctions, and False Reporting, page 3, section II(G) addresses 115.278(e). This policy stipulates BTC may discipline a Resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

Pursuant to the PAQ, the Administrator asserts the agency prohibits disciplinary action for a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred, even if an investigation does not establish evidence sufficient to substantiate the allegation.

BTC Policy 14.9 entitled Findings, Sanctions, and False Reporting, page 3, section II(E) addresses 115.278(f). This policy stipulates for the purpose of disciplinary action, a report of sexual abuse/ sexual harassment made in good faith based upon a reasonable belief that the alleged conduct occurred, shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

Pursuant to the PAQ, the Administrator asserts the agency prohibits all sexual activity between residents. The Administrator further asserts BTC deems sexual activity between residents to constitute sexual abuse only if it determines the activity is coerced. At that point, disciplinary action may ensue.

BTC Policy 14.9 entitled Findings, Sanctions, and False Reporting, page 3, section II(F) addresses 115.278(g). This policy stipulates BTC prohibits all sexual activity between Residents and disciplines Residents for such activity with Class II violation of inappropriate misconduct. BTC does not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

MEDICAL AND MENTAL CARE

Standard 115.282: Access to emergency medical and mental health services

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.282 (a)

- Do resident victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment?
  x□ Yes □ No

115.282 (b)

- If no qualified medical or mental health practitioners are on duty at the time a report of recent sexual abuse is made, do security staff first responders take preliminary steps to protect the victim pursuant to § 115.262? x□ Yes □ No

- Do security staff first responders immediately notify the appropriate medical and mental health practitioners? x□ Yes □ No

115.282 (c)

- Are resident victims of sexual abuse offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate? x□ Yes □ No

115.282 (d)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident?
  x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, resident victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services. The Administrator further asserts the nature and scope of such services are determined by medical and mental health practitioners according to their professional judgment. Medical and mental health staff maintain secondary materials (e.g., form, log) documenting the timeliness of emergency medical treatment and crisis intervention services that were provided; the appropriate response by non-health staff in the event health staff are not present at the time the incident is reported; and the provision of appropriate and timely information and services concerning contraception and sexually transmitted infection prophylaxis.

BTC Policy 14.5 entitled Medical and Mental Health, pages 1 and 2, section II(B) addresses 115.282(a). This policy stipulates Resident victims of sexual abuse will receive timely, unimpeded access to emergency medical treatment and crisis intervention services, to the level determined

necessary by medical and mental health professionals. BTC staff will remain with the victim to protect and comfort him/her; and immediately contact the Program Administrator. Policy 14.11 entitled Coordinated Response/First Response Duties, pages 3 and 4, section II(C) also addresses 115.282(a). This policy defines the steps to be taken to ensure compliance with the policy provision mentioned in the preceding sentences. Specifically, this policy stipulates BTC staff will:

If a sexual assault examination is appropriate, explain the necessity and process of a sexual assault examination to the victim. Sexual assault examinations must be performed by a trained SANE or SAFE when available. The examination may include a DNA mouth swab test, before an examination. The victim must be advised to not wipe or touch the areas of injury or sexual contact, or apply any treatment, including ointment or ice, to the area of injury of sexual contact.

If the alleged victim refuses the forensic/sexual assault examination, medical staff shall document the refusal and have the Resident sign an Against Medical Advice Release from Responsibility form.

All sexual assault exams will be performed at St. Alexius or Sanford Hospital by a SANE nurse whenever possible.

Contact St. Alexius or Sanford Hospital (ER), and notify them of a Resident who will be transferred for a sexual assault exam, administered by a SANE.

Communicate the facts known about the incident, including the infectious disease status of the aggressor, if known, to the hospital.

Work with the Shift Supervisor to make arrangements for transporting the Resident to the hospital.

Document all actions taken and communications with the alleged victim.

Request STD testing, and prophylactic treatment is completed at St. Alexius or Sanford Hospital.

Request pre-HIV counseling has been conducted at St. Alexius or Sanford Hospital.

Ensure post-HIV counseling is conducted, and the results are given to the victim.

Ensure follow-up infectious disease testing is completed, and that infectious disease testing is completed on the abuser if the allegation is substantiated. Ensure the results of the infectious disease testing are reported to the victim.

Medical and mental health staff maintain secondary materials documenting the timeliness of emergency medical treatment and resist intervention services that were provided; the appropriate response by non-health staff in the event health staff are not present at the time the incident is

reported; and the provisions of appropriate and timely information and services concerning contraception and sexually transmitted infection prophylaxis.

The provisions of 115.282(b) are addressed in the narrative for 115.282(a). Medical and mental Health staff are not employed by CCCS at BTC. Accordingly, medical treatment pursuant to this standard falls under the purview of clinicians at the afore-reference hospitals. The nature and scope of treatment fall exclusively under their purview of their licenses and certifications.

The discussion as articulated in the narrative for 115.282(a) (see above) clearly addresses action steps to be taken by First Responders/Supervisors in terms of hospital contact and escort to the hospitals.

Pursuant to the PAQ, the Administrator asserts resident victims of sexual abuse while incarcerated are offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.

The elements of this provision are addressed in the policy citations reflected in the narrative for 115.282(a), above. Additionally, Policy 14.5 entitled Medical and Mental Health, page 3, section II(C)(3) addresses 115.282(c). This policy stipulates timely access to emergency contraception, sexually transmitted infections prophylaxis, general information and forensic exams will be available, at no financial cost, for any Resident victim of sexual abuse while incarcerated, as medically appropriate.

Pursuant to the PAQ, the Administrator asserts treatment services are provided to every victim without financial cost and regardless of whether the victim names the abuse or cooperates with any investigation arising out of the incident.

The auditor reviewed a document entitled North Dakota SANE Best Practice Guidelines that addresses SANE practices within the state. Page 10 of this document reflects the following:

“Under North Dakota law, any person age 14 years or older may consent to receive medical examination, care or treatment for sexually transmitted infections/diseases without the permission, authority, or consent of a parent or guardian.” This provision is taken from the North Dakota Sexual Assault Evidence Collection Protocol.

Screening for STIs at the time of the forensic examination is not considered best practice and should be avoided. It is best practice to provide each patient with the opportunity to take prophylactic antibiotics according to current standards by the Center for Disease Control (CDC). For female patients, and emergency contraceptive medication should always be offered.

BTC Policy 14.5 entitled Medical and Mental Health, page 3, section II(C)(2) addresses 115.282(d). This policy stipulates residents will be referred for Treatment services, and all necessary testing, to victims of sexual abuse without financial cost, regardless of whether the victim names the abuser, and regardless of whether or not the victim cooperates with any investigation arising from initial report of the incident.

While no incidents arose during this audit period wherein the requirements of 115.282 were invoked, there are minimal policy steps that link tasks to ensure compliance with the standard. The combination of the afore-mentioned two policies generally addresses all tenets of the standard.

The auditor strongly recommends that an MOU be drafted between BTC and the two hospitals that would be used in such cases, ensuring that all requirements of this standard and 115.283 be clearly articulated therein. Access to medical records and substantiating documentation with respect to each provision should also be addressed in the MOU. Requirements and expectations for all parties should also be clearly articulated in the MOUs.

Standard 115.283: Ongoing medical and mental health care for sexual abuse victims and abusers

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.283 (a)

- Does the facility offer medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility? x□ Yes □ No

115.283 (b)

- Does the evaluation and treatment of such victims include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody? x□ Yes □ No

115.283 (c)

- Does the facility provide such victims with medical and mental health services consistent with the community level of care? x□ Yes □ No

115.283 (d)

- Are resident victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests? (N/A if all-male facility.) x□ Yes □ No □ NA

115.283 (e)

- If pregnancy results from the conduct described in paragraph § 115.283(d), do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services? (N/A if all-male facility.) x□ Yes □ No □ NA

115.283 (f)

- Are resident victims of sexual abuse while incarcerated offered tests for sexually transmitted infections as medically appropriate? x□ Yes □ No

115.283 (g)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident? x□ Yes □ No

115.283 (h)

- Does the facility attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, resident victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services. The Administrator further asserts the nature and scope of such services are determined by medical and mental health practitioners according to their professional judgment. Medical and mental health staff maintain secondary materials (e.g., form, log) documenting the timeliness of emergency medical treatment and crisis intervention services that were provided; the appropriate response by non-health staff in the event health staff are not present at the time the incident is reported; and the provision of appropriate and timely information and services concerning contraception and sexually transmitted infection prophylaxis.

BTC Policy 14.5 entitled Medical and Mental Health, pages 1 and 2, section II(B) addresses 115.282(a). This policy stipulates Resident victims of sexual abuse will receive timely, unimpeded access to emergency medical treatment and crisis intervention services, to the level determined necessary by medical and mental health professionals. BTC staff will remain with the victim to protect and comfort him/her; and immediately contact the Program Administrator. Policy 14.11 entitled Coordinated Response/First Response Duties, pages 3 and 4, section II(C) also addresses 115.282(a). This policy defines the steps to be taken to ensure compliance with the policy provision mentioned in the preceding sentences. Specifically, this policy stipulates BTC staff will:

If a sexual assault examination is appropriate, explain the necessity and process of a sexual assault examination to the victim. Sexual assault examinations must be performed by a trained SANE or SAFE when available. The examination may include a DNA mouth swab test, before an examination. The victim must be advised to not wipe or touch the areas of injury or sexual contact, or apply any treatment, including ointment or ice, to the area of injury of sexual contact.

If the alleged victim refuses the forensic/sexual assault examination, medical staff shall document the refusal and have the Resident sign an Against Medical Advice Release from Responsibility form.

All sexual assault exams will be performed at St. Alexius or Sanford Hospital by a SANE nurse whenever possible.

Contact St. Alexius or Sanford Hospital (ER), and notify them of a Resident who will be transferred for a sexual assault exam, administered by a SANE.

Communicate the facts known about the incident, including the infectious disease status of the aggressor, if known, to the hospital.

Work with the Shift Supervisor to make arrangements for transporting the Resident to the hospital.

Document all actions taken and communications with the alleged victim.

Request STD testing, and prophylactic treatment is completed at St. Alexius or Sanford Hospital.

Request pre-HIV counseling has been conducted at St. Alexius or Sanford Hospital.

Ensure post-HIV counseling is conducted, and the results are given to the victim.

Ensure follow-up infectious disease testing is completed, and that infectious disease testing is completed on the abuser if the allegation is substantiated. Ensure the results of the infectious disease testing are reported to the victim.

Medical and mental health staff maintain secondary materials documenting the timeliness of emergency medical treatment and resist intervention services that were provided; the appropriate response by non-health staff in the event health staff are not present at the time the incident is reported; and the provision of appropriate and timely information and services concerning contraception and sexually transmitted infection prophylaxis.

BTC Policy 14.5 entitled Medical and Mental Health, page 3, section II(C)(1) addresses 115.283(b). This policy stipulates BTC will refer Residents for a medical and mental health evaluation, at no financial cost, and if appropriate; treatment to all Residents who have been victimized by sexual abuse in any community corrections facility, jail, lockup or juvenile facility. The Program Administrator will need to ensure that when the victim is released or transferred from the facility to another facility, or release from custody that there are follow-up services, treatment plans, and referrals for continued care.

It is noted according to policy, medical and mental health services are provided to female residents by the North Dakota Department of Corrections and Rehabilitation (NDDOC&R) and male residents access medical and mental health services in the community. Given the same, there is an expectation and

understanding that the medical and mental health services provided are consistent with the community level of care.

Pursuant to the PAQ, the Administrator asserts female victims of sexually abusive vaginal penetration while incarcerated are offered pregnancy tests.

CCCS Policy 1.3.5.12 entitled PREA, page 23, section 115.283(d) addresses 115.283(d). This policy stipulates resident victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests. This provision is also validated pursuant to BTC Policy 14.5 entitled Medical and Mental Health, page 3, sections II(C)(2 and 3). This policy stipulates residents will be referred for Treatment services, and all necessary testing, to victims of sexual abuse without financial cost, regardless of whether the victim names the abuser, and regardless of whether or not the victim cooperates with any investigation arising from initial report of the incident. Additionally, this policy stipulates timely access to emergency contraception, sexually transmitted infections prophylaxis, general information and forensic exams will be available, at no financial cost, for any resident victim of sexual abuse while incarcerated as medically appropriate.

Pursuant to the PAQ, the Administrator asserts if pregnancy results from sexual abuse while incarcerated, victims receive timely and comprehensive information about, and timely access to, all lawful pregnancy-related medical services.

CCCS Policy 1.3.5.12 entitled PREA, page 23, section 115.283(e) addresses 115.283(e). This policy stipulates if pregnancy results from conduct specified in paragraph (d) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy related medical services.

Pursuant to the PAQ, the Administrator asserts resident victims of sexual abuse while incarcerated are offered tests for sexually transmitted infections as medically appropriate.

The policy citation referenced in the narrative for 115.283(d) above (BTC Policy 14.5) is also applicable to 115.283(f).

According to the SAFE/SANE interviewee, victims of a sexual abuse incident at BTC, as well as, any individual within the Bismarck community, would receive timely information about access to emergency contraception and sexually transmitted infection prophylaxis as part of the forensic process.

Pursuant to the PAQ, the Administrator asserts treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

The policy addressing this provision is clearly articulated in the narrative for 115.283(d) as reflected above.

Pursuant to the PAQ, the Administrator asserts the facility attempts to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history, and offers treatment when deemed appropriate by mental health practitioners.

BTC Policy 14.5 entitled Medical and Mental Health, page 3, section II(C)(3) addresses 115.283(h). This policy stipulates the facility attempts to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history, and offers treatment when deemed appropriate by mental health practitioners.

Pursuant to conversation with the Administrator, it has been learned that no resident-on-resident abusers have been housed at BTC since the last PREA audit. It is again noted the Administrator has the ability to decline acceptance of residents based on historical information, inclusive of resident-on-resident sexual abuse.

DATA COLLECTION AND REVIEW

Standard 115.286: Sexual abuse incident reviews

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.286 (a)

- Does the facility conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded? x□ Yes □ No

115.286 (b)

- Does such review ordinarily occur within 30 days of the conclusion of the investigation? x□ Yes □ No

115.286 (c)

- Does the review team include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners? x□ Yes □ No

115.286 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse? x□ Yes □ No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility? x□ Yes □ No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse? x□ Yes □ No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts? x□ Yes □ No

- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff? x□ Yes □ No

- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.286(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager? x□ Yes □ No

115.286 (e)

- Does the facility implement the recommendations for improvement, or document its reasons for not doing so? xYes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts the facility conducts a sexual abuse incident review at the conclusion of every criminal or administrative sexual abuse investigation, unless the allegation has been determined to be unfounded. The Administrator further asserts in the past 12 months, three criminal and/or administrative investigations of alleged sexual abuse were completed at the facility, excluding only "unfounded" incidents.

BTC Policy 14.7 entitled Data Collection, Aggregation and Review, page 1, section II(A)(1)(a) addresses 115.286(a). This policy stipulates BTC shall conduct a sexual abuse incident review at the conclusion of every criminal or administrative sexual abuse or sexual harassment investigation including whether the allegation has not been substantiated, unless the allegation has been determined to be unfounded. The review will include all members of Sexual Assault Review Team (SART).

The auditor finds there were two Unsubstantiated sexual abuse allegations/accompanying investigations during the last 12 months and a Sexual Abuse Response Team (SART) review was conducted in follow-up to both incidents. Two randomly selected investigations were reviewed for Year 2 of this audit period and were likewise reviewed and determined to be allegations of sexual abuse. Both were determined to be Unsubstantiated and a SART review was not completed in one case. Five Year 1 sexual abuse investigative files were reviewed and the auditor determined that in four of the five cases, a SART review was completed in a timely manner pursuant to 115.286(a) and (b).

In view of the above, the auditor finds there is substantial compliance with this provision.

Pursuant to the PAQ, the Administrator asserts the facility ordinarily conducts a sexual abuse incident review within 30 days of the conclusion of the criminal or administrative sexual abuse investigation. The Administrator further asserts in the past 12 months, three criminal and/or administrative investigations of alleged sexual abuse were completed at the facility and were followed by a sexual abuse incident review within 30 days, excluding only "unfounded" incidents.

BTC Policy 14.7 entitled Data Collection, Aggregation and Review, page 1, section II(A)(1)(b) addresses 115.286(b). This policy stipulates such review shall occur within 30 days of the conclusion of the investigation.

All of the afore-mentioned SART reviews were facilitated within 30 days of the conclusion of the investigation. Specifically, the dates of investigation conclusion/SART review for the three allegations are as follows: March 8, 2017/April 4, 2017; September 12, 2016/September 15, 2016; and December 4, 2015/December 7, 2015.

Pursuant to the PAQ, the Administrator asserts the Sexual Abuse Incident Review Team includes upper-level management officials and allows for input from line supervisors, investigators, and medical or mental health practitioners.

BTC Policy 14.7 entitled Data Collection, Aggregation and Review, page 2, section II(A)(1)(c) addresses 115.286(c). This policy stipulates the SART team includes the following; PREA Manager, Program Administrator, Chief of Security, Shift Supervisor, and PREA Investigators.

As previously noted in 115.282, CCCS employs no medical or mental health practitioners at BTC. Accordingly, there is no medical or mental health presence on the SART team review.

According to the Administrator, there is a facility SART team comprised of upper-level management officials. Additionally, input is allowed from line supervisors and investigators. There are no medical/mental health providers at BTC.

The auditor reviewed the previously referenced SART reviews and finds the Administrator/PREA Manager and PREA Investigator were team members for three reviews while the Chief of Security also served as a team member for the third review. As noted in the Year 1 SART reports, the PREA Manager, Administrator, and Chief of Security were represented. Again, there is no evidence of line supervisor representation or input in the report.

There is no evidence that input from line supervisors was considered with respect to any of the SART reviews evaluated by the auditor. While they are designated as members of the SART, line supervisors were not present during any of the reviews.

Given the restrictive language reflected in 115.286(c) (The review team SHALL include upper-level management officials, with input from LINE SUPERVISORS, investigators, and medical or mental

health practitioners) and the verbiage reflected in BTC Policy 14.7 as reflected in the narrative for 115.286(a) above, the auditor finds BTC to be non-compliant with this provision. Policy requires all members of the SART to be included in the review. Accordingly, based on the composition of the SART teams as reflected for the SART reviews discussed above, the auditor finds BTC to be non-compliant with 1155.286(c).

In view of the above, BTC staff will facilitate a mock SART developed around a fact pattern identified by the CCCS PREA Coordinator. SART members must be reflective of policy requirements. A copy of the mock scenario and the SART report will be forwarded to the auditor for consideration on or before March 30, 2018.

Alternatively, in the event of a sexual abuse investigation and accompanying SART review prior to March 30, 2018, the BTC Administrator will forward a copy of the investigation and SART report to the auditor for review. Again, the makeup of the SART team must be commensurate with the afore-mentioned policy.

12/20/2017 Update:

The auditor has been provided and has reviewed a substantiated sexual harassment investigation and accompanying SART Checklist, commensurate with 115.286(c). The incident allegedly was brought to staff's attention on September 27, 2017 and investigation commenced on the same date. The SART was facilitated on October 6, 2017, well within the requisite 30-day time frame for commencement of the SART. The Administrator, Treatment Director, Shift Supervisor, Chief of Security, and PREA Coordinator participated in the review. It is noted the Administrator facilitated the investigation in this matter.

02/25/2018 Update:

The auditor has been provided and has reviewed an unfounded sexual harassment investigation and accompanying SART Checklist, commensurate with 115.286(c). Although the SART is not required by policy in the event the investigation is determined to be unfounded, this incident was allegedly brought to staff's attention on November 29, 2017 and investigation commenced on the same date. The SART was facilitated on December 20, 2017, well within the requisite 30-day time frame for commencement of SART. The Administrator, PREA Investigator, Chief of Security, Case Manager Supervisor, PREA Manager, and a Shift Supervisor participated in the review. A PREA Investigator facilitated the PREA investigation in this matter.

In view of the above, the auditor concludes BTC is compliant with 115.286(b) based on this review. It is apparent the provision has been institutionalized at BTC.

Pursuant to the PAQ, the Administrator asserts the review team shall:

Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;

Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;

Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;

Assess the adequacy of staffing levels in that area during different shifts;

Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and

Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to the above paragraphs of this section, and any recommendations for improvement and submit such report to the facility head and PREA Coordinator.

BTC Policy 14.7 entitled Data Collection, Aggregation and Review, page 2, section II(A)(1)(d) addresses 115.286(d). This policy stipulates the review team shall; (1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; (2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility; (3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; (4) Assess the adequacy of staffing levels in that area during different shifts; (5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and (6) Prepare a report of its findings, including but not necessarily limited to determinations made, and any recommendations for improvement, and submit such report to the PREA Coordinator for review. The BTC Program Administrator will be involved in the initial review process as part of the SART team.

The Administrator advises the team uses the information from the SART review to evaluate physical plant issues, training issues, what could have prevented the situation, electronic surveillance needs, physical barrier interference with effective monitoring, and did we miss something during PREA screening and Re-Screening. We have completed SART review(s) within the last 12 months and all factors were considered.

According to the Administrator, the SART team does:

(1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
(2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
(3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
(4) Assess the adequacy of staffing levels in that area during different shifts.

As previously indicated throughout this report, the Administrator also serves in the capacity of PREA Manager. He advised the facility conducts SART reviews and prepares a report of its findings from the reviews, including any determinations and any recommendations for improvement. As part of the SART, he generally completes the report and signs the same. Accordingly, he is aware of the issues. He has noticed an increase in reports from the female population. Most are "Unfounded". He reviews the SART reports and determines implementation of strategies, if appropriate.

According to the Incident Review Team interviewee, the SART team:

Considers whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;

Examines the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;

Assesses the adequacy of staffing levels in that area during different shifts; and

Assesses whether monitoring technology should be deployed or augmented to supplement supervision by staff.

Pursuant to the PAQ, the Administrator asserts the facility implements the recommendations for improvement or documents its reasons for not doing so.

BTC Policy 14.7 entitled Data Collection, Aggregation and Review, page 2, section II(A)(1)(e) addresses 115.286(e). This policy stipulates BTC will implement the recommendations for improvement, or shall document its reasons for not doing so.

The SART Reports reviewed by the auditor clearly address all considerations required by 115.286(d). The auditor noted two SART reviews wherein corrective action (camera purchases and placement) was recommended. Evidence substantiating purchase and installation of the cameras has

been provided to the auditor and accordingly, the auditor finds BTC to be compliant with 115.286(e).

Standard 115.287: Data collection

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.287 (a)

- Does the agency collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions? x□ Yes □ No

115.287 (b)

- Does the agency aggregate the incident-based sexual abuse data at least annually? x□ Yes □ No

115.287 (c)

- Does the incident-based data include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice? x□ Yes □ No

115.287 (d)

- Does the agency maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews? x□ Yes □ No

115.287 (e)

- Does the agency also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its residents? (N/A if agency does not contract for the confinement of its residents.) □ Yes □ No x□ NA

115.287 (f)

- Does the agency, upon request, provide all such data from the previous calendar year to the Department of Justice no later than June 30? (N/A if DOJ has not requested agency data.) □ Yes □ No x□ NA

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts the agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. The Administrator further asserts the standardized instrument includes, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.

BTC Policy 14.7 entitled Data Collection, Aggregation and Review, pages 2 and 3, section II(A)(2) addresses 115.287(a)/(c). This policy stipulates the BTC shall collect accurate, uniform data for every allegation of sexual abuse and sexual harassment using the standardized instrument known as the Survey of Sexual Violence (SSV) and it will be collected annually.
If the SSV data collection is not conducted by the Bureau of Justice Statistics, the following data shall be collected:
The number of incidents that met the definition of sexual abuse and sexual harassment as outlined in the PREA Standards;
The area where the incident occurred;
The time of the incident;
The victim's age, ethnicity, and gender;
The type of abuse or injury;
How the incident was reported;
If the incident was Resident on Resident, staff on Resident, or Resident on staff;
The perpetrators age, ethnicity, and gender;
The nature of the incident;
Sanctions imposed on the perpetrator;

Pursuant to the PAQ, the Administrator asserts the agency aggregates the incident-based sexual abuse data at least annually. Relevant policy is cited in the narrative for 115.287(a)/(c).

Pursuant to the PAQ, the Administrator asserts the agency maintains, reviews, and collects data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.

BTC Policy 14.7 entitled Data Collection, Aggregation and Review, page 3, section II(A)(3) addresses 115.287(d). This policy stipulates the data shall be collected, reviewed and maintained on an ongoing basis as needed from all available incident-based documents, including reports, investigation files, and sexual abuse/sexual harassment incident reviews.

Pursuant to the PAQ, the Administrator asserts the agency does not obtain incident-based and aggregated data from private facilities with which BTC contracts for the confinement of its residents. Specifically, BTC does not enter into such contracts. Accordingly, 115.287(e) is deemed to be NA.

Pursuant to the PAQ, the Administrator asserts the agency has not provided the Department of Justice (DOJ) with data from the previous calendar year upon request. Specifically, the DOJ has not made such a request. Accordingly, the auditor finds 115.287(f) to be Not Applicable.

It is noted BTC Policy 14.7 entitled Data Collection, Aggregation and Review, page 3, section II(A)(5) addresses 115.287(f). This policy stipulates upon request, all such data from the previous calendar year shall be forwarded to the Department of Justice no later than June 30.

It is noted the numbers for BTC reflected in the 2015 PREA Stats do not match the SSV Stats. Accordingly, correction of these documents is necessary to ensure a clean and accurate record.

BTC staff will reconcile the two documents and provide new copies of the documents to the auditor. It is expected the same will be accomplished on or about March 30, 2018. The auditor does not find this matter to be in non-compliance.

Standard 115.288: Data review for corrective action

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.288 (a)

- Does the agency review data collected and aggregated pursuant to § 115.287 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas? x□ Yes □ No

- Does the agency review data collected and aggregated pursuant to § 115.287 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis? x□ Yes □ No

- Does the agency review data collected and aggregated pursuant to § 115.287 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole? x□ Yes □ No

115.288 (b)

- Does the agency's annual report include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse x□ Yes □ No

115.288 (c)

- Is the agency's annual report approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means? x□ Yes □ No

115.288 (d)

- Does the agency indicate the nature of the material redacted where it redacts specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts the agency reviews data collected and aggregated pursuant to §115.287 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, and training, including:
• Identifying problem areas;
• Taking corrective action on an ongoing basis; and
• Preparing an annual report of its findings from its data review and any corrective actions for each facility, as well as, the agency as a whole.

BTC Policy 14.7 entitled Data Collection, Aggregation and Reviews, pages 3 and 4, section II(B)(1)(a-c) addresses 115.288(a). This policy stipulates BTC shall review data collected and aggregated pursuant to this section in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:
Identifying problem areas;
Taking corrective action; and
Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.

According to the Agency Head interviewee, incident-based sexual abuse data statistics are reviewed to identify/evaluate any patterns. If policy or training modifications are necessary as the result of any trends or patterns, the same would be implemented.

According to the BTC PREA Manager, collected and aggregated data is reviewed in order to assess and improve the effectiveness of sexual abuse prevention, detection, and response policies and training. Findings are compiled in an Annual Report. Trends are assessed. The primary objective is to evaluate ways to improve. Data is secured in a locked desk drawer in the Administrator's Office and the office is secured when he is not in the office. The facility and agency does take action on an ongoing basis based on the data.

It is noted, there is only one Annual Report and it appears the same covers three years based on the analysis of investigations for three consecutive years. The provision requires that a report be

prepared on an annual basis. This ensures perpetual analysis of demographics and findings from both investigations and SART reviews, to enable implementation of corrective action.

The annual report presented is dated 2017 and identified problem areas and corrective action(s) taken on an ongoing basis are not addressed in the report. There is no mention of the recommendations for camera purchases and positioning/whether the corrective action was accomplished, as described in the narrative for 115.287 above. These recommendations were identified during SART reviews and, as previously mentioned, BTC staff have not provided the auditor the requested evidence of purchase/completion of work or justification for not completing the same.

The auditor has reviewed three documents entitled BTC PREA Standards Yearly Report, which appear to be annual assessments of the entirety of PREA standards implementation at BTC. Two of these documents are dated however, one is not. It appears the Administrator conducted each of these assessments.

In view of the above, the auditor finds this singular Annual Report and attachments to be out of compliance with provisions 115.288(a) and (b). Additionally, the absence of a discussion regarding corrective actions as identified in 115.288(b) is a source of concern and non-compliance. Finally, there is no evidence substantiating review by the CCCS CEO as his signature is not affixed to the same.

Pursuant to the PAQ, the Administrator asserts the annual report includes a comparison of the current year's data and corrective actions with those from prior years. The Administrator further asserts the annual report provides an assessment of the agency's progress in addressing sexual abuse.

BTC Policy 14.7 entitled Data Collection, Aggregation and Review, page 4, section II(B)(2) addresses 115.288(b). This policy stipulates BTC 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 BTC’s progress in addressing sexual abuse.

The auditor finds that while there is a comparison between each year in terms of data and a document is attached to show the status of each standard for each year, there is no assessment of necessary changes and the status of those changes on an annual basis. As previously indicated, SART reviews were conducted on a fairly consistent basis however, the status of camera installation, etc. is not reflected in the triennial report. Accordingly, the auditor finds the same to be non-compliant with 115.288(b).

Pursuant to the PAQ, the Administrator asserts the agency's report shall be approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means. The Administrator further asserts the annual reports are approved by the agency head.

BTC Policy 14.7 entitled Data Collection, Aggregation and Review, page 4, section II(B)(2) addresses 115.288(c). This policy stipulates BTC's report shall be approved by CCCS, Inc. CEO and made readily available to the public through its website.

According to the Agency Head interviewee, he does sign and approve such annual reports.

Pursuant to the auditor's review of the afore-mentioned singular Annual PREA Report, there is no indication that the Agency Head approved the same as there is no signature affixed and other substantiation has not been provided. Accordingly, the auditor finds non-compliance with 115.288(c).

In view of the above, BTC staff will develop a new Annual Report for 2017 that addresses all requisite tenets of this standard. Details of investigations, SART reviews, and an assessment of corrective actions taken as the result thereof will be included in the report. Compilation of demographics must be commensurate with all evidence reflected in 115.287. An analysis of sexual safety enhancements at BTC must be comprehensive. Finally, requisite evidence of CEO review must be reflected in the Annual Report.

The above Annual Report will be due for the auditor's review on or before March 30, 2018. Upon completion of review and satisfaction the process is institutionalized, the auditor will close findings regarding this standard.

It is noted a revised Annual Report for 2016 has been developed, signed, etc. The auditor is in the process of reviewing the same and if all corrective actions identified above have been reconciled in this report, the auditor will consider closure of the findings regarding 115.288. If additional modifications, etc. are necessary, the auditor will work with the CCCS PREA Coordinator to address the same.

12/21/2017 Update:

The auditor has received and reviewed an updated 2016 Annual Report. He finds the same to generally meet the requirements of 115.288(a), 115.288(b), and 115.288(c). The three issues identified in 115.288(a) were considered in the Annual Report. Training and systematic investigation, as well as, programmatic changes within the facility are addressed. Finally, the document is signed by the Administrator and the CCCS CEO, minimally.

The auditor has discussed the mechanics of this standard, as well as the intended result, with CCCS staff. Careful analysis of annualized and aggregated data and thorough review of each SART Checklist and investigation (in consideration of all recommendations and corrective action(s), and development of a report on an annual basis, will provide a sexual safety roadmap and cumulative snapshot of the State of PREA at BTC.

02/25/2018 Update:

The auditor's review of the 2017 Annual Report has revealed the same findings. Requisite information and references are incorporated within the document. The Annual Report is more representative of the State of PREA at BTC. Corrective action(s) taken with respect to incidents are clearly articulated in the document, capturing an annual assessment of events, occurrences, and enhancements to sexual safety at BTC.

The auditor is satisfied with the corrective actions taken with respect to 115.288(a), (b), and (c) and therefore, BTC is deemed to be compliant with the same.

Pursuant to the PAQ, the Administrator asserts that when the agency redacts material from an annual report for publication the redactions are limited to specific materials where publication would present a clear and specific threat to the safety and security of the facility. The Administrator further asserts the agency would indicate the nature of the material redacted.

BTC Policy 14.7 entitled Data Collection, Aggregation and Review, page 4, section II(B)(4) addresses 115.288(d). This policy stipulates BTC may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of BPRC/ WTC, but must indicate the nature of the material redacted.

According to the BTC PREA Manager, personal identifiers would typically be redacted from the annual report. He further self reported that the nature of the material redacted would be indicated.

Standard 115.289: Data storage, publication, and destruction

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.289 (a)

- Does the agency ensure that data collected pursuant to § 115.287 are securely retained? x□ Yes □ No

115.289 (b)

- Does the agency make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means? x□ Yes □ No

115.289 (c)

- Does the agency remove all personal identifiers before making aggregated sexual abuse data publicly available? x□ Yes □ No

115.289 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.287 for at least 10 years after the date of the initial collection, unless Federal, State, or local law requires otherwise? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Administrator asserts the agency shall ensure that data collected pursuant to 115.287 are securely maintained.

BTC Policy 14.7 entitled Data Collection, Aggregation and Review, page 4, section II(C)(1) addresses 115.289(a). This policy stipulates BTC shall ensure that data collected pursuant to § 115.287 are securely retained. Data will be securely maintained with the Program Administrator or PREA Coordinator.

According to the BTC PREA Manager, data is collected and aggregated and is reviewed in order to assess and improve the effectiveness of sexual abuse prevention, detection, and response policies and training. Findings are compiled in an Annual Report. Trends are assessed. The primary objective is to evaluate ways to improve. Data is secured in a locked desk drawer in the Administrator's Office and the office is secured when he is not in the office. The facility and agency does take action on an ongoing basis based on the data.

During the facility tour and throughout the audit period, the auditor did find compliance as described by the Administrator.

Pursuant to the PAQ, the Administrator asserts agency policy requires that aggregated sexual abuse data from facilities under its direct control and private facilities with which it contracts be made readily available to the public, at least annually, through its website.

BTC Policy 14.7 entitled Data Collection, Aggregation and Review, page 4, section II(C)(2) addresses 115.289(b). This policy stipulates BTC shall make all aggregated sexual abuse/sexual harassment data, readily available to the public at least annually through its website.

The auditor has reviewed the CCCS website and finds the requisite data to be available on the same.

Pursuant to the PAQ, the Administrator asserts before making aggregated sexual abuse data publicly available, the agency removes all personal identifiers.

BTC Policy 14.7 entitled Data Collection, Aggregation and Review, page 4, section II(C)(3) addresses 115.289(c). This policy stipulates before making aggregated sexual abuse/sexual harassment data publicly available, BTC shall remove all personal identifiers.

The auditor's review of the aggregated sexual abuse data revealed no identifiers.

Pursuant to the PAQ, the Administrator asserts the agency maintains sexual abuse data collected pursuant to 115.287 for at least 10 years after the date of initial collection, unless federal, state, or local law requires otherwise.

BTC Policy 14.7 entitled Data Collection, Aggregation and Review, page 4, section II(C)(4) addresses 115.289(d). This policy stipulates BTC shall maintain sexual abuse/sexual harassment data collected pursuant to § 115.287 for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.

The auditor has reviewed many of the investigative files covering the last three years, complete with supporting documentation and data, and finds the same to substantiate compliance with this provision.

AUDITING AND CORRECTIVE ACTION

Standard 115.401: Frequency and scope of audits

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.401 (a)

- During the three-year period starting on August 20, 2013, and during each three-year period thereafter, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once.? (N/A before August 20, 2016.) x□ Yes □ No □ NA

115.401 (b)

  - During each one-year period starting on August 20, 2013, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited? □ Yes □ No xNA

115.401 (h)

- Did the auditor have access to, and the ability to observe, all areas of the audited facility? x□ Yes □ No

115.401 (i)

- Was the auditor permitted to request and receive copies of any relevant documents (including electronically stored information)? x□ Yes □ No

115.401 (m)

- Was the auditor permitted to conduct private interviews with inmates, residents, and detainees? x□ Yes □ No

115.401 (n)

- Were residents permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel? x□ Yes □ No

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

x☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

The auditor has articulated findings in response to each standard throughout the body of this report. The findings are articulated in sufficient detail to provide an understanding of the logic relied upon.

Standard 115.403: Audit contents and findings

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports within 90 days of issuance by auditor. The review period is for prior audits completed during the past three years PRECEDING THIS AGENCY AUDIT. In the case of single facility agencies, the auditor shall ensure that the facility's last audit report was published. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.) x□ Yes □ No x□ NA

Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

X☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

The last Final PREA Audit for BTC is posted on the CCCS website.

AUDITOR CERTIFICATION

I certify that:

x□ The contents of this report are accurate to the best of my knowledge.

x □ No conflict of interest exists with respect to my ability to conduct an audit of the agency under review, and

x□ I have not included in the final report any personally identifiable information (PII) about any resident or staff member, except where the names of administrative personnel are specifically requested in the report template.

Auditor Instructions:

Type your full name in the text box below for Auditor Signature. This will function as your official electronic signature. Auditors must deliver their final report to the PREA Resource Center as a searchable PDF format to ensure accessibility to people with disabilities. Save this report document into a PDF format prior to submission.[1] Auditors are not permitted to submit audit reports that have been scanned.[2] See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

K. E. Arnold _____ **March 6, 2018**

Auditor Signature **Date**

[1] See additional instructions here: https://support.office.com/en-us/article/Save-or-convert-to-PDF-d85416c5-7d77-4fd6-a216-6f4bf7c7c110 .

[2] See *PREA Auditor Handbook*, Version 1.0, August 2017; Pages 68-69.