

COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC.: BISMARCK TRANSITION CENTER	Policy Number 14-1	Pages 13
Chapter Prison Rape Elimination Act (PREA)	Related Standards: 4-ACRS-6A-05	
Subject Prevention Planning	Created: 5-30-2014 Revised: 3-1-2015 Approved: 6-30-2014 Effective: 6-30-2014 <i>Arhaud</i>	

I POLICY: It is a zero-tolerance policy of the Bismarck Transition Center (BTC) to reduce sexual abuse and sexual harassment of residents (PREA Standard 115.211(a)-1). Through resident orientation, screening, education and resident assessment; staff training; data collection and monitoring; counseling; and investigation of alleged incidents of sexual abuse and sexual harassment; BTC will ensure detecting, preventing and responding to in custody sexual abuse or sexual harassment is a priority (PREA Standard 115.211(a)-2).

Through these strategies and responses the primary goal of the Bismarck Transition Center is to reduce and prevent the sexual abuse and sexual harassment of residents (PREA Standard 115.211(a)-5). The Bismarck Transition Center has a zero-tolerance for any type of sexual abuse or sexual harassment. This type of behavior, and all allegations, regardless of the source, will be fully investigated. The Bismarck Transition Center will also pursue disciplinary action, and refer for criminal investigation and prosecution, those who violate the requirements set forth in this procedure (PREA Standard 115.211(a)-4).

The 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.

All staff will work together to determine which precautions may be appropriate for each resident’s unique situation. Every staff member will receive adequate training on their roles in responding to incidents of sexual abuse or harassment. Every staff member will also sign off that they understand the Prison Rape Elimination Act (PREA) and its reporting requirements. This documentation will be maintained in the employee’s file (PREA Standard 115.211(a)-4). This procedure will be reviewed annually and updated as needed.

This zero-tolerance policy applies to all locations, programs, residents, and employees of the Bismarck Transition Center and Community, Counseling, and Correctional Services, Incorporated (CCCS, Inc.) (PREA Standard 115.211(a)-4).

- II DEFINITIONS (PREA Standard 115.211(a)-3) for purposes of BTC’s Policy Chapter 14, the following terms are defined—
- A. Administrator means the principal official of a facility.

F. Limits to Cross-Gender Viewing and Searches

(1) Cross-gender strip searches and body cavity searches are prohibited (PREA Standard 115.215(a)-1 through PREA Standard 115.215(a)-3).

(2) Male staff members are prohibited from conducting cross-gender pat-down searches of female residents absent exigent circumstances, however this provision will not restrict female residents' access to regularly available programming or other outside opportunities (PREA Standard 115.215(b)-1 through PREA Standard 115.215(b)-2).

(3) The center and its employees shall document (PREA Standard 115.215 (c)-2) and calculate all cross-gender pat-down searches of residents (PREA Standard 115.215(b)-3 through PREA Standard 115.215(b)-4).

(4) BTC prohibits all cross-gender strip searches and body cavity searches thus PREA Standard 115.215(c)-1 is not applicable.

(5) The center shall provide female and male residents with separate and private restrooms and showers which enables residents to shower, perform bodily functions, and change clothing without staff or residents of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to staff conducting routine room checks (PREA Standard 115.215(d)-1).

(6) BTC prohibits the placement of any video monitoring system in resident bathroom or shower areas (PREA Standard 115.215(d)-1).

(7) Opposite gender staff is required to announce their presence when entering a resident housing (PREA Standard 115.215(d)-2).

(8) Staff is prohibited from searching or physically examining a transgender or intersex resident for the sole purpose of determining the resident's genital status (PREA Standard 115.215(e)-1). Therefore, PREA Standard 115.215 (e)-2 is not applicable.

(9) The center shall train all staff during in-service how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates in a professional and respectful manner and in the least intrusive manner possible, consistent with security needs. This training shall be documented and maintained at BTC (PREA Standard 115.215(f)-1).

(H) Residents with Disabilities, Blind, Low Vision or are Limited English Proficient

(1) All residents shall be provided with information about sexual abuse and sexual assault including information on prevention and intervention, self-protection, reporting sexual abuse or sexual assault and on treatment and counseling of victims of sexual abuse or sexual assault (PREA Standard 115.216(a)-1).

(2) The above referenced information shall be provided to the resident in a written form and in a language they comprehend. If a resident does not understand the English language, a translation into the resident's language will be provided. If a literacy problem exists, a staff member will assist the resident to ensure that the resident comprehends the materials (PREA Standard 115.216(b)-1).

(3) In addition to providing such information and education during the resident's intake process and resident orientation, the center shall ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats (PREA Standard 115.216(b)-1).

(4) BTC shall take reasonable steps to ensure meaningful access to all efforts to prevent, detect, and respond to sexual abuse, sexual assault, and sexual harassment to residents who are limited English proficient, by providing interpreters who can interpret accurately, effectively, and impartially, both expressively and receptively, using any necessary specialized vocabulary or language (PREA Standard 115.216(b)-1).

(5) Staff shall not rely on resident interpreters and resident readers, nor utilize other residents to assist in communicating with a resident with disabilities or a resident who is limited English proficient except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise a resident's safety, the performance of first-response duties, or the investigation of a resident's allegations (PREA Standard 115.216(c)-1).

(6) The center and its staff shall document the limited circumstances where resident interpreters, readers or other types of residents assistants were used (PREA Standard 115.216(c)-2).

(7) The center shall calculate and document all instances where resident interpreters, resident readers, or other types of resident assistants 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 under PREA Standard 115.264 or the investigation of the resident's allegation (PREA Standard 115.216(c)-3).

(8) Proper accommodations shall be made for residents with intellectual or physical handicaps.

(I) Hiring and Promotion Decisions

(1) BTC prohibits hiring or promoting anyone who may have contact with residents, including enlisting the services of any service providers or volunteer who has:

- a. Has engaged in sexual abuse or harassment, whether it occurred in a corrections or community environment;
- b. Has been convicted of sexual abuse or harassment, whether it occurred in a corrections or community environment;
- c. Has been civilly or administratively adjudicated to have engaged in sexual abuse or harassment, whether it occurred in a corrections or community environment (PREA Standard 115.217(a)-1).
- d. 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);
- e. 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
- f. Has been civilly or administratively adjudicated for 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.

(2) BTC will consider any incidents of sexual harassment in determining whether to hire or promote any person, or whether to enlist the services of any contractor or volunteer, who may have contact with residents (PREA Standard 115.217(b)-1).

(3) BTC center shall conduct a criminal background check before hiring any new employee. This background check shall be consistent with federal, state, and local law. BTC and CCCS, Inc. shall make the best efforts to contact all prior institutional employers of prospective employees for information on substantiated allegations of sexual abuse, or any resignation during a pending investigation of an allegation of sexual abuse. These background checks and / or background investigations shall be documented and placed in the employee's personnel file

and maintained at BTC (PREA Standard 115.217(c)-1 and PREA Standard 115.217(c)-2).

(4) BTC shall conduct a criminal background check consistent with federal, state, and local law before enlisting the services of any contractor or volunteer, who may have contact with residents. These background checks shall be documented and placed in the contractor or volunteer personnel file and maintained at BTC (PREA Standard 115.217(d)-1 and PREA Standard 115.217(d)-2).

(5) BTC shall conduct and document criminal background checks consistent with federal, state, and local law on current employees, current contractors, and current volunteers, who may have contact with residents, every five (5) years of consecutive service (PREA Standard 115.217(e)-1).

(6) The center shall ask all applicants and employees directly about previous misconduct in written applications or interviews for hiring, promotions, and in any interviews or written self-evaluations conducted as part of reviews of current employees.

(7) Employees shall disclose all types of sexual misconduct. Employees who purposely omit material information, or provide materially false information, regarding any type of sexual misconduct shall be terminated from their employment (PREA Standard 115.217(g)-1).

(8) Upon receiving a request from an institutional employer, and unless otherwise prohibited by law, the center shall provide prospective employers information on substantiated allegations of sexual abuse or sexual harassment involving a former employee of the center.

J. Facility Upgrades and Technology

(1) BTC has not acquired any new facilities, but made substantial expansions or modifications of the existing facilities to the STOP Unit in November 2013, to include alarmed doors, but no new video monitoring equipment (PREA Standard 115.218(a)-1).

(2) Any future expansions, modifications or upgrades to the center's facilities shall consider the effect of the design, expansion or modification upon the center's ability to protect residents from sexual abuse.

(3) When installing or updating a video monitoring system the center has considered and shall continue to consider how such technology may enhance the center's ability to protect residents from sexual abuse (PREA Standard 115.218(b)-1).

COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC.: BISMARCK TRANSITION CENTER	Policy Number 14-2	Pages 3
Chapter Prison Rape Elimination Act (PREA)	Related Standards: 4-ACRS-6A-05	
Subject Gender Classification – LGBTI	Created: 5-30-2014 Revised: 3-1-2015 Approved: 6-30-2014 Effective: 6-30-2014 <i>Arhaud</i>	

- I. Purpose: To establish procedures on providing the appropriate treatment of transgender, transsexual, intersex, and gender variant persons who are incarcerated and housed at the Bismarck Transition Center (BTC).
- II. Policy:
- It is BTC policy to provide services in a humane and respectful manner to transgender and intersex residents while ensuring that they are processed and housed safely and efficiently to the greatest extent possible. For the safety, security and order of the facility, BTC identifies and houses male and female residents in separate housing. BTC shall classify a resident who has male genitals as a male and one who has female genitals as a female unless otherwise noted.
- In order to address the special needs of transgender individuals, upon initial intake, or at any given time that an inmate makes known to BTC staff their transgender or intersex status, staff shall follow the guidelines in this policy in order to determine a residents housing based on his or her safety/security needs, housing availability, gender identity and genitalia, if:
- (1) A resident indicates that they are transgender or intersex at anytime during their residence at BTC.
- (2) A resident’s gender identity, appearance, overt expression, or behavior differs from their birth sex or genitalia.
- (3) A gender designation made by any public entity, government agency or law enforcement agency indicates that the resident is transgender.
- BTC shall uphold the Human Rights Act of 1977 that does not discriminate in the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression. Sexual

Harassment is a form of discrimination that is prohibited by CCC'S Inc. and will not be tolerated. Violators will be subject to disciplinary action.

III. Training:

BTC shall provide all staff with mandatory training on LGBTI residents:

- (1) During this mandatory training staff shall be trained how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates in a professional and respectful manner and in the least intrusive manner possible, consistent with resident safety and security needs.

III. Procedure:

In all circumstances, BTC staff shall only ask questions related to sexual identity, gender identity or gender expression for the purpose of making of intake and housing assignments, classification, programming, providing health care and health assessments, or where information is necessary to ensure the safety, security and order of residents, staff, visitors, the facility, and the community. Questions related to sexual identity, gender identity, or gender expression shall be asked in a respectful manner to preserve confidentiality as well as human dignity and avoid subjecting residents to abuse, humiliation or ridicule.

Screening: Prior to any resident being accepted for placement at BTC, administrative staff shall screen all residential candidates for potential vulnerability for sexual harassment or sexual assault; and all residential candidates will be screened for risks associated to perpetration of sexual harassment and sexual assault by accessing and reviewing the following:

- (1) Sentencing Reports
- (2) ND DOCR PREA Screening Documents (FileNet)
- (3) The referring agencies Screening and Application for Residency form
- (4) North Dakota County Classification Tool
- (5) All other collateral information gained from originating or outside agencies

Initial Intake: Upon intake orientation, if a resident's gender –related expression, identity, appearance, or behavior differs from biological sex, staff shall make immediate notification to the Administrator and/or Chief of Security. Staff shall also:

- (1) Review screening document for gender assignment or any notification that identifies the resident as transgender or "vulnerable."

(2) 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 the resident for verification of the sex of the genitalia. 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.

(3) BTC staff shall accurately record the resident's gender identity and apparent biological gender in the resident's case file and document the information appropriately.

(4) All intake documentation shall include the resident's birth and/or legal name or the name the resident has been booked under by arresting agency.

(5) Resident's shall be called by their last names without reference to gender specific identifiers such as Mr., Mrs., Ma'am, Sir or other gender specific terms used in addressing a person. Instead, the gender neutral term, "Resident" is to be used with the last name.

(6) While taking into consideration a resident's own views with respect to his or her own safety, it is determined that there is a risk to a transgender or intersex resident's safety, staff will immediately alert the Administrator and/or Chief of Security so the resident may be returned to their originating agency.

Housing, Medical, and Security:

(1) All transgender and intersex residents will be assigned housing based on their safety and security needs, housing availability, gender identity and genitalia. BTC staff shall assess the transgender and intersex residents for potential vulnerability. If potential vulnerability is a concern, staff will immediately alert the Administrator and/or Chief of Security so the resident may be returned to their originating agency.

(2) In deciding whether to assign a transgender or intersex resident to a facility for male or female residents, and in making other housing and programming assignments, the facility will 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; however, incorporating a transgender or intersex resident/inmate's own views with respect to his or her own safety shall be given serious consideration (PREA STANDARD 115.242 (d)).

- (3) Written documentation will be recorded and a decision as to vulnerability and housing will be made after initial case management meeting.
- (4) The transgender or intersex resident's own views with respect to his or her own safety shall be given serious consideration.
- (5) When clinically indicated and determined by appropriate medical staff, transgender resident who were receiving hormone treatment and therapy at the time of intake shall continue to do so if the resident desires to do so at his/her own expense.
- (6) Transgender and intersex residents shall wear appropriate clothing according to their assigned housing.
- (7) While residing at the BTC, transgender, transsexual and intersex residents shall not be discriminated against in regard to their participation in services, programs, or benefits and shall not be subjected to verbal or physical harassment or a hostile environment by the staff or residents. Individuals who are found to engage in such abuse shall be subject to appropriate disciplinary action.
- (8) Transgender residents and residents born with intersex conditions shall be allowed to access restrooms and shower separately from other residents if they wish.
- (9) All searches of transgender or intersex residents shall be conducted in a manner consistent with BTC's pat down policy outside the presence of other residents or non-critical staff to the degree practicable.

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Chapter Prison Rape Elimination Act (PREA)	Related Standards: 4-ACRS-6A-05	
Subject Responsive Planning	Created: 5-30-2014 Revised: 3-1-2015 Approved: 6-30-2014 Effective: 6-30-2014 <i>Arhaud</i>	

I. POLICY: The following policy and procedure will outline evidence protocol and forensic medical examinations; and the assurances for referrals of allegations of investigations. The Bismarck Transition Center shall conduct administrative investigations resulting from all allegations of sexual abuse, sexual harassment, and sexual misconduct. The Bismarck Transition Center maintains a Memorandum of Understanding with the Bismarck Police Department.

II. PROCEDURE

A. Evidence Protocol and Forensic Medical Examinations

(1) The Administrator or his designee shall be responsible for all administrative investigations resulting from allegations of sexual abuse, sexual harassment, and sexual misconduct, including resident-on-resident sexual abuse or staff sexual misconduct, if the allegation does not involve potentially criminal behavior (PREA Standard 115.221).

(2) The Bismarck Police Department will be responsible for conducting and completing the criminal investigations resulting from all allegations of sexual abuse, sexual harassment, or sexual misconduct, including resident-on-resident sexual abuse or staff sexual misconduct, that involves potential criminal behavior. Upon completion of these criminal investigations the Bismarck Police Department will determine if criminal charges are warranted (PREA Standard 115.221(a)-2).

a. When conducting a sexual abuse investigation, the agency investigators follow a uniform evidence protocol (PREA Standard 115.221(a)-3).

b. BTC does not house juveniles thus PREA Standard 115.221(b)-1 is not applicable.

c. This protocol was adapted from the April 2013 “A National Protocol for Sexual Assault Medical Forensic Examinations Adults / Adolescents” Second Edition (PREA Standard 115.221(b)-2).

(3) BTC shall offer forensic medical examinations to all residents who experience sexual abuse (PREA Standard 115.221(c)-1).

a. The forensic medical examinations will be conducted at no cost to the resident (PREA Standard 115.221(c)-2).

b. Every attempt will be made to have the forensic medical examination conducted by a Sexual Assault Forensic Examiner (SAFE) or a Sexual Assault Nurse Examiner (SANE) (PREA Standard 115.221(c)-3).

c. If SAFE or SANE examiners are not available, the forensic medical examinations will be performed by another qualified medical practitioner (PREA Standard 115.221(c)-4).

d. Staff will document their efforts to provide SAFE or SANE professionals in the resident's progress notes and in all incident reports (PREA Standard 115.221(c)-5 through PREA Standard 115.221(c)-8).

(4) The center will attempt to make available to the victim a victim advocate from the Abused Adult Resource Center (AARC), either in person or by other means (PREA Standard 115.221(d)-1).

a. These attempts shall be documented (PREA Standard 115.221(d)-2).

(5) If and when the Abused Adult Resource Center (AARC) is not available to provide victim advocate services, the center will provide a qualified staff member from a community-based organization or a qualified BTC staff member (PREA Standard 115.221(d)-3).

(6) If requested by the victim, a victim advocate, qualified agency 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 provides emotional support, crisis intervention, information, and referrals (PREA Standard 115.221(e)-1).

(7) BTC has provided the Bismarck Police Department with a copy of the April 2013 "A National Protocol for Sexual Assault Medical Forensic Examinations Adults / Adolescents" Second Edition and a copy of this policy requesting that the Bismarck Police Department follows the requirements set forth in paragraphs 1 – 7 of this policy (PREA Standard 115.221(f)-1).

B. Referrals of Allegations for Investigations

(1) BTC shall ensure that an administrative and/or criminal investigation is completed for all allegations of sexual abuse and sexual harassment, including

- B. Agency means the unit of a state, local, corporate, or nonprofit authority, or of the Department of Justice, with direct responsibility for the operation of any facility that confines inmates, detainees, or residents, including the implementation of policy as set by the governing, corporate, or nonprofit authority.
- C. Agency head means the principal official of an agency.
- D. Community confinement facility means a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-trial release or post-release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during nonresidential hours.
- E. Contractor means a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.
- F. Direct staff supervision means that security staff is in the same room with, and within reasonable hearing distance of, the resident or inmate.
- G. Employee means a person who works directly for the agency or facility.
- H. Exigent circumstances mean 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.
- I. Facility means a place, institution, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or set of buildings) that is used by an agency for the confinement of individuals.
- J. Full compliance means compliance with all material requirements of each standard except for de minimis violations, or discrete and temporary violations during otherwise sustained periods of compliance.
- K. Gender nonconforming means a person whose appearance or manner does not conform to traditional societal gender expectations.
- L. Gender expression means a gender related expression, appearance, identity, or behavior of an individual, regardless of the individual's gender at birth.
- M. Gender variant refers to any person whose expression of gender, (masculinity and femininity) does not conform to the dominant gender norms of Western Culture.

resident-on-resident sexual abuse or staff sexual misconduct. (PREA Standard 115.222(a)-1).

- a. If the allegation does not involve potentially criminal behavior the Administrator or his designee, in conjunction with the DOCR, will conduct and complete the administrative investigation (PREA Standard 115.222(b)-1).
- b. If the allegation involves potentially criminal behavior the Bismarck Police Department will be considered the lead agency and will conduct and complete the criminal investigation. Upon completion of the criminal investigation the Bismarck Police Department will determine if criminal charges are warranted (PREA Standard 115.222(b)-1).

(2) This information shall be posted on BTC's website (PREA Standard 115.222(b)-2).

(3) BTC will document and calculate any and all referrals of allegations of sexual abuse or sexual harassment that are received by the center (PREA Standard 115.222(a)-2).

(4) BTC will document and calculate any and all referrals of allegations of sexual abuse or sexual harassment that result in an administrative investigation (PREA Standard 115.222(a)-3).

(5) BTC will document and calculate any and all referrals of allegations of sexual abuse or sexual harassment that are referred for criminal investigation (PREA Standard 115.222(a)-4 and PREA Standard 115.222(b)-3).

(6) BTC will ensure that all administrative investigations and all criminal investigations resulting from allegations of sexual abuse or sexual harassment are completed (PREA Standard 115.222(a)-5).

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Chapter Prison Rape Elimination Act (PREA)	Related Standards: 4-ACRS-6A-05	
Subject Training and Education	Created: 5-30-2014 Revised: 3-1-2015 Approved: 6-30-2014 Effective: 6-30-2014 <i>Arhaud</i>	

I POLICY: BTC will ensure the employees, residents, inmates, volunteers, and contractors who have contact with the residents it serves are trained in all aspects, relevant to the scope of their job description, of PREA policy and procedures. Specialized training for BTC’s identified PREA investigator will be completed. BTC may identify a mental health professional who will receive specialized training. BTC will not have specialized training for medical care workers; as BTC provides no medical services.

II PROCEDURE

A. Employee Training (PREA Standard 115.231(a)-1). The center shall ensure that all staff and service providers are trained in the following:

- (1) The center’s zero-tolerance policy for sexual abuse and sexual harassment;
- (2) The rights of residents to be free from sexual abuse and sexual harassment;
- (3) The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
- (4) How to avoid inappropriate relationships with residents;
- (5) How to communicate effectively and professionally with residents and other staff, including lesbian, gay, bisexual, transgender, questioning, intersex, or gender nonconforming resident;
- (6) The dynamics of sexual abuse and sexual harassment in confinement;
- (7) How to fulfill their responsibilities under the center’s prevention, detection, assessment, reporting, and response policies and procedures;
- (8) How to comply with relevant laws related to mandatory reporting sexual abuse to outside authorities;
- (9) The common reactions of sexual abuse and sexual harassment victims; and

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

B. BTC houses both female residents and male residents and provides training that is gender neutral to all new and current employees. Employees of the BTC are not assigned to specific housing units, but operate on a Post Order system which assigns employees to work with both male and female residents within the same schedule shift. BTC shall document and record the number of staff who was trained in the above manner. (PREA Standard 115.231(b)-1 and PREA Standard 115.231(b)-2,).

C. At all times the center provides staff with information and unlimited access to the center's current policies regarding sexual abuse and sexual harassment online and in written format in numerous locations throughout the center. All new employees of BTC are provided a copy of the BTC's PREA policy and are instructed by their direct supervisor of the next training which occurs on a quarterly basis. Documentation of their receipt of the PREA Policy will be maintained in their employee file. (PREA Standard 115.231(c)-2)

D. Initial employee PREA training occurs on a quarterly basis. Employees are required to complete PREA refresher training on a yearly basis. (PREA Standard 115.231(c)-3). BTC shall document and enumerate the exact number of employees who were trained on PREA requirements (PREA Standard 115.231(c)-1) Employee training shall be documented and employees will sign that they understand the PREA training they have received. The signed acknowledgment form will be maintained in the employee's personnel files (PREA Standard 115.231(d)-1).

E. Volunteer and Contractor Training: The level and type of the training provided to volunteers and contractors is based on the services they provide and level of contact they have with residents (PREA Standard 115.232(b)-1). Documentation of volunteer and contractor training will be maintained at BTC. This documentation shall confirm the volunteer/contractor understanding of the information presented to them (PREA Standard 115.232(c)-1). BTC will enumerate the number of volunteers who have completed the training (PREA Standard 115.232 (a)-2). Volunteers and contractors who have contact with residents shall be trained on:

(1) Their responsibilities under the center's sexual abuse and sexual harassment prevention, detection, and response policies and procedures (PREA Standard 115.232(a)-1 and PREA Standard 115.232(b)-1);

(2) The center's zero-tolerance policy regarding sexual abuse and sexual harassment (PREA Standard 115.232(b)-2/PREA Standard 115.32(b)-2); and

(3) Method of reporting incidents of suspected sexual abuse or sexual harassment.

F. Resident Education: The resident shall be provided with a copy of the PREA handbook and staff shall note the resident's acceptance or denial of the handbook in the resident's progress notes. The resident shall sign the Resident PREA Handbook, PREA Acknowledgment form, verifying they have been given this information. During a resident's admission into the facility, at the time of intake all residents shall receive information about the Prison Rape Elimination Act, including(PREA Standard 115.233(a)-1):

(1) The center's zero tolerance policy regarding sexual activity, abuse, or harassment;

(2) Their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents and;

(3) Methods of reporting incidents or suspicions of sexual abuse or harassment.

BTC shall calculate and document number of residents who were provided this PREA information at the time of intake (PREA Standard 115.233(a)-2).

Within thirty (30) days of intake, the center shall provide comprehensive education in person during resident orientation to the residents regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents.

(1) The center shall calculate and document the number of residents who receive this information within thirty (30) days.

(2) The center shall calculate and document the number of residents who do not receive this information within thirty (30) days of intake.

(3) The center shall ensure that every resident receives this comprehensive education whether or not they have been transferred from one facility to another.

Residents of BTC who are transferred from a different community confinement facility are provided the same PREA training as those residents who are transferred from a prison or jail. This training occurs within the first 30 days of arrival. BTC will enumerate the number of residents transferring from

community confinement and the number of those community confinement residents who completed PREA training (PREA Standard 115.233(b)-1, PREA Standard 115.33 (b)-1, PREA Standard 115.233(b)-2, and PREA Standard 115.233(b)-3).

Proper accommodations shall be made for residents with intellectual or physical handicaps including (PREA Standard 115.233(c)-1):

- (1) Interpreters and written formats provided in native language for residents who are limited English proficient;
- (2) Written format for residents who are deaf and;
- (3) Staff readers for residents who are visually impaired, limited in their reading skills, or otherwise disabled.

BTC shall maintain documentation of resident participation in all PREA education sessions (PREA Standard 115.233(d)-1/PREA Standard 115.233(e)-1). In addition to providing such education, the center shall ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats (PREA Standard 115.233(e)-1).

G. Specialized Training

- (1) Investigations: The PREA Investigators for BTC are Slade Herfindahl and John Bechtle. The center requires that these investigators are trained in conducting sexual abuse investigations in confinement settings (PREA Standard 115.234(a)-1/PREA Standard 115.34(a)-1). The center shall maintain documentation that these investigators have completed specialized training in conducting sexual abuse investigations and BTC shall enumerate the number of staff who have completed said training (PREA Standard 115.234(c)-1 and PREA Standard 115.234(c)-2).
- (2) Medical and Mental Health Care: BTC does not employ medical or mental health practitioners within the facility. All medical and mental health needs are referred to community based health care facilities and practitioners thus PREA Standard 115.235(a)-1, PREA Standard 115.235(a)-2, PREA Standard 115.235(b)-1, PREA Standard 115.235(c)-1 are not applicable.

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Chapter Prison Rape Elimination Act (PREA)	Related Standards: 4-ACRS-6A-05	
Subject Screening for Risk of Sexual Victimization and Abusiveness	Created: 5-30-2014 Revised: 3-1-2015 Approved: 6-30-2014 Effective: 6-30-2014 <i>Arhaud</i>	

I POLICY

The following provides policy and procedures as it relates to PREA standards for screening for risk of victimization and abusiveness within the resident/inmate population served by BTC. Further, procedure will outline how screening information is used as part of BTC’s overall zero-tolerance towards sexual abuse and sexual harassment initiatives. Neither BTC nor the Secure Transition Offender Program (STOP) within BTC has the ability to place residents/inmates in protective custody.

II PROCEDURE

A. Resident Screening: Residents are screened upon arrival at the facility and are assessed for their risk of being sexually abused or sexually abusive toward other residents. The Case Manager or their designee normally meets with the resident within twenty-four (24) hours and completes the medical and mental health–screening instrument. Housing assignments are made accordingly by the Shift Supervisor. In instances where the PREA Screening shows risk for being sexually abused or sexually abusive towards other residents the Administrator indicates the risk on the screening form and assists with housing assignments. (PREA Standard 115.241(a)-1, PREA Standard 115.241(b)-1 and PREA Standard 115.241(b)-2). During a resident’s admission into the facility at the time of intake, staff will:

- (1) Conduct risk assessment using an objective screening tool form that screens residents for risk of sexual victimization or sexual abusiveness toward other residents (PREA Standard 115.241(c)-1). The screening will gather information pertaining to:
 - a. Whether the resident has a mental, physical, or developmental disability;
 - b. The age of the resident;
 - c. The physical build of the resident;
 - d. Whether the resident has previous been incarcerated;
 - e. Whether the resident’s criminal history is exclusively nonviolent;
 - f. Whether the resident has prior convictions for sex offenses against an adult or child;
 - g. Whether the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex or gender nonconforming;

- h. Whether the resident has previously experienced sexual victimization; and;
- i. The residents' own perception of vulnerability.

B. During screening, information will be communicated to the resident orally and in writing, in language clearly understood by the resident. If the resident is disabled (deaf, blind, etc.) or has a primary language other than English, interpreters will be used as necessary to communicate with the resident. BTC will not rely on resident interpreters except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise a resident's safety, the performance of first responder duties, or the investigation of a resident's allegations.

C. Residents shall not be disciplined for refusing to answer, or for not disclosing complete information, related to the questions regarding (PREA Standard 115.241(h)):

- (1) Whether or not the resident has a mental, physical or developmental disability;
- (2) Whether or not the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex or gender non-conforming;
- (3) Whether or not the resident has previously experienced sexual victimization; and
- (4) The resident's own perception of vulnerability.

D. Staff will closely monitor all resident interactions and will maintain an open dialog in which to share impressions and concerns about specific situations and resident.

E. A resident's sexual identity will not be used as an indicator of the likelihood of being sexually abusive. Should a resident identify as being gay, bisexual, transgender, questioning, or intersex, the staff will make all efforts to house the resident in an area that ensures the his/her health and safety. Staff will be sensitive to transgender and intersex resident's own views with respect to personal safety.

F. Staff will place the original screening tool form in the resident's medical file, which is in a secure area located within the Administration area, after further assessment and review and by the Administrator.

- (1) 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 resident's status.

(2) All staff, including case manager, medical and mental health will be informed of the resident's status to ensure the protection of the resident, other residents in the center, staff, and the community.

(3) If the screening indicates that a resident has experienced prior sexual victimization or has perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, the Administrator will ensure that the resident is offered a follow-up meeting with a medical and/or mental health professional within fourteen (14) days of the intake screening.

(4) If a referral for an outside mental health assessment and/or ongoing counseling is necessary, staff will facilitate transportation or provide confidential meeting areas within the center.

G. When the screening indicates that a resident is a confirmed victim of sexual assault, or potential victim of sexual assault, staff will:

(1) Document the findings of the screening in the resident's progress notes; and in the resident alerts so staff can better manage residents.

(2) Ensure follow-up medical and/or mental health services are provided.

H. Within thirty (30) days from the resident's arrival at the center, through intake or transfer, the center will reassess the resident's risk of victimization or abusiveness based upon any additional, relevant information received by the center since the intake screening (PREA Standard 115.241(f)-1). A resident's risk level shall 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 (PREA Standard 115.241(g)-1).

(1) The center shall annually calculate, document, and track the number of residents who have had their risk level of victimization or abusiveness reassessed within thirty (30) days from the resident's arrival at the center, through intake or transfer, based upon any additional, relevant information received by the center since the intake screening (PREA Standard 115.241(f)-2).

(2) Sensitive information will not be exploited to the resident's detriment by staff or other residents. All information is strictly confidential.

I. Use of Screening Information: The center shall use information from the risk screening, required from the previous chapter (PREA Standard 115.241(a)-1), to inform housing, bed, work, 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 (PREA Standard 115.242(a)-1).

(1). The center shall make individualized determinations about how to ensure the safety of each resident (PREA Standard 115.242(b)-1).

(2) The center shall make housing and programming assignments for transgender or intersex residents in the center on a case-by-case basis (PREA Standard 115.242(c)-1).

(3) The transgender or intersex resident's own views with respect to his or her own safety shall be given serious consideration (PREA Standard 115.242(d)-1).

J. Protective Custody: BTC does not house residents in any involuntary segregated housing units.

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Chapter Prison Rape Elimination Act (PREA)	Related Standards: 4-ACRS-6A-05	
Subject Reporting	Created: 5-30-2014 Revised: 3-1-2015 Approved: 6-30-2014 Effective: 6-30-2014 <i>Arhaud</i>	

I. POLICY: The following will outline BTC’s policy and procedure as it relates to the reporting of sexual abuse or harassment within the BTC. Procedure will include regulations related to resident/inmate reporting; employee, contractors and volunteer reporting; administrative remedies, resident access to outside confidential support services; and third party reporting.

II. PROCEDURE

A. Resident Reporting

- (1) Residents may privately report sexual abuse or sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, or staff neglect or violations of responsibilities that may have contributed to such incidents, verbally, in writing or by third party to any staff member. (PREA Standard 115.251(a)-1).
- (2) Residents may report sexual abuse or sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, or staff neglect or violations of responsibilities that may have contributed to such incidents to external agencies, to any third party agency such as the North Dakota Department of Corrections and Rehabilitation; Bismarck Police Department, Rape, Abuse and Incest National Network or Abused Adult Resource Center in Bismarck (PREA Standard 115.251(b)-1).
- (3) BTC does not house any residents who are detained for immigration purposes.
- (4) Information on how to report sexual abuse and sexual harassment for a resident or staff to outside agencies will be posted in the center.
- (5) The mailing address and/or telephone numbers of the Abused Adult Resource Center (AARC), the North Dakota Victims Assistance Advocate program, and the Rape, Abuse and Incest National Network (RAINN) will be posted next to the telephones and at public entrances to the center. Reports to these agencies allow the resident to remain anonymous upon request and may be done by third parties. (PREA Standard 115.253 and PREA Standard 115.254)

- N. Inmate means any person incarcerated or detained in a prison or jail.
- O. Intersex means a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.
- P. Jail means a confinement facility of a federal, state, or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges for sentences of one year or less, or persons adjudicated guilty who are awaiting transfer to a correctional facility.
- Q. Law enforcement staff means employees responsible for the supervision and control of detainees in lockups.
- R. Lockup means a facility that contains holding cells, cell blocks, or other secure enclosures that are:
- (1) Under the control of a law enforcement, court, or custodial officer; and
 - (2) Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.
- S. LGBTI stands for Lesbian, Gay, Bi-sexual, Transgender, Intersex.
- T. Medical practitioner means a health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A “qualified medical practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.
- U. Mental health practitioner means a mental health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A “qualified mental health practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.
- V. Pat-down search means a running of the hands over the clothed body of an inmate, detainee, or resident by an employee to determine whether the individual possesses contraband.
- W. Prison means an institution under federal or state jurisdiction whose primary use is for the confinement of individuals convicted of a serious crime, usually in excess of one year in length, or a felony.
- X. Qualified staff member is an individual who is employed by a facility and has

B. Employee, Contractors or Volunteer Reporting:

(1) All employees, contractors, or volunteers of BTC and CCCS, Inc., are required to accept reports of sexual abuse and sexual harassment whether the report is made orally, in writing, by telephone, anonymously, or through a third party, and will be considered confidential (PREA Standard 115.251(c)-1).

(2) All employees, contractors, or volunteers of BTC and CCCS, Inc., are required to document every report of sexual abuse or sexual harassment (PREA Standard 115.251(c)-2).

a. Staff is made aware of their duty and ability to report incidents of resident sexual abuse or sexual harassment through policy, training, and through printed posters that are posted throughout the center (PREA Standard 115.251(d)-2).

b. Failure to report incidents or resident sexual abuse and sexual harassment will be considered a serious violation and disciplinary action will be taken, up to, and including, termination, and/or criminal or civil liabilities.

c. False reporting by residents or staff will result in disciplinary action, and may result in criminal charges.

(3) Staff shall forward the documented report to the Shift Supervisor immediately upon receiving the report of sexual abuse or sexual harassment. This information is given to the Shift Supervisor, as soon as possible, after the report is made in order to begin the investigation and to preserve the crime scene and any potential evidence (PREA Standard 115.251(c)-2).

(4) When the Shift Supervisor receives a report of any of the above types of sexual conduct, they must determine the type of sexual contact that occurred, according to the definitions section of these procedures. The Shift Supervisor shall immediately notify and forward all reports of sexual abuse or sexual harassment to the Administrator for further investigation by the Administrator or his designee. The internal investigation will not replace the investigation conducted by Law Enforcement.

(5) Staff may privately report sexual abuse or sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, or staff neglect or violations of responsibilities that may have contributed to such

incidents, to the Shift Supervisor, Chief of Security, or the Administrator verbally, in writing, or via electronic mail (PREA Standard 115.251(d)-1).

(6) Staff may report sexual abuse or sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, or staff neglect or violations of responsibilities that may have contributed to such incidents to external agencies such as, the North Dakota Department of Corrections and Rehabilitation, Rape, Abuse and Incest National Network or Abused Adult Resource Center in Bismarck (PREA Standard 115.251(d)-1/PREA Standard 115.51(d)-1).

C. Exhaustion of Administrative Remedies (PREA Standard 115.252(a)-1).

(1) There shall be no time limit on when a resident may submit a grievance regarding an allegation of sexual abuse. A resident may submit a grievance regarding an allegation of sexual abuse at any time, regardless of when the incident is alleged to have occurred (PREA Standard 115.252(b)-1).

(2) Any resident shall not be required to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse (PREA Standard 115.252(b)-2).

(3) BTC shall ensure that:

a. A resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint; and (PREA Standard 115.252(c)-1).

b. Such grievance shall not be referred to a staff member who is the subject of the complaint (PREA Standard 115.252(c)-2).

(4) The Administrator shall issue a final agency decision on the merits of any grievance or portion of a grievance alleging sexual abuse within ninety (90) days of the initial filing of the grievance. Computation of the ninety (90) day time period shall not include time consumed by residents in preparing any administrative appeal (PREA Standard 115.252(d)-1).

(5) The center shall calculate, document, and track the following:

a. The number of grievances filed that alleged sexual abuse (PREA Standard 115.252(d)-2).

b. The number of grievances alleging sexual abuse that reached a final decision within ninety (90) days of the filing of the grievance (PREA Standard 115.252(d)-3).

c. The number of grievances that were filed that alleged sexual abuse that involved extensions because a final decision was not reached within ninety (90) days (PREA Standard 115.252(d)-4).

(6) The Administrator may claim an extension of time to respond, of up to seventy (70) days, if the normal time period of response is insufficient to make an appropriate decision (PREA Standard 115.252(d)-5).

a. The investigating officer shall notify the resident, in writing, of any such extension and provide a date by which a decision will be made (PREA Standard 115.252(d)-6).

(7) 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.

D. Third parties, including fellow residents, staff members, family members, attorneys, or outside advocates, shall be permitted to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of residents (PREA Standard 115.252(e)-1).

(1) If a third-party files such a request on the behalf of a resident, the Administrator may require as a condition of processing the request that the alleged victim agree to have the request filed on their behalf, and may also request the alleged victim to personally pursue any subsequent steps in the administrative remedy process.

(2) If the resident declines to have the request processed on their behalf, the Administrator shall document the resident's decision to decline (PREA Standard 115.252(e)-2).

(3) The center shall calculate, document, and track the number of grievances alleging sexual abuse in which residents declined third-party assistance, containing documentation of the resident's decision to decline (PREA Standard 115.252(e)-3).

E. Emergency Grievance: Any resident fearing that they or another resident are subject to the substantial risk of imminent sexual abuse may submit a sealed emergency grievance to any staff member at any time (PREA Standard 115.252(f)-1).

(1) After receiving an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse, BTC shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to the Administrator for which immediate corrective action may be taken (PREA Standard 115.252(f)-1).

(2) The Administrator shall provide an initial response within forty-eight (48) hours. This initial response shall document the center's determination whether the resident is in substantial risk of imminent sexual abuse and the center's immediate action taken in response to the emergency grievance (PREA Standard 115.252(f)-2).

(3) The Administrator shall issue a final decision within five (5) calendar days. The final decision shall document the center's determination whether the resident is in substantial risk of imminent sexual abuse and the center's action taken in response to the emergency grievance (PREA Standard 115.252(f)-5). The center shall calculate, document, and track all:

a. All emergency grievances filed that allege substantial risk of imminent sexual abuse (PREA Standard 115.252(f)-3).

b. All emergency grievances filed that allege substantial risk of imminent sexual abuse that had an initial response issued within forty-eight (48) hours (PREA Standard 115.252(f)-4).

c. All emergency grievances filed that allege substantial risk of imminent sexual abuse that reached a final decision within five (5) days (PREA Standard 115.252(f)-6).

(4) Under this policy, a resident may only receive disciplinary action for filing a grievance alleging sexual abuse if the center demonstrates that the resident filed the grievance in bad faith (PREA Standard 115.252(g)-1). The center shall calculate, document, and track all incidents of:

a. Disciplinary action resulting from a resident filing a grievance alleging sexual abuse in bad faith (PREA Standard 115.252(g)-2).

F. Resident Access to Outside Confidential Support Services: The center will attempt to make available to all residents an outside victim advocate from the Abused Adult Resource Center (AARC), either in person or by other means, for emotional support related to sexual abuse by:

(1) Providing the mailing address and/or telephone numbers of the Abused Adult Resource Center (AARC), the North Dakota Victims Assistance Advocate program, and the Rape, Abuse and Incest National Network (RAINN) will be printed in the Resident Handbook (PREA Standard 115.253(a)-1).

(2) The mailing address and/or telephone numbers of the Abused Adult Resource Center (AARC), the North Dakota Victims Assistance Advocate program, and the Rape, Abuse and Incest National Network (RAINN) will also be posted next to the resident telephones which shall enable residents to contact these organizations in a confidential manner as possible (PREA Standard 115.253(a)-1).

(3) The center informs residents, prior to giving them access to outside support services, of the extent to which such communications will be monitored by (PREA Standard 115.253(b)-1):

a. Resident telephone calls may be monitored.

b. Resident incoming and outgoing mail may be screened.

(4) The center shall inform residents, prior to giving them access to outside support services, of the mandatory reporting requirements 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 (PREA Standard 115.253(b)-2).

(5) The center will attempt to enter into a memoranda of understanding or other agreements with community service providers that are able to provide residents with emotional support services related to sexual abuse and the center shall maintain documentation of the memoranda of understanding and/or of the attempts to enter into such agreements (PREA Standard 115.253(c)-1, PREA Standard 115.253(c)-2, PREA Standard 115.253(c)-3 and PREA Standard 115.253(c)-4)

G. Third – Party Reporting: The center shall receive third-party reports of resident sexual abuse or sexual harassment verbally to staff, in written format by mail, by telephone, via electronic mail, or by referral from any outside agency (PREA Standard 115.254(a)-1).

(1) The center publicly distributes information on how to report resident sexual abuse or sexual harassment on behalf of residents by (PREA Standard 115.254(a)-2):

a. Posting this information on the center's website.

b. Posting this information in written format at all public entrances and exits to BTC.

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Chapter Prison Rape Elimination Act (PREA)	Related Standards: 4-ACRS-6A-05	
Subject Official Response Following a Resident Report	Created: 5-30-2014 Revised: 3-1-2015 Approved: 6-30-2014 Effective: 6-30-2014 <i>Arthaud</i>	

I. POLICY: The following will outline BTC’s policy and procedure as it relates to the official response following a resident/inmate report of sexual abuse/sexual harassment. Procedure will include regulations related to staff and agency reporting duties, resident reporting, agency protection duties, process for reporting to other confinement facilities, BTC staff first responder duties, coordinated response, preservation of BTC’s ability to protect residents/inmates from contact with abusers, BTC processes for protection against retaliation. Neither BTC nor the Secure Transition Offender Program (STOP) within BTC has the ability to place residents/inmates in protective custody.

II. PROCEDURE

A. Staff and Agency Reporting Duties

- (1) All staff shall immediately report to the Shift Supervisor, Chief of Security, or Administrator any knowledge, suspicion, or information they receive regarding any incident of resident sexual abuse or resident sexual harassment (PREA Standard 115.261(a)-1).
- (2) All staff shall immediately report to the Shift Supervisor, Chief of Security, or Administrator any knowledge, suspicion, or information they receive regarding retaliation against any resident or staff who have reported sexual abuse or sexual harassment (PREA Standard 115.261(a)-2).
- (3) All staff shall immediately report to the Shift Supervisor, Chief of Security, or Administrator any knowledge, suspicion, or information they receive regarding staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse, an incident of sexual harassment, or an incident of retaliation against any resident or staff who have reported sexual abuse or sexual harassment (PREA Standard 115.261(a)-3).
- (4) The reporting staff member will complete an incident report before leaving shift. This incident report must include:
 - a. The date and time of the incident;
 - b. Name of the resident or residents involved;
 - c. Nature and extent of the abuse;
 - d. Person or persons involved in the abuse; and as much detail as possible describing the incident.

(5) Staff will take pictures of visible signs of injury except in cases where the injury is to the genitals or breasts.

(6) The original abuse or neglect incident report, along with any pictures, victim statements and witness statements shall be placed in the Administrator's mailbox in a sealed envelope marked CONFIDENTIAL.

(7) If the sexual abuse/assault is alleged to have occurred by another resident while in the center, the Administrator or his designee shall complete a written report and notify the DOCR Warden of Transitional Services or his designee and the resident's referring agency.

(8) If the sexual abuse/assault is alleged against a staff member, volunteer or contractor; the Administrator or his designee will follow all applicable county, state, and federal laws and CCCS Inc. policies pertaining to the investigation.

(9) Any staff witnessing, or having knowledge of, an act which may constitute abuse or neglect, including acts allegedly committed by a staff member, volunteer, other residents, etc., while a resident is residing at BTC, in official custody, or former resident, is required to immediately report such abuse or neglect to the Administrator.

(10) Apart from designated supervisors or officials and designated local or state service agencies, all staff is prohibited from revealing or releasing 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 (PREA Standard 115.261(b)-1).

(11) If the alleged victim of sexual abuse is a vulnerable adult the center will follow all applicable mandatory reporting laws under North Dakota Century Code section 50-25.2-01.

B. Agency Protection Duties: The center shall take immediate action to protect any resident that is subject to a substantial risk of imminent sexual abuse, such as assessing and implementing appropriate protective measures without reasonable delay (PREA Standard 115.262(a)-1).

1. The center shall document every instance that it determines a resident was subject to a substantial risk of imminent sexual abuse (PREA Standard 115.262(a)-2).

2. The center shall document and calculate its response time once it has been determined that a resident has been subject to a substantial risk of imminent sexual abuse (PREA Standard 115.262(a)-3 and PREA Standard 115.262(a)-4).

C. Reporting to Other Confinement Facilities: If staff receives information that a resident was abused in any manner while confined in another facility they will immediately report it to the Administrator.

1. The Administrator will then notify the head of the facility or the appropriate office of the facility where the alleged abuse occurred as soon as possible, but no later than seventy-two (72) hours after receiving the allegation of abuse (PREA Standard 115.263(a)-1 and PREA standard 115.263(b)-1).
2. The center shall document, calculate and track the allegations of resident abuse that occurred while the resident was housed at another facility (PREA Standard 115.263(a)-2).
3. The center shall document that it has provided notification of alleged abuse as soon as possible to the other confinement facility, but no later than seventy-two (72) hours of receiving the allegation. Documentation of this notification will be maintained in the Administrator's office (PREA Standard 115.263(c)-1).
4. The center shall fully investigate all allegations of abuse according to state law and PREA standards that are received from any other facility or agency (PREA Standard 115.263(d)-1).
5. The center shall document, calculate and track the allegations of resident abuse that it receives from any other agency or facility (PREA Standard 115.263(d)-2).

D. Staff First Responder Duties: Upon learning of an allegation that a resident was sexually abused, the first security staff member to respond to the report shall (PREA Standard 115.264(a)-1):

1. Immediately separate the victim from the perpetrator;
2. Address the need for acute medical treatment and contact community medical personnel if needed;
3. Preserve and protect any crime scene or potential evidence until the appropriate steps can be taken to collect any evidence.
 - a. If the abuse occurred within a time period that still allows for the collection of physical evidence, security staff first responders 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.
 - b. If the abuse occurred within a time period that still allows for the collection of physical evidence, security staff first responders shall

immediately request 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.

4. Assure that security staff members remain with the victim and the perpetrator at all times.
5. Contact the Administrator, Chief of Security, and all other necessary security staff members.
6. Contact the Bismarck Police Department.
7. Offer the victim contact with a sexual assault advocate; and
8. Prepare and complete incident reports prior to the end of their shift. The center shall document, calculate, and track all resident sexual abuse allegations including (PREA Standard 115.264(a)-2):
 - a. The number of times the first security staff member to respond to the report immediately separated the alleged victim and perpetrator (PREA Standard 115.264(a)-3).
 - b. The number of allegations where the first security staff member was notified and responded within a time period that still allowed for the collection of physical evidence including the number of times the first security staff member responded to the report (PREA Standard 115.264(a)-4 and PREA Standard 115.264(a)-5).
9. Preserved and protected any crime scene until appropriate steps could be taken to collect any evidence;
 - a. Requested 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;
 - b. Requested 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.

E. If the first responder to an allegation of sexual abuse is not a security staff member, they are to request that the alleged victim not take any actions that could destroy potential physical evidence and immediately notify a security staff member (PREA Standard 115.264(b)-1).

received education concerning sexual assault and forensic examination issues in general.

Y. Resident means any person confined or detained in a juvenile facility or in a community confinement facility, to include inmates housed in the STOP unit.

Z. Security staff means employees primarily responsible for the supervision and control of inmates, detainees, or residents in housing units, recreational areas, dining areas, and other program areas of the facility.

AA Sexual orientation means the male or female homosexuality, heterosexuality, bisexuality, by a person's preference or practice.

BB Staff means employees.

CC Strip search means a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks, or genitalia.

DD Transgender means a person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.

EE Transsexual means a person whose personal sense of his or her gender conflicts with their anatomical sex. Some, but not all, transsexuals undergo medical treatments to change their physical sex so that it is in harmony with their gender expression.

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

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

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

II Vulnerable adult means an adult who has a substantial mental or functional impairment.

JJ Volunteer means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.

- (2) Contractors, volunteers and other non-direct care staff are trained to immediately request the alleged victim not take any actions which could destroy physical evidence first, and then notify security staff as soon as possible.
- (3) The center shall document, calculate, and track the number of times that a non-security staff member was the first responder to an allegation of sexual abuse including the number of times the non-security staff first responder requested that the alleged victim not take any actions that could destroy physical evidence and /or notified security staff (PREA Standard 115.264(b)-2 and PREA Standard 115.264(b)-3).

F. Coordinated Response: The center shall use this policy and procedure as a plan to coordinate actions taken in response to an allegation of resident sexual abuse, among staff, security staff first responders, investigators, victim advocates, community medical health practitioners, BTC/community mental health practitioners, the ND DOCR, and BTC leadership (PREA Standard 115.265(a)-1).

G. Preservation of Ability to Protect Residents from Contact with Abusers: BTC does not participate in collective bargaining thus PREA Standard 115.266(a)-1 is not applicable.

H. Retaliation and False Reporting: Retaliation against offenders, employees, or other parties, for reporting or cooperating with an investigation of sexual misconduct shall not be tolerated. Residents or staff members who retaliate shall face disciplinary action. Staff and residents who fear retaliation can speak to a community mental health professional. Alternative protection against retaliation may include moving a resident to another dormitory or to another facility if deemed necessary by the Administrator (PREA Standard 115.267(a)-1).

1. The Administrator, or his designee, is in charge of monitoring for possible retaliation. The victim and / or aggressor's Case Manager shall be primarily responsible for monitoring for retaliation. During the nightshift, during the weekends and on all holidays the Resident Assistant Shift Supervisor shall be responsible for monitoring for retaliation (PREA Standard 115.267(a)-2).

2. The Administrator, or his designee, or the resident's Case Manager shall monitor 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 other residents or staff for a minimum of ninety (90) days. (PREA Standard 115.267(c)-1 and PREA Standard 115.267(c)-2).

3. This includes monitoring resident incident reports, housing changes, program changes, and negative performance of staff.

4. If it has been found that retaliation has taken place, the Administrator, or his designee, and the resident's Case Manager shall take immediate action to promptly remedy the situation (PREA Standard 115.267(c)-3).
5. The Administrator may elect to continue monitoring beyond ninety (90) days if the initial monitoring indicates a continuing need (PREA Standard 115.267(c)-4).
6. The center shall document, calculate, and track every incident of resident or staff retaliation (PREA Standard 115.267(c)-5).
7. In the case of residents, such monitoring shall also include periodic status checks (PREA Standard 115.267(d)).
8. If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation (PREA Standard 115.267(e)).
9. An agency's obligation to monitor shall terminate if the agency determines that the allegation is unfounded (PREA Standard 115.267(f)).

I. Post-Allegation Protective Custody: BTC does not house residents in any involuntary segregated housing units.

III. SEXUAL ABUSE DEFINITIONS (PREA Standard 115.211(a)-3) for purposes of BTC's Policy Chapter 14, the following terms are defined—

- A. Sexual abuse includes: (1) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and (2) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer. Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:
- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - (2) Contact between the mouth and the penis, vulva, or anus;
 - (3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
 - (4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.
- B. Sexual abuse of a resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the resident:
- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - (2) Contact between the mouth and the penis, vulva, or anus;
 - (3) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - (4) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - (5) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - (6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;

(7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of a resident, and

(8) Voyeurism by a staff member, contractor, or volunteer.

- C. Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of a resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet to perform bodily functions; requiring an resident to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a resident's naked body or of an inmate performing bodily functions.
- D. Non-Consensual Sexual Act: Contact of any person without his/her consent or of a person who is unable to consent or refuse and contact between the penis and the vagina or the penis and the anus including penetration, however slight; or in the mouth and the penis, vagina, or anus; or penetration of the anal or genital opening of another person by a hand, finger, or other object.
- E. Abusive Sexual Contacts: Contact of any person without his/her consent, or of a person who is unable to consent or refuse; and intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.
- F. Staff Sexual Misconduct: Any behavior or act of a sexual nature directed toward any resident by an employee, volunteer, official visitor, or agency representative. Romantic relationships between staff and Residents are included in this definition. Consensual or non-consensual acts including:
- (1) Intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire; or
 - (2) Completed, attempted, threatened, or requested sexual acts, or
 - (3) Occurrences of indecent exposure, invasion of privacy, or staff voyeurism for sexual gratification.
- G. Sexual Assault: The act of sexual intercourse (any penetration, however slight, by the penis into the mouth, vagina, or anus of another person, or any penetration by any part of the body or an object into the anus or vagina of another person), or sexual contact (as defined below) with another person without that person's consent and knowing that it is without that person's consent. Non-consensual sexual acts and abusive sexual contacts as defined above are types of sexual assaults.
- H. Sexual Contact: The act of kissing, hand holding, touching by the intimate parts of one person to any part of another person, or touching by any part of one person or with any object or device, the intimate parts of another person. Sexual intercourse as defined above.

I. Sexual Harassment: Repeated verbal statements or comments of a sexual nature to a resident by another resident, an employee, volunteer, official visitor, or agency representative. Demeaning references to gender or derogatory comments about body or clothing; Profane language or gestures. Sexual harassment includes;

1. Resident on Resident Sexual Harassment: Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one resident directed toward another resident; and
2. Staff on Resident Sexual Harassment: Repeated verbal comments or gestures of a sexual nature to a resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

IV PROCEDURE: The following will outline how BTC will implement the facilities zero-tolerance approach to preventing, detecting, and responding to sexual abuse and sexual harassment:

A. The PREA Coordinator is a designated upper-level employee contained within the CCCS Inc. organizational structure. The PREA coordinator is provided with the sufficient time and authority to develop, implement, and oversee agency-wide efforts, including BTC, to comply with the PREA standards in all of its community confinement facilities(PREA Standard 115.211(b)-1 – PREA Standard 115.211(b)-3)The PREA coordinator is responsible for:

- (1) Identifying, monitoring, and tracking, staff sexual misconduct, harassment, and nonconsensual sexual acts and contact;
- (2) Ensuring that all staff are in compliance with PREA training requirements;
- (3) Compiling and reporting statistical data to the DOCR PREA Coordinator on an annual basis.

B. The PREA Compliance Manager is a designated employee contained within the CCCS Inc. / BTC organizational structure. The PREA Compliance Manager reports to the PREA Coordinator and the Administrator. The PREA Compliance Manager is provided with the sufficient time and authority to coordinate the center's efforts to comply with the PREA standards (PREA Standard 115.211(c)-1/PREA Standard 115.211(c)-4).

C. General: All staff will receive orientation and training to gain the insight and skills necessary to recognize and address the warning signs of sexually abusive or assaultive behavior between residents, as well as the appropriate interventions necessary when they become aware of such behavior. Staff can privately report sexual abuse and sexual harassment of residents to the Administrator, Chief of Security, Shift Supervisor or Law Enforcement, including the North Dakota Department of Corrections and Rehabilitation (ND DOCR).

All staff and service providers are strictly prohibited from engaging in any type of sexual activity with a resident, regardless if it is consensual. Failure to adhere to this procedure is a violation of DOCR policy, and center procedure, and will result in disciplinary action, up to and including termination, and possible criminal charges. Service providers or volunteers who engage in, or attempt to engage in, any type of abuse are prohibited from contact with residents and must be reported to the Administrator and Law Enforcement (unless the activity was clearly not criminal).

Sexual activity between residents is prohibited, even when it is consensual. Sexual activity that was not coerced does not constitute sexual abuse between residents.

D. Contracting with Other Entities for the Confinement of Residents: BTC does not have any current or existing contracts for the confinement of residents with any private entities or government agencies thus PREA Standard 115.212(a)-1 through 115.212(a)-4, PREA Standard 115.212(b)-1 through 115.212(b)-2, and PREA Standard 115.212(c)-1 through 15.212(c)-3 are not applicable.

E. Supervision and Monitoring

(1) The center shall develop, document, and comply on a regular basis with 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 (PREA Standard 115.213(a)-1):

- a) The physical layout of the facility;
- b) The composition of the resident population;
- c) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
- d) Any other relevant factors.

(2) For complete Staffing Plan, Minimum Staffing Requirements and Reduction of Operation Services Information see Bismarck Transition Center Standard Operating Procedure 11 – 1:

- a) Each Case Manager and all other employee positions that supervise employees are responsible for reviewing and monitoring staffing requirements as needed.
 - b) Shift Supervisors are responsible for presenting and discussing all needs and findings with the Administrator and/or Chief of Security.
 - c) Consideration shall be given to ensuring BTC provides safety and security to all residents, visitors, staff and the community. BTC shall also provide residents with reasonable access to staff and services.
 - d) Staffing patterns concentrate on-duty staff at times when most residents are either in the facility and/or at high service or program activity times.
 - e) All on-duty staff will be appropriately dressed, awake and adequately trained to complete all required duties to achieve the orderly operations of the center.
- (3) The center shall calculate the average daily number of residents and predicate the staffing plan on the average daily number of residents (PREA Standard 115.213(a)-2- PREA Standard 115.213(a)-3).
- (4) Each time the staffing plan is not complied with, the center documents and justifies all deviations from the staffing plan (PREA Standard 115.213(b)-1 PREA Standard 115.213(b)-2).
- (5) Whenever necessary, but no less frequently than once every year, the center, in collaboration with the PREA Coordinator, shall assess, determine, document, and review whether adjustments are needed in:
- a) The staffing plan established pursuant to paragraph (1) of this section;
 - b) Prevailing staff patterns;
 - c) Deployment of video monitoring systems and other monitoring technologies; and
 - d) The resources the facility has available to commit to ensure adequate staffing levels. (PREA Standard 115.213(c)-1).
- (6) Shift Supervisors, STOP Unit Program Coordinator, Chief of Security and the Administrator, or his designee will conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. These rounds will occur on all shifts. Staff members are prohibited from alerting other staff members that the supervisory rounds are occurring. Documentation of these rounds will be maintained in the Administrator's office.

COMMUNITY, COUNSELING AND CORRECTIONAL SERVICES, INC.; BISMARCK TRANSITION CENTER	Policy Number 14-10	Pages 3
Chapter Prison Rape Elimination Act	Related Standards: ACA 4-ACRS-2A-02; 6A-05; PREA 115.271, 115.272,115.273	
Subject Investigations <i>Arthaud</i>	Created: 05.30.14 Revised: 03.01.14, 07.11.17 Approved: 06.30.14 Effective: 06.30.14	

I. Policy

The Bismarck Transition Center (BTC) ensures that 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. All parties notified of the allegations (e.g., counselors or victim advocate) are also notified of outcomes.

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.

II. 115.271 Procedure for Investigations

- A. 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 Security for administrative cases.
 - 1. Administrative investigations;
 - a. Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and
 - b. 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
 - c. Upon all allegations involving BTC staff, reports shall be forwarded to the CCCS Inc Human Resource Director for further investigation.
- B. 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.

C. During a sexual abuse/sexual harassment investigation, BTC:

1. ensures that investigations are initiated and completed within established time frames
2. co-operates with outside investigators, and endeavor to remain informed about the outside agency's progress of the investigation.
3. ensures that 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 is reviewed
4. 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.
5. 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.
6. investigations are documented in written reports that include a description of the physical and testimonial evidence, the reasons behind credibility assessments of reporters, and copies of documentary evidence where feasible

D. The BTC retains all written reports as long as the alleged abuser is incarcerated or employed by the agency, plus five years.

E. **115.272** 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

F. **115. 273 Reporting to Residents**

1. 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.

2. 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.
- G. Following a Resident's allegation of sexual abuse by a staff member, BTC informs the resident (unless the allegation is unfounded) whenever:
1. The staff member is no longer assigned to the resident's floor;
 2. The staff member is no longer employed at the facility;
 3. BTC learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
 4. BTC learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
- H. Following a Resident's allegation of sexual abuse by another Resident the BTC shall subsequently inform the alleged victim whenever:
1. BTC learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
 2. BTC learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
- I. All such notifications or attempted notifications shall be documented.
- J. The departure of the alleged abuser or victim from the employment or control of BTC shall not provide a basis for terminating an investigation.
- K. BTC's obligation to report terminates if the Resident is released from BTC custody.

III. Closing;

Any further questions shall be addressed to the Program Administrator or CCCS PREA Coordinator.

COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC.: BISMARCK TRANSITION CENTER	Policy Number 14-9	Pages 3
Chapter Prison Rape Elimination Act (PREA)	Related Standards: 4-ACRS-6A-05	
Subject Discipline	Created: 5-30-2014 Revised: 3-1-2015 Approved: 6-30-2014 Effective: 6-30-2014 <i>Arhaud</i>	

I. POLICY: The following will outline BTC's policy and procedure related to the PREA standards regarding the role of discipline, in regards to the sexual abuse/sexual harassment zero-tolerance standards for the residents/inmates housed within the BTC. Procedures will include disciplinary sanctions for staff; corrective action for contractors and volunteers; and disciplinary sanctions for residents/inmates.

II. PROCEDURE:

A. Staff Disciplinary Sanctions: Any sexual contact or sexual harassment between staff and resident, regardless of consensual status, is prohibited, and subject to administrative disciplinary and criminal sanctions.

(1) Staff shall be subject to disciplinary sanctions up to and including termination for violating center sexual abuse or sexual harassment policies (PREA Standard 115.276(a)-1).

(2) BTC shall document, calculate and track the number of staff who have violated the center's sexual abuse or sexual harassment policies and any staff resignations or terminations due to these violations of policy (PREA Standard 115.276(b)-1, and PREA Standard 115.276(b)-2).

(3) Termination shall be the presumptive disciplinary sanction for staff who engaged in sexual abuse with a resident.

(4) Disciplinary sanctions for violation of center 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 (PREA Standard 115.276(c)-1).

a. BTC shall document, calculate and track the number of staff who have been disciplined, short of termination, for violation of the center's sexual abuse or sexual harassment policies (PREA Standard 115.276(c)-2/).

(5) All terminations for violations of center 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 and any

relevant licensing bodies, unless the activity was clearly not criminal (PREA Standard 115.276(d)-1).

a. BTC shall document, calculate and track the number of staff who have been disciplined, short of termination, for violation of the center's sexual abuse or sexual harassment policies (PREA Standard 115.276(d)-2).

B. Corrective Action for Contractors and Volunteers: Any sexual contact or sexual harassment between contract personnel and resident, or volunteer and resident regardless of consensual status, is prohibited, and subject to administrative disciplinary and criminal sanctions.

(1) Any contractor or volunteer who engages in sexual abuse shall be immediately prohibited from having any further contact with residents and shall be reported to the Bismarck Police Department, unless the activity was clearly not criminal (PREA Standard 115.277(a)-1 and PREA Standard 115.277(a)-2).

a. BTC shall document, calculate and track the number of contractors or volunteers who have been reported to the Bismarck Police Department, or other relevant licensing bodies, for engaging in sexual abuse of residents (PREA Standard 115.277(a)-3 and PREA Standard 115.277(a)-4).

(2) The center shall take appropriate remedial measures, and shall consider whether to prohibit further contact with residents, in the case of any other violation of center sexual abuse or sexual harassment policies by a contractor or volunteer (PREA Standard 115.277(b)-1).

C. Resident Disciplinary Sanctions

(1) Residents shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse, or following a criminal finding of guilt for resident-on-resident sexual abuse, the disciplinary sanctions shall take into consideration the following (PREA Standard 115.278(a)-1 and PREA Standard 115.278(a)-2):

a. 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.

b. The resident's mental disabilities or mental illness contributed to their behavior when determining what type of sanction, if any, should be imposed.

c. BTC shall document, calculate, and track the number of administrative findings and the number of criminal findings of guilt for resident – on

resident sexual abuse (PREA Standard 115.278(a)-3 and PREA Standard 115.278(a)-4).

(2) The center may offer 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 (PREA Standard 115.278(d)-1 and PREA Standard 115.278(d)-2).

(3) The center may discipline a resident for sexual contact with staff if it is found that the staff member did not consent to the contact (PREA Standard 115.278(e)-1).

(4) Substantiated deliberately malicious or false reporting by residents or other parties shall result in disciplinary action or criminal charges.

(5) The center prohibits disciplinary action if a report was 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 (PREA Standard 115.278(f)-1).

(6) BTC prohibits all sexual activity between residents and will discipline residents for such activity (PREA Standard 115.278(g)-1); If it is deemed that the sexual activity was coerced it shall be considered as sexual abuse (PREA Standard 115.278(g)-2).

COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC.: BISMARCK TRANSITION CENTER	Policy Number 14-10	Pages 3
Chapter Prison Rape Elimination Act (PREA)	Related Standards: 4-ACRS-6A-05	
Subject Medical and Mental Health Care	Created: 5-30-2014 Revised: 3-1-2015 Approved: 6-30-2014 Effective: 6-30-2014 <i>Arthaud</i>	

I. POLICY: The following will outline BTC's policy and procedure as it relates to medical and mental health care. Procedures will include medical and mental health care screening; history of sexual abuse; access to emergency medical and mental health services; ongoing medical and mental health care for sexual abuse victims and abusers. Neither BTC nor the Secure Transition Offender Program (STOP) within BTC offers onsite medical treatment services. All medical and some mental health care will be referred to providers within the Bismarck community.

II. PROCEDURE:

A. Medical and Mental Health Screenings; History of Sexual Abuse

(1) If the screening indicates that a resident has experienced prior sexual victimization or has perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, the Administrator will ensure that the resident is offered a follow-up meeting with a medical and/or mental health professional within fourteen (14) days of the intake screening.

a. BTC does not employ onsite medical and mental health practitioners.

(2) The center shall document and annually calculate the percentage of residents who disclosed prior victimization during screening who were offered a follow-up meeting with a medical or mental health practitioner.

(3) The Secure Transition Offender Program (STOP) uses the North Dakota state approved County Classification tool which prohibits inmates with a history and/or criminal history of previously perpetrating sexual abuse to be housed in the center.

(4) Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, only as necessary to make informed decisions regarding housing, bed, work, education, and program assignments, or as otherwise required by federal, state, or local law.

a. Medical and mental health practitioners shall obtain informed consent from residents before reporting information about prior sexual victimization that did not occur in an institutional setting to law enforcement.

B. Access to Emergency Medical and Mental Health Services: Resident victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope which are determined by medical and mental health practitioners according to their professional judgment (PREA Standard 115.282(a)-1 and PREA Standard 115.282(a)-2).

(1) Medical and mental health staff maintains secondary materials documenting the following:

- a. The timeliness of emergency medical treatment and crisis intervention services that were provided; and
- b. The appropriate response by non-health staff in the event health staff are not present at the time the incident is reported; and
- c. The provision of appropriate and timely information and services concerning contraception and sexually transmitted infection prophylaxis.

(2) At the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim and shall immediately notify the Administrator.

(3) Resident victims of sexual abuse, while residing at the center, shall be 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 (PREA Standard 115.282(c)-1).

(4) Treatment services shall be provided to resident victims of sexual abuse without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident (PREA Standard 115.282(d)-1).

C. Ongoing Medical and Mental Health Care: The center offers access to medical and mental health evaluations through referrals to community based medical and mental health facilities and practitioners, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, or lockup (PREA Standard 115.283(a)-1).

(1) Female resident victims of vaginal intercourse, while residing at BTC, shall be offered pregnancy tests (PREA Standard 115.283(d)-1).

(2) If pregnancy results from sexual abuse while incarcerated, victims shall receive timely and comprehensive information about, and timely access to, all lawful pregnancy-related medical services (PREA Standard 115.283(e)-1).

(3) Resident victims of sexual abuse, while residing at BTC, shall be offered tests for sexually transmitted diseases as medically appropriate (PREA Standard 115.283(f)-1).

(4) The center shall arrange a mental health evaluation of all known resident-on-resident sexual abusers within sixty (60) days of learning of such abuse history and offers access to treatment when deemed appropriate by mental health practitioners (PREA Standard 115.283(h)-1).

COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC.: BISMARCK TRANSITION CENTER	Policy Number 14-11	Pages 3
Chapter Prison Rape Elimination Act (PREA)	Related Standards: 4-ACRS-6A-05	
Subject Data Collection and Review	Created: 5-30-2014 Revised: 3-1-2015 Approved: 6-30-2014 Effective: 6-30-2014 <i>Arhaud</i>	

I. POLICY: The following will outline BTC’s policy and procedure as it relates to data collection and review. Procedures will include sexual abuse incident reviews; data collection; data review for corrective action; and data storage, publication, and destruction.

II. PROCEDURE:

A. Sexual Abuse Incident Reviews: The center will conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including when the allegation has not been substantiated, unless the allegation has been determined to be unfounded. BTC shall document, track and enumerate all criminal and/or administrative investigations of alleged sexual abuse completed, excluding only “unfounded” incidents. (PREA Standard 115.286(a)-1 and PREA Standard 115.286(a)-2).

(1) The review shall ordinarily occur within thirty (30) days of the conclusion of the investigation. BTC shall document, track and enumerate all criminal and/or administrative investigations of alleged sexual abuse completed, which were followed by a sexual abuse incident review within (30) days; excluding only “unfounded” incidents. (PREA Standard 115.286(b)-1 and PREA Standard 115.286(b)-2).

(2) The review team will include the Administrator, PREA Compliance Manager, Chief of Security, Shift Supervisor, and Case Manager, but will also allow for input from investigators, the contracting agency, and medical or mental health practitioners (PREA Standard 115.286(c)-1). The review team shall consider:

- a. Whether the allegation or investigation indicated a need to change policy or procedure to better prevent, detect, or respond to sexual abuse;
- b. Whether the incident or allegation was motivated by race, ethnicity, gender identity, sexual orientation, status or perceived status, gang affiliation, or was motivated or caused by other group dynamics in the facility;
- c. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
- d. Assess the adequacy of staffing levels during different shifts; and

e. Assess whether monitoring technology should be added or augmented to supplement supervision by staff.

(3) The review team shall prepare a report of its findings, make any necessary recommendations for improvement, and submit the report to the Administrator and the PREA Coordinator (PREA Standard 115.286(d)-1).

(4) The Administrator shall either implement the recommendations for improvement or document the reasons for not implementing them (PREA Standard 115.286(e)-1).

B. Data Collection: The center shall collect accurate, uniform data for every allegation of sexual abuse at the facility using the Sexual Assault Incident Review and a set of definitions (PREA Standard 115.287(a)/(c)-1).

(1) This standardized instrument includes, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence (SSV) conducted by the Department of Justice (PREA Standard 115.287(a)/(c)-2).

(2) The center shall aggregate the incident-based sexual abuse data annually (PREA Standard 115.287(b)-1).

(3) The center shall collect, maintain and review data as needed from all available incident-based documents, including incident reports, investigations files, and sexual abuse incident reviews (PREA Standard 115.287(d)-1).

(4) BTC does not contract with any other public or private entity for the confinement of its residents thus PREA Standard 115.287(e)-1, PREA Standard 115.287(e)-2 are not applicable.

(5) The Administrator or his designee shall prepare, approve, and report this data to the Department of Justice and the Agency's PREA Coordinator at least annually, and as requested to the DOCR in a timely manner (PREA Standard 115.287(f)-1).

C. Data Review: The center shall review data collected and aggregated pursuant to the above policy (B.) Data Collection (PREA Standard 115.287) in order to assess and improve the effectiveness of its sexual abuse prevention, detection, response policies, and training, including (PREA Standard 115.288(a)-1): 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.

(1) The center's annual report shall be approved by the Administrator, will provide an assessment of the center's progress in addressing sexual abuse, and

shall include a comparison of the current year's data and corrective actions with those from prior years (PREA Standard 115.288(b)-1 and PREA Standard 115.288(b)-2). The Administrator approved, annual reports shall be distributed and approved by the CCCS PREA Coordinator and all other relevant stakeholders (PREA Standard 115.288).

(2) The center shall publish the yearly reports of aggregated sexual abuse on its website, www.cccscorp.com/btc.htm, at least annually (PREA Standard 115.288(c)-1 and PREA Standard 115.288(c)-2).

(3) When the center redacts material from its 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 center. The center will indicate the nature of the material redacted (PREA Standard 115.288(d)-1 and PREA Standard 115.288(d)-2).

D. Data Storage, Publication and Destruction

(1) The center shall ensure that all sexual abuse or sexual assault incident-based and aggregate data is securely retained electronically and in written format (PREA Standard 115.289(a)-1).

(2) The center shall make the aggregated sexual abuse data readily available to the public at least annually through its website (PREA Standard 115.289(b)-1 and PREA Standard 115.289(b)-2).

(3) All personal identifiers will be removed prior to making the aggregated sexual abuse data publicly available (PREA Standard 115.289(c)-1).

(4) For at least ten (10) years and also in accordance with North Dakota statute (Open Records Law) the center shall retain and maintain sexual abuse data including (PREA Standard 115.289(c)-2):

- a. Incident and investigative reports;
- b. Resident information;
- c. Case disposition;
- d. Medical and counseling findings; and
- e. Recommendations for post-release treatment and/or counseling.

COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC.: BISMARCK TRANSITION CENTER	Policy Number 14-12	Pages 5
Chapter Prison Rape Elimination Act (PREA)	Related Standards: 4-ACRS-6A-05	
Subject Audits of Standards	Created: 5-30-2014 Revised: 3-1-2015 Approved: 6-30-2014 Effective: 6-30-2014 <i>Arhaud</i>	

I. POLICY: Audits of Standards (PREA standard 115.293): BTC shall conduct audits pursuant to PREA Standard 115.401 through PREA Standard 115.405. The auditor’s qualifications, audit content and findings; audit corrective action plan, audit appeals and state compliance are just one aspect of BTC’s overall policy and procedure to ensure compliance with the Federal Register Vol. 77; No 119; Part II; 28 CFR Part 115; *National Standards to Prevent, Detect and Respond to Prison Rape Final Rule*. Compliance with auditing process and procedures will help ensure and further strengthen BTC’s zero-tolerance policies regarding resident/inmate sexual abuse and/or sexual harassment.

II. PROCEDURE

- A. Auditing: The center’s Administrator and Compliance Manager will ensure the process of compliance with PREA Audits (PREA Standard 115.401).
- B. Frequency and Scope of Audits
- (1) During the three-year period starting on August 20, 2013, and during each three-year period thereafter, the center shall ensure that it is audited at least once.
- (2) During each one-year period starting on August 20, 2013, the center shall ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, is audited.
- (3) The Department of Justice may send a recommendation to the center for an expedited audit if the Department has reason to believe the center may be experiencing problems relating to sexual abuse. The recommendation may also include referrals to resources that may assist the center with PREA-related issues.
- (4) BTC will utilize The Department of Justice’s audit instrument that will provide guidance on the conduct of and contents of the audit.

(5) The BTC shall demonstrate compliance with the standards through the use of policy, procedure, PREA form documentation, monthly and yearly reports. Documentation provided for the auditing process will include a sampling of relevant documents and other records for the most recent one-year period.

(6) The BTC will provide annual review of all relevant agency –wide policies, procedures, reports, internal and external audits and accreditations.

(7) BTC will ensure auditor shall have access to, and shall observe, all areas of the audited facilities. The auditor shall be permitted to request and receive copies of any relevant documents (including electronically stored information). BTC shall ensure the auditor is permitted to conduct private interviews with residents.

(8) The auditor shall retain and preserve all documentation (including, e.g., video tapes and interview notes) relied upon in making audit determinations. Such documentation shall be provided to the Department of Justice upon request. The auditor shall interview a representative sample of residents, and of staff, supervisors, and administrators. The auditor shall review a sampling of any available videotapes and other electronically available data (e.g., Watchtour) that may be relevant to the provisions being audited. Auditors shall attempt to communicate with community-based or victim advocates who may have insight into relevant conditions in the center.

(9) Residents shall be permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.

B. Auditor Qualifications(PREA Standard 115.402): BTC shall ensure an audit is conducted by:

(1) A member of a correctional monitoring body that is not part of, or under the authority of, the center (but may be part of, or authorized by, the relevant State or local government);

(2) A member of an auditing entity such as an inspector general's or ombudsperson's office that is external to the center; or

(3) Other outside individuals with relevant experience.

(4) All auditors shall be certified by the Department of Justice. The Department of Justice shall develop and issue procedures regarding the certification process, which shall include training requirements.

(5) No audit may be conducted by an auditor who has received financial compensation from the center (except for compensation received for conducting prior PREA audits) within the three years prior to the agency's retention of the auditor.

(6) The center shall not employ, contract with, or otherwise financially compensate the auditor for three years subsequent to the center's retention of the auditor, with the exception of contracting for subsequent PREA audits

C. Audit contents and findings (PREA Standard 115.403)

(1) Each audit shall include a certification by the auditor that no conflict of interest exists with respect to his or her ability to conduct an audit of the center under review.

(2) Audit reports shall state whether the center's policies and procedures comply with relevant PREA standards.

(3) For each PREA standard, the auditor shall determine whether the center reaches one of the following findings:

a. Exceeds Standard (substantially exceeds requirement of standard);

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

c. Does Not Meet Standard (requires corrective action).

(4) The audit summary shall indicate, among other things, the number of provisions the center has achieved at each grade level.

(5) Audit reports shall describe the methodology, sampling sizes, and basis for the auditor's conclusions with regard to each standard provision for the center, and shall include recommendations for any required corrective action.

(6) Auditors shall redact any personally identifiable inmate or staff information from their reports, but shall provide such information to the center upon request, and may provide such information to the Department of Justice.

(7) The center shall ensure that the auditor's final report is published on the agency's website if it has one, or is otherwise made readily available to the public.

D. Audit Corrective Action Plan (PREA Standard 115.404):

(1) A finding of "Does Not Meet Standard" with one or more standards shall trigger a 180-day corrective action period.

(2) The auditor and the center shall jointly develop a corrective action plan to achieve compliance.

(3) The auditor shall take necessary and appropriate steps to verify implementation of the corrective action plan, such as reviewing updated policies and procedures or re-inspecting portions of a center.

(4) After the 180-day corrective action period ends, the auditor shall issue a final determination as to whether the center has achieved compliance with those standards requiring corrective action.

(5) If the center does not achieve compliance with each standard, it may (at its discretion and cost) request a subsequent audit once it believes that it has achieved compliance.

E. Audit Appeals (PREA Standard 115.405)

(1) The center may lodge an appeal with the Department of Justice regarding any specific audit finding that it believes to be incorrect. Such appeal must be lodged within 90 days of the auditor's final determination.

(2) If the Department of Justice determines that the center has stated good cause for a re-evaluation, the agency may commission a re-audit by an auditor mutually agreed upon by the Department of Justice and the agency. The center shall bear the costs of this re-audit.

(3) The findings of the re-audit shall be considered final.

F. State Compliance (PREA Standard 115.501): State determination and certification of full compliance

(1) In determining pursuant to 42 U.S.C. 15607(c)(2) whether the State is in full compliance with the PREA standards, the Governor shall consider the results of the most recent agency audits.

(2) The Governor's certification shall apply to all facilities in the State under the operational control of the State's executive branch, including facilities operated by private entities on behalf of the State's executive branch.