

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

Interim Final

Date of Report: February 28, 2018

Auditor Information

Name: K. E. Arnold	Email: kenarnold220@gmail.com
Company Name: K. E. Arnold, PREA Coordinator	
Mailing Address: P. O Box 1482	City, State, Zip: Castle Rock, CO 80104
Telephone: 484-999-4167	Date of Facility Visit: October 11-13, 2017

Agency Information

Name of Agency: Boyd Andrew Community Service (BACS)	Governing Authority or Parent Agency (If Applicable): BACS
Physical Address: 60 S. Last Chance Gulch	City, State, Zip: Helena, MT 59601
Mailing Address: Same as Above.	City, State, Zip: Same as Above.
Telephone: 406-443-2343	Is Agency accredited by any organization? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
The Agency Is:	<input type="checkbox"/> Military <input type="checkbox"/> Private for Profit <input checked="" type="checkbox"/> Private not for Profit <input type="checkbox"/> Municipal <input type="checkbox"/> County <input type="checkbox"/> State <input type="checkbox"/> Federal
Agency mission: NA	
Agency Website with PREA Information: www.boydandrew.com	

Agency Chief Executive Officer

Name: Amy Tenney	Title: CEO
Email: ATenney@boydandrew.com	Telephone: 406-447-3281

Agency-Wide PREA Coordinator

Name: B. Walter	Title: PREA Coordinator
Email: BWalter@boydandrew.com	Telephone: 406-560-0091
PREA Coordinator Reports to: Amy Tenney	Number of Compliance Managers who report to the PREA Coordinator 0

Facility Information

Name of Facility: Elkhorn Treatment Center			
Physical Address: 1 Riverside Road			
Mailing Address (if different than above): Same as Above			
Telephone Number: 406-447-5300			
The Facility Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input checked="" type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input type="checkbox"/> State	<input type="checkbox"/> Federal
Facility Type:	<input checked="" type="checkbox"/> Community treatment center	<input type="checkbox"/> Halfway house	<input type="checkbox"/> Restitution center
	<input type="checkbox"/> Mental health facility	<input type="checkbox"/> Alcohol or drug rehabilitation center	
	<input type="checkbox"/> Other community correctional facility		
Facility Mission: NA			
Facility Website with PREA Information: http://www.boydandrew.com/services/elkhorn/			
Have there been any internal or external audits of and/or accreditations by any other organization? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			

Director

Name: Dan Krause	Title: Chief Operations Officer (COO)
Email: DKrause@boydandrew.com	Telephone: 406-447-3266

Facility PREA Compliance Manager

Name: Same as Above	Title: Same as Above
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Email: Same as Above		Telephone: Same as Above	
Facility Health Service Administrator			
Name: Penny Uylaki		Title: Nursing Supervisor	
Email: nur6@boydandrew.com		Telephone: 406-447-5300	
Facility Characteristics			
Designated Facility Capacity: 50		Current Population of Facility: 48	
Number of residents admitted to facility during the past 12 months			121
Number of residents admitted to facility during the past 12 months who were transferred from a different community confinement facility:			119
Number of residents admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:			121
Number of residents admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:			121
Number of residents on date of audit who were admitted to facility prior to August 20, 2012:			0
Age Range of Population:	Adults 18 and up	<input type="checkbox"/> Juveniles 0	<input type="checkbox"/> Youthful residents 0
Average length of stay or time under supervision:			270
Facility Security Level:			Locked Minimum Security
Resident Custody Levels:			Minimum Security
Number of staff currently employed by the facility who may have contact with residents:			29
Number of staff hired by the facility during the past 12 months who may have contact with residents:			15
Number of contracts in the past 12 months for services with contractors who may have contact with residents:			1
Physical Plant			
Number of Buildings: 1		Number of Single Cell Housing Units: 6 rooms	
Number of Multiple Occupancy Cell Housing Units:		21 rooms	
Number of Open Bay/Dorm Housing Units:		0	

Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.):	
Addressed in Facility Characteristics section of the report.	
Medical	
Type of Medical Facility:	Ambulatory Care with Nurse Station and Examination Room
Forensic sexual assault medical exams are conducted at:	St. James Hospital in Butte, MT or St. Peter's Hospital in Helena, MT.
Other	
Number of volunteers and individual contractors, who may have contact with residents, currently authorized to enter the facility:	Four contractors and 21 volunteers.
Number of investigators the agency currently employs to investigate allegations of sexual abuse:	Two Administrative Investigators. Jefferson County Sheriff Department-criminal investigations.

Audit Findings

Audit Narrative

The Prison Rape Elimination Act (PREA) on-site audit of the Elkhorn Treatment Center (ETC) was conducted October 11-13, 2017 by K. E. Arnold from Castle Rock, CO, a United States Department of Justice Certified PREA Auditor for both juvenile and adult facilities. Pre-audit preparation included review of all materials and self reports electronically uploaded to an encrypted thumb drive and mailed to the auditor's address via special mail service. The thumb drive was securely packaged in such a manner as to alert to envelope tampering.

The documentation reviewed included, but was not limited to, agency and facility policies, staff training slides, completed forms regarding both staff and resident training, MOUs, organizational chart(s), a PREA brochure, the PREA video presented to offenders, offender education materials, photographs of PREA related materials (e.g. posters, etc.), executed Human Resources documents associated with relevant PREA standard(s), and staff training certifications. This review prompted several questions and informational needs that were addressed with the Boyd Andrew Community Services (BACS) PREA Coordinator. The majority of informational needs were addressed pursuant to telephonic contact and receipt of scanned documents.

At approximately 1:00PM on October 11, 2017, the auditor met with the BACS Chief Operating Officer (COO) and the BACS PREA Coordinator. The COO is the designated Program Director (PD) at ETC. The auditor provided an overview of the audit process and advised all attendees the same would be facilitated in the least disruptive manner possible. Additionally, the auditor advised attendees of the tentative schedule(s) for the conduct of the audit.

During the on-site audit, the auditor was provided a private conference room from which to review documents and facilitate confidential interviews with staff and residents. Resident interviews were facilitated in the Intake Room and staff interviews were facilitated in a conference/training room in the administrative section of the facility.

The auditor randomly selected (from a resident roster provided by the BACS PREA Coordinator) and interviewed 11 residents (with varying lengths of stay) on-site pursuant to the Random Sample of Residents Questionnaire. Resident interviewees represented the three housing unit wings at ETC.

According to the ETC COO and BACS PREA Coordinator, there were no resident(s) confined in the facility at the time of the on-site audit, who reported a sexual abuse incident during the audit period. Similarly, there were no resident(s) confined in the facility during the on-site audit who were Limited-English Proficient (LEP) or transgender/intersex residents.

It is noted the 11 random resident interviewees were generally questioned regarding their knowledge of a variety of PREA protections and their knowledge of reporting mechanisms available to residents for reporting sexual abuse and sexual harassment. Overall, random resident interviewees presented knowledge of PREA policies and practices. Of note, the auditor inquired as to the basis for their knowledge and random residents advised they had received training by ETC staff however, they have also received training at other Montana Department of Corrections (MDOC) facilities, jails, and/or other Pre-Release Centers, treatment facilities, etc. throughout the State of Montana. Additionally, all 11 random resident interviewees advised they feel sexually safe at ETC.

Twelve random staff selected by the auditor from a staff roster provided by the ETC COO and BACS PREA Coordinator, were interviewed. The Random Sample of Staff Interview Guide was administered to this sample group of interviewees. Interviewees were questioned regarding PREA training and overall knowledge of the agency's zero tolerance policy, reporting mechanisms available to residents and staff, the response protocols when a resident alleges sexual abuse, and First Responder duties. Random staff interviewees likewise assert ETC is a sexually safe facility for residents.

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

- Agency Head
- Warden or Designee
- PREA Coordinator
- Designated Staff Charged with Monitoring Retaliation
- Incident Review Team
- Human Resources
- Investigator (1)
- SAFE/SANE
- Intake
- Staff Who Perform Screening for Risk of Victimization and Abusiveness (2)
- Security and Non-Security Staff Who Have Acted as First Responders (11)
- Non-medical Staff Involved in Cross-Gender Strip or Visual Searches
- Medical
- Mental Health
- Volunteer

As a contract administrator is not employed by BACS, that interview was not conducted.

It is noted BACS is the umbrella company for ETC.

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

LGBTI (2)

Resident(s) with Disabilities

The auditor reviewed eight Staff Training records, eight resident files, 20 staff HR files, 1 PREA investigative file (incident was not classified as either sexual assault or sexual harassment as confirmed by the auditor), and other records reflected throughout the following narrative, prior to the audit, during the audit, and subsequent to completion of the same.

On October 11, 2017, the auditor was processed into the facility at the Control Center (bubble). As mentioned in 115.211, a PREA Compliance Acknowledgment is issued to all contractors, visitors, and volunteers each time they enter HPRC. Potential entrants (inclusive of the auditor) are instructed to read this Acknowledgment and affix their signature to the same. The Acknowledgment addresses definitions of sexual abuse, sexual harassment, and voyeurism and mandatory investigation of anyone who has allegedly committed such an act, inclusive of prosecution in those instances wherein the threshold is met for a criminal act. Additionally, the same includes a certification of understanding of the requirements of PREA as scripted in the document, verbiage regarding zero tolerance towards any form of sexual abuse and sexual harassment, and verbiage regarding immediate reporting of any knowledge of sexual abuse or sexual harassment. This document serves as a constant PREA reminder to affected individuals entering the confines of BTC. When signing this document, contractors, vendors, service providers, volunteers, and visitors of HPRC are likewise certifying they have familiarized and understand PREA, agreeing to abide by this law.

From 1:30PM to 3:00PM on the same date, the ETC COO, the BACS PREA Coordinator, and the auditor toured the entire facility. The auditor observed, among other features, the facility configuration, location of cameras, staff supervision of offenders, wing layout (inclusive of shower/toilet areas), placement of PREA posters and informational resources, security monitoring, and offender programming.

Pursuant to contact with the Shelter Administrator at Safe Space, the auditor has determined no ETC sexual abuse/harassment allegations were received between the dates of October 11, 2016 and October 11, 2017.

Facility Characteristics

Elkhorn Treatment Center (ETC) is a 47-bed residential treatment-based correctional facility serving adult women who must be a resident of Montana. The facility is an alternative to traditional incarceration offering female offenders a therapeutic milieu focused on chemical dependency treatment, management of acute and chronic mental illnesses, job development, and education.

ETC serves 42 females under the custody of the Montana Department of Corrections, and 5 other females under a contract with the Department of Public Health and Human Services (DPHHS).

Services are as follows:

Therapeutic milieu

Recovery from chemical dependency requires change of the whole person – psychologically, socially, and behaviorally. Assistance with the transformation through supporting and teaching a resident healthy interactions, modeling, leadership, membership, responsibility, and honesty is provided at ETC.

Educational programming.

A transition to a better future requires new approaches. Education and instruction in life skills and job preparation with a long-term focus are provided to residents at ETC. Assistance from the Helena Adult Learning Center and CTI (Career Training Institute) includes completion of the GED. Other educational opportunities include computer literacy.

Treatment programming.

A diverse staff delivers a myriad of treatment programs to facilitate a healthy transition to the community. Programs include parenting, job readiness, co-occurring groups, anger management group, loss and grief groups, chemical dependency groups, Relapse Prevention, Victim Impact Panel, Creative Writing, Yoga, Zumba, money management, and Medicine Wheel. Expertise in chemical dependency, job development, and care management enable us to respond to resident needs. Two full time mental health therapists add to ETC capability to further the emotional and psychological wellness of residents.

Connectedness.

The appeal of ETC is that it assists residents with progressive transition back to a satisfying life and to reestablish connections with family and friends. The pleasant environment with easy access, parking, and contemporary setting encourages a positive return to normalcy. Supervised visitation is offered every Saturday and Sunday, which includes a family education component prior to each visit.

ETC is comprised of one building with an Administrative Area located outside a semi-secure control center to the resident side. Three linear female housing unit wings (A, B, and C) are located with two wings horizontally oriented in comparison to a General Purpose (programming, educational, eating area) and one oriented vertical to the same area. The bubble is open (half wall) on the entry side of the facility. Staff offices and small rooms are located in one wing (surveilled by camera located in the hallway near the afore-mentioned General Purpose area). Residents are not authorized to be in the bubble and the same is manned on a 24/7 basis.

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

In total, there are 48 cameras (one not operational during the on-site audit at ETC). There is an 85-day video storage period for these cameras.

Cameras are strategically located to cover resident and staff entrance and egress from the facility and most points throughout the same. Outside entrances appear to be adequately covered with surveillance with 16 cameras covering Emergency Exit doors, etc. and a camera covering the Intake Garage entrance, as well as, one camera covering the interior area of the Intake Garage.

One camera covers the conference room in which the auditor conducted staff interviews, another camera covers the door leading into the Administrative Area, two cameras cover doors leading into the facility. and four cameras cover the open area (Visiting Room) in the Administrative Area. Three cameras cover the exterior of the Administrative Area and one camera covers the door leading to the Control Center and visiting area.

A camera is positioned in the Intake Area. With the door closed to the bathroom area, observation into the area is precluded.

Three cameras are positioned in the Control Center with two positioned for specific purposes. However, other cameras provide an additional layer of coverage for other areas.

Five cameras are positioned in the afore-mentioned General Purpose Room. This provides ample coverage for this large space.

One camera is positioned near the General Purpose Room covering each housing wing hallway. It is noted, however, these hallways are long and there is no camera at the other end. While the camera captures much of each wing, clarity decreases as one traverses past the one-half to three-quarters part of the same. Any camera addition considerations should include the back of each wing.

Program rooms, the Laundry, Property Room, and Food Service are all monitored pursuant to cameras. Two cameras are located in Food Service, five cameras are located in program rooms, and one camera each is located in the Laundry and Property Room. The auditor noted one mop closet and “blind spot” area in Food Service that warrants camera consideration. The auditor advised the COO and BACS PREA Coordinator regarding the same. It is noted staff are with residents whenever they are in Food Service.

Meals are produced by MDOC (quick chill) and transported to ETC.

While bathrooms and laundry are in the line of site of both cameras and staff, there are no cameras in bathrooms. Likewise, there are no cameras in resident rooms. There is a camera in the laundry.

Bathrooms are comprised of six shower stalls, inclusive of one handicap shower, covered by shower curtains. Reportedly, male staff don't enter bathrooms during count. They ask who is in the shower/bathroom.

It is noted resident room doors, bathroom doors, Medical, and mop closet doors are solid. There are windows in each staff office door.

There is an Emergency Grievance Box located in the building. Reportedly, the Emergency Grievance Box and location of the same are addressed during Orientation. There is an ample supply of Emergency Grievance forms, as well as, Third Party Reporting forms, as observed by the auditor.

Summary of Audit Findings

The auditor found ETC to exceed standards expectations with respect to Standards 115.211, 115.231, 115.273, and 115.286. A narrative justifying each finding is included below.

Upon entrance to ETC, a PREA Compliance Acknowledgment is issued to all contractors, visitors, and volunteers each time they enter the facility. Potential entrants (inclusive of the auditor) are instructed to read this Acknowledgment and affix their signature to the same.

The Acknowledgment addresses definitions of sexual abuse, sexual harassment, and voyeurism and mandatory investigation of anyone who has allegedly committed such an act, inclusive of prosecution in those instances wherein the threshold is met for a criminal act. Additionally, the same includes a certification of understanding of the requirements of PREA as scripted in the document, verbiage regarding zero tolerance towards any form of sexual abuse and sexual harassment, and verbiage regarding immediate reporting of any knowledge of sexual abuse or sexual harassment. This document serves as a constant PREA reminder to affected individuals entering the confines of ETC. When signing this document, contractors, vendors, service providers, volunteers, and visitors of ETC are likewise certifying they have familiarized and understand PREA, agreeing to abide by this law.

The auditor finds this strategy to be above and beyond in terms of ETC's efforts to educate and enhance knowledge of the PREA statutes, reporting options, and ETC's commitment to zero tolerance with respect to sexual abuse/sexual harassment of residents. Essentially, all entrants, aside from BACS or ETC staff, participate in this valuable exercise.

In view of the above, the auditor finds that ETC staff exceed Standard 115.211.

Pursuant to the auditor's review of 21 staff PREA training files, in addition to the requisite training facilitated by facility instructor(s), he determined that all staff files reviewed contained one or more PREA on-line courses presented by the National Institute of Corrections, the Moss Group, or outside vendors or receipt of programs from the MDOC. Clearly, the ETC leadership and staff have embraced PREA sexual safety training, signifying above and beyond standard expectations with respect to this critical area. Accordingly, the auditor has determined ETC staff have exceeded Standard 115.231.

With respect to Standard 115.273, it is noted the same applies only to allegations of sexual abuse suffered in an agency facility. The ETC policy addresses reporting the outcome of the investigation to the alleged victim(s) of both sexual abuse and sexual harassment allegations. Clearly, the policy and implementation of the same exceeds standard expectations. Accordingly, the auditor finds that ETC exceeds Standard 115.273.

By virtue of policy which also requires the conduct of a SART following a finding of Substantiated or Unsubstantiated in a sexual harassment investigation, the auditor finds ETC to exceed standard expectations with respect to 115.286(a). The standard provision speaks only to the conduct of a SART upon conclusion of a sexual abuse investigation that was found to be Substantiated or Unsubstantiated and does not include such sexual harassment incidents. Additionally, the mock SART serves as evidence of BACS and ETC executives' commitment to sexual safety at ETC.

Number of Standards Exceeded: 4

Number of Standards Met: 35

Number of Standards Not Met: 0

Summary of Corrective Action (if any)

The auditor reviewed interview questions for all positions falling under the umbrella of BACS facilities management. All interview question sets contain the questions set forth in 115.217(a). These same questions, as well as, the afore-mentioned questions germane to 115.217(a) are asked during promotion interviews, according to the PREA Coordinator.

The auditor was not provided interview notes addressing these three questions for any of the three randomly selected staff. There is no evidence reflecting these questions are asked on the employment application.

Finally, the auditor inquired regarding one individual who was promoted during the past year and was advised he/she was appointed. There was no application phase or promotion interview.

In regard to contractors, the auditor has not been provided any evidence substantiating compliance with 115.217(a).

In view of the above, the auditor finds ETC is non-compliant with 115.217(a). Specifically, there is a lack of evidence to prove substantial compliance with the provision.

In an effort to certify compliance with this provision, it is recommended the BACS PREA Coordinator provide completed copies of prior employment reference checks bearing a response to the three questions articulated in this provision for both applicants and contractors. The document will reflect the date of the response, the responding employer's name and signature, the applicant's name, and the position he/she seeks. If the reference check is accomplished via telephone, the hiring manager will ensure the same information is reflected on the document. It is recommended the BACS PREA Coordinator develop a form which adequately captures the above, as well as, the specific statements of the former employer in response to the questions.

As previously mentioned, interview forms reflect a question regarding the requisite three questions as articulated in 115.217(a). This form will need to be revised to include the information articulated in the preceding paragraph. The BACS PREA Coordinator will provide completed copies of interview notes to the auditor relative to new hires, promotion applicants, as well as, any contractor(s) hired during the corrective action period.

ETC will have to capture responses to the three questions during the promotion process, as previously described. A copy of the appointment letter (or equivalent thereof) or promotion letter will assist the auditor in assessing whether the promotion applicant's responses to the three questions were considered in the hiring/promotion decision. Accordingly, this document must also be included in the packet forwarded to the auditor.

Given the complexity of the above, training of hiring managers regarding these procedures will be essential. Institutionalization and inclusion into the facility culture will be accomplished pursuant to training, repetition, and monitoring. Accordingly, the BACS PREA Coordinator will also forward copies of training sheets regarding this matter to the auditor.

This process must be completed on or before May 6, 2018 to ensure the auditor can conclude review and assessment of corrective action prior to corrective action period closure. This provision can be closed prior to the afore-mentioned date based on the auditor's assessment.

BACS Policy 1.3.5.12 entitled PREA Policy, page 7, section 115.117(b) addresses 115.217(b). This policy stipulates BACS shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents.

According to the BACS PREA Coordinator and evidence presented, none of the three files contain evidence reflecting previous institutional employers were questioned regarding incidents of sexual harassment of residents/inmates/etc. during the applicant's previous employment. Specifically, while applicants were reference checked, records/notes were either not maintained or were subsequently destroyed.

In addition to the above, there is no evidence reflecting applicants/interviewees were questioned about the existence of sexual harassment of confined individuals during their previous work history. The BACS PREA Coordinator reports that all interview question sheets (used during employment and promotion interviews) have been updated to include this question.

It is also noted the auditor has not been provided any evidence regarding this matter as applied to contractors.

In view of the above, the auditor finds ETC to be non-compliant with this provision. In an effort to certify compliance with this provision, the BACS PREA Coordinator will provide completed copies of prior institutional employment reference checks bearing a response to the sexual harassment question for both applicants and contractors. The document will reflect the date of the response, the responding employer's name and signature, the applicant's name, and the position he/she seeks. If the reference check is accomplished via telephone, the hiring manager will ensure the same information is reflected on the document. It is recommended that the BACS PREA Coordinator develop a form which adequately captures the above, as well as, the specific statements of the former employer in response to the questions.

As previously mentioned, interview forms have been revised to add a question regarding sexual harassment of residents, inmates, etc. during the applicant's work history. This form will need to be revised to include the information articulated in the preceding paragraph. The BACS PREA Coordinator will provide completed copies of interview notes to the auditor relative to new hires, promotion applicants, as well as, any contractor(s).

A copy of the appointment letter (or equivalent thereof) or promotion letter will assist the auditor in assessing whether the prevalence of sexual harassment was considered in the hiring/promotion decision. Accordingly, this document must also be included in the packet forwarded to the auditor.

Given the complexity of the above, training of hiring managers regarding these procedures will be essential. Institutionalization and inclusion into the facility culture will be accomplished pursuant to training, repetition, and monitoring. Accordingly, the BACS PREA Coordinator will also forward copies of training sheets regarding this matter to the auditor.

This process must be completed on or before May 6, 2018 to ensure the auditor can conclude review and assessment of corrective action prior to corrective action period closure. This provision can be closed prior to the afore-mentioned date based on the auditor's assessment.

BACS Policy 1.3.5.12 entitled PREA Policy, page 8, section 115.217(c) addresses 115.217(c). This policy stipulates before hiring new employees who may have contact with residents, BACS shall: (1) Perform a criminal background records check; and (2) Consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated

allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

Three of the three criminal background record checks reviewed were completed prior to the hire date of the employees. None of these documents reflected any offenses as reflected in 115.217(a). In regard to reference check documents with previous institution employers regarding these same three staff, the auditor received no documents. No evidence substantiating any calls forwarded to the previous institutional employer, was provided to the auditor.

In view of the above, the auditor finds ETC to be non-compliant with 115.217(c). Much like the corrective action articulated in the narrative for 115.217(b), the BACS PREA Coordinator will forward to the auditor copies of the documents forwarded to previous institutional employers regarding substantiated allegations of sexual abuse or any resignation pending investigation of an allegation of sexual abuse, as well as the previous employer's response, for a period not to exceed May 6, 2018. All requirements as articulated in the narrative for 115.217(a) and (b) likewise apply to this provision.

BACS Policy 1.3.5.12 entitled PREA Policy, page 8, section 115.217(f) addresses 115.217(f). This policy stipulates BACS shall also ask all applicants and employees who may have contact with residents directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. BACS shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.

According to the Human Resources interviewee, applicants and employees who have contact with residents are asked about previous misconduct described in 115.217(a) in written applications for hiring or promotions, and in any interviews or written self-evaluations conducted as part of reviews of current employees. The interviewee was uncertain as to the duration of the practice.

In addition to the above, the interviewee asserts the facility imposes upon employees a continuing affirmative duty to disclose any such previous misconduct as described in the narrative for 115.217(a).

The auditor has not been provided any substantiating evidence (relative to three randomly selected staff) with respect to application questions regarding the three issues articulated in 115.217(a). Additionally, as previously indicated, the one employee promoted during the past 12 months was appointed and therefore did not participate in an interview. Accordingly, no substantiating evidence has been provided regarding the requirements of this provision being implemented during a promotion interview. Finally, the auditor has not been provided any substantiating evidence proving that staff are asked the three questions articulated in 115.217(a) during written self-evaluations conducted as part of performance reviews.

In view of the above, the auditor finds ETC to be non-compliant with 115.217(f). As corrective action, it is recommended the BACS PREA Coordinator develop a form reflecting the three questions articulated in 115.217(a). The form will reflect the prospective employee's, promotion interviewee's (if applicable), and the employee participating in the performance evaluation process, printed name/signature, and the date of execution. Additionally, a signature line should be available for the supervisory witness. This form can be utilized during the interview and performance appraisal process.

In addition to the above, the employment application must be changed to reflect the three questions articulated in 115.217(a) and whether the applicant has committed them or received some form of judgment for such actions. The revised application must be used henceforth.

Corrective action regarding employment/promotion interviews is discussed in the narrative for 115.217(a).

Upon completion of these tasks, the BACS PREA Coordinator and/or Business Manager must provide training to hiring managers regarding the performance evaluation change, and all staff regarding the employment application/interview changes. Copies of the training records for the issues described above, will be forwarded to the auditor for review. Additionally, copies of completed employment and promotion (if applicable) applications and completed copies of the proposed new form to be used during interviews and performance review discussions, etc., will be forwarded to the auditor for review.

This process must be completed on or before May 6, 2018 to ensure the auditor can conclude review and assessment of corrective action prior to corrective action period closure. This provision can be closed prior to the afore-mentioned date based on the auditor's assessment.

ETC Policy 3.6 entitled Training, page 2, section II(G) addresses 115.232(c). This policy stipulates ETC Program will maintain documentation confirming volunteers and contractors understand the training they have received.

The auditor's review of PAQ documentation resulted in no evidence to substantiate the volunteer interviewee's receipt and understanding of the training received in Fall, 2017. Pursuant to contact with the BACS PREA Coordinator, ETC does not possess training documentation verifying that volunteers and contractors understand the What You Need to Know video and Zero Tolerance et. al. training. Accordingly, ETC is not in compliance with Standard 115.232.

To ensure compliance with this provision, a new form bearing the "I understand" caveat has been implemented for contractor and volunteer training. Pursuant to agreement between the PREA Coordinator and the auditor, the PREA Coordinator will use this form henceforth subsequent to provision of requisite training. Additionally, he will ensure that all current contractors/volunteers execute this form, subsequently forwarding copies of the same to the auditor. The PREA

Coordinator has already commenced this process and the auditor has received numerous executed forms.

This process must be completed on or before May 6, 2018 to ensure the auditor can conclude review and assessment of corrective action prior to corrective action period closure (180 days from the date of this report). This provision can be closed prior to the afore-mentioned date based on the auditor's assessment.

02/28/2018 Update:

The above findings were identified and noted in the Interim Report which gave rise to a corrective action period. As of February, 28, 2018, the auditor has determined corrective action has been accomplished and accordingly, ETC is now compliant with the PREA standards for Community Confinement Facilities.

Corrective action findings are bolded in the narratives for 115.217 and 115.232.

PREVENTION PLANNING

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

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

115.211 (a)

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

115.211 (b)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the Chief Operating Officer (COO) self reports the agency has a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment in facilities it operates directly or under contract. The COO further self reports the facility has a written policy outlining how it will implement the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment. This policy includes definitions of prohibited behaviors regarding sexual abuse and sexual harassment. Additionally, this policy includes sanctions for those found to have participated in prohibited behaviors. Finally, this policy includes a description of agency strategies and responses to reduce and prevent sexual abuse and sexual harassment of residents.

ETC Policy 3.1 entitled PREA General Requirements, pages 1-9, addresses 115.211(a). The auditor finds this policy to be quite comprehensive and clearly commensurate with provision expectations.

Upon entrance to ETC, a PREA Compliance Acknowledgment is issued to all contractors, visitors, and volunteers each time they enter the facility. Potential entrants (inclusive of the auditor) are instructed to read this Acknowledgment and affix their signature to the same.

The Acknowledgment addresses definitions of sexual abuse, sexual harassment, and voyeurism and mandatory investigation of anyone who has allegedly committed such an act, inclusive of prosecution in those instances wherein the threshold is met for a criminal act. Additionally, the same includes a certification of understanding of the requirements of PREA as scripted in the document, verbiage regarding zero tolerance towards any form of sexual abuse and sexual harassment, and verbiage regarding immediate reporting of any knowledge of sexual abuse or sexual harassment. This document serves as a constant PREA reminder to affected individuals entering the confines of ETC. When signing this document, contractors, vendors, service providers, volunteers, and visitors of ETC are likewise certifying they have familiarized and understand PREA, agreeing to abide by this law.

The auditor finds this strategy to be above and beyond in terms of ETC's efforts to educate and enhance knowledge of the PREA statutes, reporting options, and ETC's commitment to zero tolerance with respect to sexual abuse/sexual harassment of residents. Essentially, all entrants, aside from BACS or ETC staff, participate in this valuable exercise.

Pursuant to the PAQ, the COO self reports the agency employs or designates an upper-level, agency-wide PREA coordinator. The COO further self reports the PREA coordinator has sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its community confinement facilities.

The auditor has reviewed the BACS (BACS) Organizational Chart and finds that the BACS PREA Coordinator falls directly under the supervision of the BACS Chief Executive Officer (CEO). Accordingly, this is commensurate with the standard provision expectations. The BACS PREA Coordinator advises he has sufficient time to manage all of his PREA-related responsibilities. He relates he discusses PREA issues with the COO at ETC. Shortcomings are identified and addressed. He assumes a lead role in PREA policy development, conducts PREA investigations, conducts PREA training, addresses any PREA-related questions or inquiries, and is included in the loop when PREA issues or incidents arise. He asserts he maintains a close working relationship with the facility administrators at both Helena Pre-Release Center (HPRC) and ETC.

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

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

115.212 (a)

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

115.212 (b)

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

115.212 (c)

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

Auditor Overall Compliance Determination

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

- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to a memorandum (memo) dated July 12, 2017, authored by the COO, ETC does not contract with other agencies for the confinement of residents. The auditor has determined ETC is compliant with 115.212 as there is no evidence of failure to adopt and implement the standard.

Standard 115.213: Supervision and monitoring

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

115.213 (a)

- Does the agency develop for each facility a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect residents against sexual abuse?
 Yes No
- Does the agency document for each facility a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect residents against sexual abuse?
 Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the physical layout of each facility in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the composition of the resident population in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the prevalence of substantiated and unsubstantiated incidents of sexual abuse in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring? Yes No

115.213 (b)

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

115.213 (c)

- In the past 12 months, has the facility assessed, determined, and documented whether adjustments are needed to the staffing plan established pursuant to paragraph (a) of this section? Yes No
- In the past 12 months, has the facility assessed, determined, and documented whether adjustments are needed to prevailing staffing patterns? Yes No
- In the past 12 months, has the facility assessed, determined, and documented whether adjustments are needed to the facility's deployment of video monitoring systems and other monitoring technologies? Yes No
- In the past 12 months, has the facility assessed, determined, and documented whether adjustments are needed to the resources the facility has available to commit to ensure adequate staffing levels? Yes No

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports for each facility, the agency develops and documents a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring to protect residents against sexual abuse. The COO further self reports the average daily number of residents at ETC was 46 during the past 12 months. The average daily number of 50 residents is the number on which the staffing plan is predicated.

ETC Policy 3.1, page 7, section IV(A)(5) addresses 115.213(a). This policy asserts ETC has developed and documented an annual staffing plan approved by the corporate office that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, the staffing plan takes into consideration:

The physical layout of the facility including any blind spots;

The composition of the resident population;

The prevalence of substantiated and unsubstantiated incidents of sexual abuse and;

Any other relevant factors.

Pursuant to interview with the COO, he relates there is a staffing plan at ETC and there is an adequate staffing level to protect residents against sexual abuse, video monitoring is considered in this plan, and the staffing plan is documented. An electronic copy of the plan is maintained on the COO's computer system.

The primary focus of the staffing plan is a determination of the issues requiring review on a perpetual basis to ensure resident safety. The linear nature of the facility and blind spots associated with stairwells, etc. are considered. This includes assessment of locations and potential blind spots. Considerations are "red flag" issues or areas and exterior security and supervision. The composition of the resident population analysis focuses on any increase in mental health needs, increase in resident propensity for violence, and any increase in gang members. In regard to substantiated and unsubstantiated incidents of sexual abuse, the COO is privy to resident histories by virtue of the pre-screening process. Additionally, review of Sexual Abuse Incident Review (SART) team reports are considered, as well as, location(s) of the incident(s), whether the area was captured on camera surveillance, staff presence, etc. Finally, other relevant factors would include whether a resident is escalating within the Therapeutic Community (TC) and whether confidential information is being received that might originate a staffing pattern/additional camera placement(s) change(s).

In regard to monitoring compliance with the staffing plan, the COO relates he reviews all time sheets and evaluates who is calling off. Generally, the COO approves overtime. At times, we'll use staff in other positions (e.g. Case Managers, etc.) to fill vacancies, inclusive of, if needed, the CCO. The CEO receives an e-mail regarding call offs, etc. and fill behind needs.

When assessing adequate staffing levels and the need for video monitoring, the BACS PREA Coordinator advises obstructions, line of sight, and blind spots are considered for camera placements or staff assignments. Population considerations in terms of staffing plan compilation are race, age, trauma history, mental health history (whether to increase mental health staffing), and contentious issues associated with nature of offense or Security Threat Groups (STGs). In regard to the prevalence of substantiated and unsubstantiated incidents of sexual abuse, trends would be researched/identified and resources allocated/increased to offset deficient areas or perceived deficient areas. Finally, any factor that manifests itself would be considered.

The auditor reviewed the Staffing Plan dated March 1, 2017, finding the same to be in compliance with the requirements of 115.213(a). The review of the staffing plan dated June 21, 2017 is extremely detailed.

Pursuant to the PAQ, the COO self reports that each time the staffing plan is not complied with, the facility documents and justifies all deviations from the staffing plan. The five most common reasons for deviating from the staffing plan are as follows: 1. Transports; 2. Security coverage; 3. Employee Sick Leave; 4. Vacation; and 5. Position vacancies.

ETC Policy 3.1 entitled PREA General Requirements, page 7, section IV(A)(6) address 115.213(b). This policy stipulates in circumstances where the staffing plan is not complied with, ETC will document and justify all deviations from the plan.

The auditor reviewed 29 ETC Staffing Deviation Forms for various reasons as stated above. It is clear that staff from all levels of facility management, inclusive of the COO and the Deputy Director (DD), are utilized to cover staff shortages.

According to the COO interview, all instances of non-compliance with the staffing plan are documented. Deviation Forms are a primary method of documentation. Additionally, the COO reviews all overtime sheets and responds to the CEO regarding reasons for payment. The CEO reviews all such e-mails.

Pursuant to the PAQ, the COO self reports at least once every year, the facility reviews the staffing plan to see whether adjustments are needed to:

- The staffing plan;
- Prevailing staffing patterns;
- The deployment of video monitoring systems and other monitoring technologies; or
- The allocation of facility/agency resources to commit to the staffing plan to ensure compliance with the staffing plan.

ETC Policy 3.1 entitled PREA General Requirements, page 8, section IV(A)(7) addresses 115.213(a). This policy stipulates whenever necessary, but no less frequently than once each year, ETC will assess, determine, and document whether adjustments are needed to:

The staffing plan established pursuant to paragraph (#5) of this section;

Prevailing staffing patterns;

Deployment of video monitoring systems and other monitoring technologies; and

The resources available to commit to ensure adequate staffing levels are met.

According to the BACS PREA Coordinator, the staffing plan for HPRC will be reviewed at least once each year and he is consulted regarding the same. Specifically, he participates in the development of the staffing plan.

Pursuant to the auditor's review of the 2017 Staffing Plan and previously referenced review, it is apparent that the requirements of this provision are met. All of the above issues have been adequately addressed.

Of note, the ETC 2017 Staffing Plan is the first of its kind as this review is an Initial Audit for ETC.

Standard 115.215: Limits to cross-gender viewing and searches

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

115.215 (a)

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

115.215 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female residents, except in exigent circumstances? (N/A if less than 50 residents) Yes No NA
- Does the facility always refrain from restricting female residents' access to regularly available programming or other outside opportunities in order to comply with this provision? (N/A if less than 50 residents) Yes No NA

115.215 (c)

- Does the facility document all cross-gender strip searches and cross-gender visual body cavity searches? Yes No
- Does the facility document all cross-gender pat-down searches of female residents? Yes No

115.215 (d)

- Does the facility implement policies and procedures that enable residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks? Yes No
- Does the facility require staff of the opposite gender to announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing? Yes No

115.215 (e)

- Does the facility always refrain from searching or physically examining transgender or intersex residents for the sole purpose of determining the resident's genital status? Yes No
- If a resident's genital status is unknown, does the facility determine genital status during conversations with the resident, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner? Yes No

115.215 (f)

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

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

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports the facility conducts cross-gender strip or cross-gender visual body cavity searches of residents in exigent circumstances or when facilitated by medical practitioners. The COO further self reports that zero cross-gender strip or cross-gender visual body cavity searches of residents were conducted during the past 12 months.

ETC Policy 3.1 entitled PREA General Requirements, page 8, section IV(A)(8) and (9)(a)(2) addresses 115.215(a). This policy stipulates staff will not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners. Additionally, no strip searches or body cavity searches will be conducted unless prior authorization of the CEO and in his/her absence, their respective designee, is obtained. If a strip search should be deemed a necessity by the CEO or designee, typically it will be performed only by a staff member of the same sex as the resident; however, the CEO or designee may authorize an opposite gender staff member in the case of a transgender or intersex resident.

As reflected above and pursuant to research of the Exigent Circumstances Log, no cross-gender strip searches or cross-gender body cavity searches were conducted during the past 12 months.

According to the non-medical staff involved in cross-gender strip or visual searches interviewee, no cross-gender strip or visual searches are conducted at ETC.

Pursuant to the PAQ, the COO self reports the facility does not permit cross-gender pat-down searches of female residents, absent exigent circumstances. The COO further self reports the facility does not restrict female residents' access to regularly available programming or other outside opportunities in order to comply with this provision. There were no pat-down searches of female residents conducted by male staff at ETC during the past 12 months.

ETC Policy 3.1 entitled PREA General Requirements, page 8, section IV(A)(9) addresses 115.215(b). This policy stipulates staff will document any cross-gender strip searches and cross-gender visual body cavity searches, and documents all cross-gender pat-down searches in the exigent circumstances log. Exigent circumstances are defined at page 2, section III of ETC Policy

3.1 entitled PREA General Requirements. This policy stipulates 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. Finally, BACS Policy 1.3.5.12 entitled PREA Policy, page 6, section IV (115.215)(b) also addresses 115.215(b). This policy stipulates as of August 20, 2015, or August 20, 2017 for a facility whose rated capacity does not exceed 50 residents, the facility shall not permit cross-gender pat-down searches of female residents, absent exigent circumstances. Facilities shall not restrict female residents' access to regularly available programming or other outside opportunities in order to comply with this provision.

The auditor reviewed the ETC Exigent Circumstances Log and found no entries.

All of the 11 random resident interviewees assert they have not been precluded from participation in outside activities or programs because female staff were unavailable to conduct pat down searches.

Pursuant to the PAQ, the COO self reports facility policy requires all cross-gender strip searches and cross-gender visual body cavity searches are documented. The COO further self reports facility policy requires that all cross-gender pat-down searches of female residents be documented.

ETC Policy 3.1 entitled PREA General Requirements, page 8, section IV(A)(9) addresses 115.215(c). The specifics of policy language are articulated in the narrative for 115.215(b).

Pursuant to the PAQ, the COO self reports the facility has implemented policies and procedures that enable residents to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks (this includes viewing via video camera). The COO further self reports policies and procedures require staff of the opposite gender to announce their presence when entering a resident housing unit.

ETC Policy 3.1 entitled PREA General Requirements, pages 8 and 9, section IV(A)(10, 11) addresses 115.215(d). This policy stipulates ETC enables residents to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Opposite gender staff will announce their presence on the floor and prior to entering any living area, bathroom, or shower room. Signage stating ETC is staffed with female and male staff 24 hours per day will be posted in conspicuous areas for resident awareness.

All 12 random staff interviewees asserted male staff do announce their presence on wings prior to walking down the same. Additionally, 10 of the 12 interviewees assert a Public Address (PA) announcement is made whenever male staff enter the facility. Three staff assert they don't enter resident rooms rather, they ask residents to come out into the hallway. Similarly, these three interviewees assert they do not enter bathrooms rather, they open the door and ask who is in the same.

All 12 random staff interviewees reported residents are able to dress, shower, and toilet without being viewed by staff of the opposite gender.

During the facility tour, the auditor noted cameras are positioned in such a manner they do not capture anything inside bathrooms or resident rooms. Auditor review of cameras in the control center confirmed the same.

All 11 random resident interviewees assert opposite gender staff (males) announce their presence when entering housing areas. Two interviewees assert there is a Public Address (PA) announcement made whenever staff of the opposite gender enter the facility. The auditor observed this protocol throughout the on-site audit. Additionally, during the facility tour and throughout the on-site audit, the auditor observed the COO announce his presence (as a male) whenever he entered a housing unit wing.

All 11 of the random resident interviewees assert opposite gender (male) staff knock on the room door, announce gender or task, wait, and then enter their room, or some variation thereof. Interviewees also assert male staff employ the same practice when entering bathrooms.

In response to the question as to whether the resident or any other residents were ever naked in full view of opposite gender (male) staff whenever they showered, toileted, or changed clothing, all 11 of the random resident interviewees responded in the negative.

Essentially, random resident interviewees corroborated random staff interviewees with respect to this provision. Accordingly, the auditor finds substantial compliance with this provision.

Pursuant to the PAQ, the COO self reports the facility has a policy prohibiting staff from searching or physically examining a transgender or intersex resident for the sole purpose of determining the resident's genital status. The COO further self reports such searches have not occurred at ETC during the past 12 months.

ETC Policy 3.1 entitled PREA General Requirements, page 8, section IV(A)(9)(a)(3) addresses 115.215(e). This policy stipulates the facility shall not search or physically examine any resident, including transgender and intersex residents for the sole purpose of determining the resident's genital status. If staff cannot determine the biological sex of a resident, the staff shall ask medical personnel for resident verification of the sex of the genitalia. Medical Staff must conduct this inquiry in private and in a professional manner to preserve confidentiality in order to avoid subjecting the resident to abuse or ridicule.

All 12 of the random staff interviewees advise they are aware of the policy prohibiting staff from searching or physically examining a transgender or intersex resident for the purpose of determining the resident's genital status. As previously referenced, transgender/intersex resident(s) were not

housed at ETC at the time of the on-site audit. Accordingly, the respective interview questions were not asked.

Pursuant to the PAQ, the COO self reported that 100% of all security staff received training on conducting cross-gender pat-down searches and searches of transgender and intersex residents in a professional and respectful manner, consistent with security needs.

ETC Policy 3.1 entitled PREA General Requirements, page 8, section IV(A)(9)(a)(1) and page 9, section IV(A)(12) addresses 115.215(f). This policy stipulates security staff will be trained on cross-gender pat searches and will only perform these searches under emergency/exigent circumstances. Additionally, ETC will train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex residents in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs in the event such search is deemed necessary.

The auditor reviewed training documentation as described in the narrative for 115.231(a). Files for three staff who completed PREA Orientation training were included in the 26 files reviewed. The auditor has also reviewed another Orientation file and finds that training regarding Cross-Gender and Transgender Pat Searches was provided to all staff represented, inclusive of the 23 In-Service PREA training participants.

The auditor reviewed a training roster wherein 27 staff attended Transgender, Cross-Gender Pat Searches, Exigent Circumstances on July 25, 2017. Fifteen attendees represented the security department, 3 case managers, 3 treatment staff, 2 medical staff, 1 clinical coordinator, 1 education specialist, 1 mental health, and the COO, participated in this training session. Consistent with the Staffing Plan, it is clear that all staff receive the same PREA training.

Eleven of the 12 random staff interviewees assert they received training on how to conduct cross-gender pat down searches and searches of transgender and intersex residents in a professional and respectful manner, consistent with security needs. Training has been provided during Orientation and Annual PREA Refresher Training via Power Point presentation and/or video and through practical application. The one interviewee who asserts he has not received the requisite training, entered on duty eight days prior to the on-site audit.

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

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

115.216 (a)

- Does the agency take appropriate steps to ensure that residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect,

and respond to sexual abuse and sexual harassment, including: Residents who are deaf or hard of hearing? Yes No

- Does the agency take appropriate steps to ensure that residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Residents who are blind or have low vision? Yes No
- Does the agency take appropriate steps to ensure that residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Residents who have intellectual disabilities? Yes No
- Does the agency take appropriate steps to ensure that residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Residents who have psychiatric disabilities? Yes No
- Does the agency take appropriate steps to ensure that residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Residents who have speech disabilities? Yes No
- Does the agency take appropriate steps to ensure that residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Other? (if "other," please explain in overall determination notes.) Yes No
- Do such steps include, when necessary, ensuring effective communication with residents who are deaf or hard of hearing? Yes No
- Do such steps include, when necessary, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary? Yes No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities including residents who: Have intellectual disabilities? Yes No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities including residents who: Have limited reading skills? Yes No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities including residents who: Are blind or have low vision? Yes No

115.216 (b)

- Does the agency take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to residents who are limited English proficient? Yes No
- Do these steps include providing interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary? Yes No

115.216 (c)

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

Auditor Overall Compliance Determination

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

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

ETC Policy 3.3 entitled Intake/Screening, pages 2 and 3, section II(A)(2) addresses 115.216(a). This policy stipulates ETC shall take appropriate steps to ensure that residents with disabilities (including, for example, residents who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of ETC's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with residents who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, ETC shall ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities, including residents who have intellectual disabilities, limited reading skills, or who are blind or have low vision. By taking no actions to assist those with disabilities, would result in a violation of title II of the Americans with Disabilities Act, 28 CFR 35.164.

ETC Policy 3.3 entitled Intake/Screening, page 2, section II(A)(1)(b) also addresses 115.216(a). This policy stipulates ETC will provide resident education in formats accessible to all residents, which will include written material and viewing the video "What You Need to Know", including

those who are limited English proficient by providing interpreters who speak the same language, deaf, visually impaired, or otherwise disabled as well as residents who have limited reading skills by reading the information to them.

As part of the PAQ submission, a copy of the enlarged print version of the ETC PREA Handbook was provided. This version of the Handbook is available for residents who have low vision. Additionally, the COO self reports in a memorandum dated August 28, 2017, the Elkhorn Treatment Center (ETC) employs an individual who has worked with disabled populations in the past. She would be made accessible if such need arose at ETC.

It is also noted the PREA video "What You Need to Know" is closed captioned. Thus, residents who are deaf or hard of hearing also have access to education by virtue of this feature, as well as, reading the HPRC PREA Handbook.

In addition to the above, Montana Department of Corrections Probation and Parole Division Operational Procedure PPD 4.1.100, page 2, section III(A) and (B), corroborates the Executive Director's assertion. This policy stipulates (in the section entitled Requirements for Pre-Release Centers) that offenders will be physically and mentally capable of work, education, or vocational training. If they are unable to work due to a disability, i.e. a verified physical or mental handicap, and/or they are eligible for Veterans Administration Benefits, SSI, or Vocational Rehabilitation Services, they must have a realistic plan to subsidize their stay at the PPD facility. In the section entitled Requirements for all Facilities, the policy stipulates that if an offender has a medical or psychological condition, facility staff and the facility's screening coordinator will assess the offender to determine if his/her needs can be met in a community-based setting.

In response to whether the agency has established procedures to provide residents with disabilities and residents who are limited English proficient equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, the CEO responded in the affirmative. Specifically, she asserted that closed captioned videos, large print PREA Handbooks, specialty staff are available for cognitively impaired at both HPRC and ETC, and staff read to blind residents, and there is a PREA audio (not updated) available to ETC residents.

As previously referenced, no residents with disabilities, as defined in this provision, or Limited English Proficient (LEP), were housed at ETC during the on-site audit. However, a resident who is physically disabled was interviewed regarding this provision. She asserts the facility does provide information about sexual abuse and sexual harassment that she is able to understand. .

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

ETC Policy 3.3 entitled Intake/Screening, page 3, section II(A)(3) addresses 115.216(b). This policy stipulates ETC shall take reasonable steps to ensure meaningful access to all efforts to prevent, detect, and respond to sexual abuse and sexual harassment to residents who are limited English proficient, including interpreters, where a list of interpreters can be provided from the Program Administrator, who are capable of interpreting effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

ETC contracts with CTS Language Link to provide interpretation services for residents who are limited English proficient. A copy of the contract was included with PAQ materials. In excess of 240 language translations are available pursuant to the Language Link contract.

Pursuant to the PAQ, the COO self reports agency policy prohibits use of resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-response duties under 115.264, or the investigation of the resident's allegations. The COO further self reports the facility documents the limited circumstances in individual cases where resident interpreters, readers, or other types of resident assistants are used. Reportedly, there were zero instances in the past 12 months where resident interpreters, 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, or the investigation of the resident's allegations.

ETC Policy 3.3 entitled Intake/Screening, page 3, section II(A)(4) addresses 115.216(c). This policy stipulates ETC will not rely on Resident interpreters, Resident readers, or other types of Resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the Resident's safety, the performance of first-response duties, or the investigation of the Resident's allegations. Limited circumstances will be promptly documented, if need occur.

While policy allows for the use of resident translators/interpreters in accordance with the exceptions noted in this provision, all 12 random staff interviewees assert the agency does not allow the use of resident interpreters, resident readers, or other types of resident assistants to assist disabled residents or LEP residents when making an allegation of sexual abuse or sexual harassment. Ten of the 12 interviewees also assert there are no exceptions to the above. Exceptions would include resident safety consideration and an absolute need to secure the information. Finally, all 12 interviewees assert that, to the best of their knowledge, resident interpreters, resident readers, or other types of resident assistants have not been used in relation to allegations of sexual abuse or sexual harassment during the past 12 months.

Pursuant to conversation with the BACS PREA Coordinator, the auditor learned training does encompass the language of 115.216(c). However, staff may be discouraged from using resident translators, etc. in this scenario. The auditor does not find 115.216(c) to be deficient as ETC does

not lessen the intent of the provision. It is, however, strongly recommended that this issue be addressed again with staff to ensure they understand the options.

Standard 115.217: Hiring and promotion decisions

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

115.217 (a)

- Does the agency prohibit the hiring or promotion of anyone who may have contact with residents who: Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? Yes No
- Does the agency prohibit the hiring or promotion of anyone who may have contact with residents who: Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse? Yes No
- Does the agency prohibit the hiring or promotion of anyone who may have contact with residents who: Has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? Yes No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with residents who: Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? Yes No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with residents who: Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse? Yes No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with residents who: Has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? Yes No

115.217 (b)

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

115.217 (c)

- Before hiring new employees, who may have contact with residents, does the agency: Perform a criminal background records check? Yes No
- Before hiring new employees, who may have contact with residents, does the agency: Consistent with Federal, State, and local law, make its best efforts to contact all prior

institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse? Yes No

115.217 (d)

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

115.217 (e)

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

115.217 (f)

- Does the agency ask all applicants and employees who may have contact with residents directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions? Yes No
- Does the agency ask all applicants and employees who may have contact with residents directly about previous misconduct described in paragraph (a) of this section in any interviews or written self-evaluations conducted as part of reviews of current employees? Yes No
- Does the agency impose upon employees a continuing affirmative duty to disclose any such misconduct? Yes No

115.217 (g)

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

115.217 (h)

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

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports agency policy prohibits hiring or promoting anyone who may have contact with residents and prohibits enlisting the services of any contractor who may have contact with residents who:

- Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);
- Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
- Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.

BACS Personnel Manual 2017, page 85, section entitled Recruitment addresses 115.217(a). This policy stipulates applicants who have engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution; have 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 have been civilly or administratively adjudicated to have engaged in the activity described above shall be considered unsuitable for employment with Boyd Andrew Community Services.

In addition to the above, BACS Policy 1.3.5.12 entitled PREA Policy, page 7, section 217(a) addresses 115.217(a). This policy stipulates BACS shall not hire or promote anyone who may have contact with residents, and shall not enlist the services of any contractor who may have contact with residents, who— (1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. § 1997); (2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or (3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.

The auditor reviewed interview questions for all positions falling under the umbrella of BACS facilities management. All interview question sets contain the questions set forth in 115.217(a). These same questions, as well as, the afore-mentioned questions germane to 115.217(a) are asked during promotion interviews, according to the PREA Coordinator.

The auditor was not provided interview notes addressing these three questions for any of the three interviewees. There is no evidence reflecting these questions are asked on the employment application.

Finally, the auditor inquired regarding one individual who was promoted during the past year and was advised he/she was appointed. There was no application phase or promotion interview.

In regard to contractors, the auditor has not been provided any evidence substantiating compliance with 115.217(a).

In view of the above, the auditor finds ETC is non-compliant with 115.217(a). Specifically, there is a lack of evidence to prove substantial compliance with the provision.

In an effort to certify compliance with this provision, it is recommended the BACS PREA Coordinator provide completed copies of prior employment reference checks bearing a response to the three questions articulated in this provision for both applicants and contractors. The document will reflect the date of the response, the responding employer's name and signature, the applicant's name, and the position he/she seeks. If the reference check is accomplished via telephone, the hiring manager will ensure the same information is reflected on the document. It is recommended the BACS PREA Coordinator develop a form which adequately captures the above, as well as, the specific statements of the former employer in response to the questions.

As previously mentioned, interview forms reflect a question regarding the requisite three questions as articulated in 115.217(a). This form will need to be revised to include the information articulated in the preceding paragraph. The BACS PREA Coordinator will provide completed copies of interview notes to the auditor relative to new hires, promotion applicants, as well as, any contractor(s).

ETC will have to capture responses to the three questions during the promotion process, as previously described. A copy of the appointment letter (or equivalent thereof) or promotion letter will assist the auditor in assessing whether the promotion applicant's responses to the three questions were considered in the hiring/promotion decision. Accordingly, this document must also be included in the packet forwarded to the auditor.

Given the complexity of the above, training of hiring managers regarding these procedures will be essential. Institutionalization and inclusion into the facility culture will be accomplished pursuant to training, repetition, and monitoring. Accordingly, the BACS PREA Coordinator will also forward copies of training sheets regarding this matter to the auditor.

This process must be completed on or before May 6, 2018 to ensure the auditor can conclude review and assessment of corrective action prior to corrective action period closure. This provision can be closed prior to the afore-mentioned date based on the auditor's assessment.

12/18/2017 Update:

The auditor has been provided with copies of the revised interview notes and previous employer reference checks forms. Both documents have been revised to include the three questions as identified above, as well as, a question regarding sexual harassment. The forms meet the expectations of the previously identified corrective action.

The auditor reviewed an application packet for a security applicant and finds the three questions, as well as, a question regarding sexual harassment, are included in the revised application. The applicant responded to each respective question when completing the application and the applicant responded to the same questions during the interview process. As referenced in the preceding paragraph, the respective questions are now reflected in the interview notes. Finally, the previous employer reference checks also reflect responses to questions as articulated in the preceding paragraph.

1/11/2018 Update:

The auditor has been provided evidence reflecting the PREA Manager at ETC (also the hiring manager at HPRC) has received training regarding all forms/implementation of the same related to findings referenced in this standard. The training was provided on January 2, 2018.

According to the BACS PREA Coordinator, there were no contract hires however, there was one promotion during the corrective action period. The individual was appointed, as opposed, to promoted. The appointee did complete the questionnaire regarding the three questions articulated in 115.217(a), as well as, the question regarding sexual harassment. Additionally, a criminal background records check was completed.

The auditor finds ETC to be substantially compliant with 115.217(a) and (b).

Pursuant to the PAQ, the COO self reports agency policy requires the consideration of any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents.

BACS Policy 1.3.5.12 entitled PREA Policy, page 7, section 115.117(b) addresses 115.217(b). This policy stipulates BACS shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents.

According to the Human Resources staff interviewee, the facility considers prior incidents of sexual harassment when determining whether to hire or promote anyone, or to enlist the services of any contractor who may have contact with residents. The interviewee asserts that a sexual harassment question is included in the reference check (vetting) questionnaire.

According to the BACS PREA Coordinator and evidence presented, none of the three files contain evidence reflecting previous institutional employers were questioned regarding incidents of sexual harassment of residents/inmates/etc. during the applicant's previous employment. Specifically, while applicants were reference checked, records/notes were either not maintained or were subsequently destroyed.

In addition to the above, there is no evidence reflecting applicants/interviewees were questioned about the existence of sexual harassment of confined individuals during their previous work history. The BACS PREA Coordinator reports that all interview question sheets (used during employment and promotion interviews) have been updated to include this question.

It is also noted the auditor has not been provided any evidence regarding this matter as applied to contractors.

In view of the above, the auditor finds ETC to be non-compliant with this provision. In an effort to certify compliance with this provision, the BACS PREA Coordinator will provide completed copies of prior institutional employment reference checks bearing a response to the sexual harassment question for both applicants and contractors. The document will reflect the date of the response, the responding employer's name and signature, the applicant's name, and the position he/she seeks. If the reference check is accomplished via telephone, the hiring manager will ensure the same information is reflected on the document. It is recommended that the BACS PREA Coordinator develop a form which adequately captures the above, as well as, the specific statements of the former employer in response to the questions.

As previously mentioned, interview forms have been revised to add a question regarding sexual harassment of residents, inmates, etc. during the applicant's work history. This form will need to be revised to include the information articulated in the preceding paragraph. The BACS PREA Coordinator will provide completed copies of interview notes to the auditor relative to new hires, promotion applicants, as well as, any contractor(s).

A copy of the appointment letter (or equivalent thereof) or promotion letter will assist the auditor in assessing whether the prevalence of sexual harassment was considered in the hiring/promotion decision. Accordingly, this document must also be included in the packet forwarded to the auditor.

Given the complexity of the above, training of hiring managers regarding these procedures will be essential. Institutionalization and inclusion into the facility culture will be accomplished pursuant to training, repetition, and monitoring. Accordingly, the BACS PREA Coordinator will also forward copies of training sheets regarding this matter to the auditor.

This process must be completed on or before May 6, 2018 to ensure the auditor can conclude review and assessment of corrective action prior to corrective action period closure. This provision can be closed prior to the afore-mentioned date based on the auditor's assessment.

12/18/2017 Update:

The auditor has been provided with copies of the revised interview notes and previous employer reference checks forms. Both documents have been revised to include the three

questions as identified above, as well as, a question regarding sexual harassment. The forms meet the expectations of the previously identified corrective action.

The auditor reviewed an application packet for a security applicant and finds the three questions, as well as, a question regarding sexual harassment, are included in the revised application. The applicant responded to each respective question when completing the application and the applicant responded to the same questions during the interview process. As referenced in the preceding paragraph, the respective questions are now reflected in the interview notes. Finally, the previous employer reference checks also reflect responses to questions as articulated in the preceding paragraph.

02/27/2018 Update:

According to the BACS PREA Coordinator, there were no contract hires however, there was one promotion during the corrective action period. The individual was appointed, as opposed, to promoted. The appointee did complete the questionnaire regarding the three questions articulated in 115.217(a), as well as, the question regarding sexual harassment. Additionally, a criminal background records check was completed.

In view of the above, the auditor finds ETC to be compliant with 115.217 (a) and (b). The narrative regarding the promotion appointee is articulated above [115.217(a)].

Pursuant to the PAQ, the COO self reports agency policy requires that before it hires any new employees who may have contact with residents, it (a) conducts criminal background record checks, and (b) consistent with federal, state, and local law, makes its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse. The COO further self reports there were 14 staff hired during the past 12 months (100%) who may have contact with residents that have had criminal background record checks.

BACS Personnel Manual 2017, page 84, section entitled Recruitment addresses 115.217(c). This policy stipulates applicants shall be required to consent to a criminal background check as related to CFR 115.217. Failure to provide consent or the existence of a criminal background deemed non-compliant with current federal code will result in disqualification from consideration for employment.

BACS Policy 1.3.5.12 entitled PREA Policy, page 8, section 115.217(c) addresses 115.217(c). This policy stipulates before hiring new employees who may have contact with residents, BACS shall: (1) Perform a criminal background records check; and (2) Consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

Three of the three criminal background record checks reviewed were completed prior to the hire date of the employees. None of these documents reflected any offenses as reflected in 115.217(a).

In regard to reference check documents with previous institution employers regarding these same three staff, the auditor received no documents. No evidence substantiating any calls forwarded to the employer, was provided to the auditor.

In view of the above, the auditor finds ETC to be non-compliant with 115.217(c). Much like the corrective action articulated in the narrative for 115.217(b), the BACS PREA Coordinator will forward to the auditor copies of the documents forwarded to previous institutional employers regarding substantiated allegations of sexual abuse or any resignation pending investigation of an allegation of sexual abuse, as well as the previous employer's response, for a period not to exceed May 6, 2018. All requirements as articulated in the narrative for 115.217(a) and (b) likewise apply to this provision.

12/18/2017 Update:

The auditor has been provided with copies of the revised interview notes and previous employer reference checks forms. Both documents have been revised to include the three questions as identified above, as well as, a question regarding sexual harassment. The forms meet the expectations of the previously identified corrective action.

The auditor reviewed an application packet for a security applicant and finds the three questions, as well as, a question regarding sexual harassment, are included in the revised application. The applicant responded to each respective question when completing the application and the applicant responded to the same questions during the interview process. As referenced in the preceding paragraph, the respective questions are now reflected in the interview notes. Finally, the previous employer reference checks also reflect responses to questions as articulated in the preceding paragraph.

In view of the above, the auditor finds ETC to be substantially compliant with 115.217(c).

Pursuant to the PAQ, the COO self reports agency policy requires that a criminal background record check be completed before enlisting the services of any contractor who may have contact with residents. The COO further self reports that criminal background checks were completed regarding three contract providers who may have contact with residents, during the past 12 months. This represents 100% of contract staff who might have contact with residents.

BACS Policy 1.3.5.12 entitled PREA Policy, page 8, section 115.217(d) addresses 115.217(d). This policy stipulates BACS shall also perform a criminal background records check before enlisting the services of any contractor who may have contact with residents.

According to the Human Resources interviewee, the facility performs criminal record background checks or considers pertinent civil or administrative adjudications for all newly hired employees who may have contact with residents, and all employees, who may have contact with residents who are considered for promotions. Additionally, the same practice is used for any contractor who may have contact with residents, as well.

A spread sheet reflecting date of hire is used to facilitate this process. The spreadsheet is checked every couple months to ensure a 5-year re-investigation is not missed.

The auditor reviewed three criminal background record checks regarding three individuals who were hired as contractors during the past 12 months. The criminal background record checks were completed prior to appointment. The criminal record background checks were clear in terms of offense(s) committed in Montana.

It is noted that the Montana Public Criminal History Record is used as the assessment vehicle to identify criminal background history as applicable to “New Hires”, staff promotions, contractors, and volunteers. This procedure encompasses only those arrests/convictions occurring within the State of Montana. Given the transient society in which we work, this process leaves the possibility of hiring employees who have been involved in the offenses articulated in provision 115.217(a) in a State other than Montana. Accordingly, offender and staff sexual safety at HPRC could be adversely impacted by this condition.

Accordingly, in an effort to facilitate the best hiring/promotion decision-making in promotion of sexual safety as previously articulated, it is recommended that a different background check procedure be implemented. As an example, utilization of NCIC would provide a better snapshot from a national perspective. Given the fact that BACS is a private corporation, there may be some difficulties in terms of certifying staff to facilitate the NCIC.

As the result of personal experience, accomplishment of this critical task may be more appropriately handled by the State of Montana. Personal experience has revealed that staff from State entities are generally more likely to be granted such access following a training and certification process. This is recommended as a PREA “Best Practice” in an attempt to facilitate sexual safety at HPRC.

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

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

BACS Policy 1.3.5.12 entitled PREA Policy, page 8, section 115.217(e) addresses 115.217(e). This policy stipulates BACS shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with residents or have in place a system for otherwise capturing such information for current employees.

According to the Human Resources interviewee, Human Resources staff run criminal records background checks with the Montana Department of Justice (MDOJ) check. Criminal record background checks are completed every five years. The procedure for accomplishing the same is articulated in the narrative for 115.217(d).

According to the BACS PREA Coordinator, executive staff learned about the PREA Five-Year Re-Investigation requirement in late, 2015. The auditor reviewed three such re-investigations for tenured staff who have worked at ETC since 2007 and 2008. All of these re-investigations were dated 2015 and 2016. Additionally, the auditor reviewed a five-year re-investigation completed in 2017. The contractor has been employed at ETC since activation of the facility.

Clearly, as reflected in this narrative and the narrative for 115.217(d), there is a protocol in place to track and ensure five-year re-investigations are completed. Accordingly, the auditor finds that for purposes of this Initial PREA Audit, the intent of the standard is met. There is evidence suggesting five-year re-investigations are being implemented.

BACS Policy 1.3.5.12 entitled PREA Policy, page 8, section 115.217(f) addresses 115.217(f). This policy stipulates BACS shall also ask all applicants and employees who may have contact with residents directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. BACS shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.

According to the Human Resources interviewee, applicants and employees who have contact with residents are asked about previous misconduct described in 115.217(a) in written applications for hiring or promotions, and in any interviews or written self-evaluations conducted as part of reviews of current employees. The interviewee was uncertain as to the duration of the practice.

In addition to the above, the interviewee asserts the facility imposes upon employees a continuing affirmative duty to disclose any such previous misconduct as described in the narrative for 115.217(a).

The auditor has not been provided any substantiating evidence (relative to three randomly selected staff) with respect to application questions regarding the three issues articulated in 115.217(a). Additionally, as previously indicated, the one employee promoted during the past 12 months was appointed and therefore did not participate in an interview. Accordingly, no substantiating evidence has been provided regarding the requirements of this provision being implemented during a

promotion interview. Finally, the auditor has not been provided any substantiating evidence proving that staff are asked the three questions articulated in 115.217(a) during written self-evaluations conducted as part of performance reviews.

In view of the above, the auditor finds ETC to be non-compliant with 115.217(f). As corrective action, it is recommended the BACS PREA Coordinator develop a form reflecting the three questions articulated in 115.217(a). The form will reflect the prospective employee's, promotion interviewee's (if applicable), and the employee participating in the performance evaluation process, printed name/signature, and the date of execution. Additionally, a signature line should be available for the supervisory witness. This form can be utilized during the interview and performance appraisal process.

In addition to the above, the employment application must be changed to reflect the three questions articulated in 115.217(a) and whether the applicant has committed them or received some form of judgment for such actions. The revised application must be used henceforth.

Corrective action regarding employment/promotion interviews is discussed in the narrative for 115.217(a).

Upon completion of these tasks, the BACS PREA Coordinator and/or Business Manager must provide training to hiring managers regarding the performance evaluation change, and all staff regarding the employment application/interview changes. Copies of the training records for the issues described above, will be forwarded to the auditor for review. Additionally, copies of completed employment and promotion (if applicable) applications and completed copies of the proposed new form to be used during interviews and performance review discussions, etc., will be forwarded to the auditor for review.

This process must be completed on or before May 6, 2018 to ensure the auditor can conclude review and assessment of corrective action prior to corrective action period closure. This provision can be closed prior to the afore-mentioned date based on the auditor's assessment.

12/18/2017 Update:

The auditor has been provided copies of a revised Performance Evaluation Form which bears the information [inclusive of the three questions reflected in 115.217(a)] referenced in the above corrective action. Additionally, verbiage is included, placing staff on notice of their continuing affirmative obligation to report the information articulated in 115.217(a).

1/22/2018 Update:

The auditor has received and reviewed two completed staff employee evaluations which have been amended to include the requisite questions articulated in 115.217(a), as well as, a caveat

addressing an affirmative continuing obligation to report any incidents as reflected in the afore-mentioned provision. It is noted both the employee and supervisor sign the evaluation and accordingly, there is evidence of knowledge of these issues during the evaluation process.

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

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

BACS Policy 1.3.5.12 entitled PREA Policy, page 8, section 115.217(g) addresses 115.217(g). This policy stipulates material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

BACS Policy 1.3.5.12 entitled PREA Policy, page 8, section 115.217(h) addresses 115.217(h). This policy stipulates unless prohibited by law, BACS shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

According to the Human Resources interviewee, she would provide information on any substantiated allegations of sexual abuse or sexual harassment involving former employee(s) whenever a prospective employer (for the former employee) requests such information.

Standard 115.218: Upgrades to facilities and technologies

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

115.218 (a)

- If the agency designed or acquired any new facility or planned any substantial expansion or modification of existing facilities, did the agency consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect residents from sexual abuse? (N/A if agency/facility has not acquired a new facility or made a substantial expansion to existing facilities since August 20, 2012, or since the last PREA audit, whichever is later.)

Yes No NA

115.218 (b)

- If the agency installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology, did the agency consider how such technology may enhance the agency's ability to protect residents from sexual abuse? (N/A if agency/facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012, or since the last PREA audit, whichever is later.)

Yes No NA

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reported the facility has not acquired any new facilities, expanded, etc. at ETC since August 12, 2012. Furthermore, the facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012. .

Accordingly, there is no evidence suggesting non-compliance with 115.218. The auditor finds ETC compliant with this standard.

RESPONSIVE PLANNING

Standard 115.221: Evidence protocol and forensic medical examinations

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

115.221 (a)

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

115.221 (b)

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

115.221 (c)

- Does the agency offer all residents who experience sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate? Yes No
- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible? Yes No
- If SAFEs or SANEs cannot be made available, is the examination performed by other qualified medical practitioners (they must have been specifically trained to conduct sexual assault forensic exams)? Yes No
- Has the agency documented its efforts to provide SAFEs or SANEs? Yes No

115.221 (d)

- Does the agency attempt to make available to the victim a victim advocate from a rape crisis center? Yes No
- If a rape crisis center is not available to provide victim advocate services, does the agency make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member? Yes No
- Has the agency documented its efforts to secure services from rape crisis centers? Yes No

115.221 (e)

- As requested by the victim, does the victim advocate, qualified agency staff member, or qualified community-based organization staff member accompany and support the victim through the forensic medical examination process and investigatory interviews? Yes No
- As requested by the victim, does this person provide emotional support, crisis intervention, information, and referrals? Yes No

115.221 (f)

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

115.221 (g)

- Auditor is not required to audit this provision.

115.221 (h)

- If the agency uses a qualified agency staff member or a qualified community-based staff member for the purposes of this section, has the individual been screened for appropriateness to serve in this role and received education concerning sexual assault and forensic examination

issues in general? (Check N/A if agency attempts to make a victim advocate from a rape crisis center available to victims per 115.221(d) above.) Yes No NA

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports the facility is responsible for conducting administrative sexual abuse investigations (including resident-on-resident sexual abuse or staff sexual misconduct). The Jefferson County Sheriff's Department facilitates criminal investigations in response to sexual abuse or sexual misconduct. The COO further self reports when conducting a sexual abuse investigation, the agency investigators follow a uniform evidence protocol.

ETC Policy 3.4 entitled Reporting, page 8, section II(E)(1) addresses 115.221(a). This policy stipulates ETC is responsible for investigating all allegations of administrative sexual abuse and sexual harassment, ETC follows a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

Six of the 12 random staff interviewees responded appropriately to all four requirements of the evidence protocol employed by first responders to sexual abuse incidents. Four of the remaining interviewees addressed at least three of the four requirements. Two interviewees did not address either asking the victim to not destroy physical evidence and/or ensuring the perpetrator did not destroy physical evidence. Only one of the 12 random staff interviewees mentioned contact with medical/mental health practitioners.

According to the COO, a plan is in place to coordinate actions amongst staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse. Each staff member has a laminated card in their pouch that addresses steps in chronological sequence. Additionally flow charts are posted throughout the facility.

Given the above, the auditor finds sufficient compliance with 115.221(a). All interviewees assert they would promptly report the incident to the shift supervisor, security coordinator, COO, or BAC PREA Coordinator and presumably, decision-making and further direction would flow in accordance with ETC Policy 3.11. Despite the above, it is recommended staff be reminded of all four requirements of evidence preservation as applicable to first responders. Additionally, contact with medical/mental health practitioners must also be included in the training.

The BACS PREA Coordinator will forward copies of completed training documentation to the auditor by May 6, 2018, certifying staff understand the requirements of ETC Policy 3.11. Training

may be accomplished pursuant to presentation of Power Point slides or pursuant to provision of ETC 3.11 to all staff with a memo regarding expectations.

Of the 12 random staff interviewees, nine staff accurately identified the administrative and criminal PREA investigators at HPRC. Three interviewees inaccurately identified the administrative investigators.

Pursuant to a memorandum dated April 7, 2017 from the COO, juvenile offenders are not housed at ETC. It is noted the facility PREA investigators are trained pursuant to the NIC investigative protocol.

The auditor has reviewed the evidence protocol established in ETC Policy 3.11 entitled Coordinated Response/Staff First Response Duties and has determined there is sufficient technical detail to aid first responders in obtaining usable physical evidence.

Additional detail regarding the evidence protocol utilized at ETC is provided in the narrative for 115.264.

The auditor's review of the MOU with Jefferson County Sheriff Office reveals the requirements of 115.221(b) are specifically articulated in the same.

Pursuant to the PAQ, the COO self reports the facility offers to all residents who experience sexual abuse access to forensic medical examinations at a community hospital. The COO further self reports forensic medical examinations are offered without financial cost to the victim. Where possible, examinations are conducted by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs). When SANEs or SAFEs are not available, a qualified medical practitioner performs forensic medical examinations. Finally, the COO self reports the facility would document efforts to provide SANEs or SAFEs.

The COO reports zero forensic medical examinations were conducted during the past 12 months.

ETC Policy 3.4 entitled Reporting, pages 8 and 9, section II(E)(3) addresses 115.221(c). This policy stipulates forensic examinations will be conducted at no cost to the resident. Every attempt will be made to have the examination conducted by a Sexual Assault Forensic Examiner (SAFE) or a Sexual Assault Nurse Examiner (SANE) through St. James Hospital in Butte or St. Peter's Hospital in Helena both of whom have provided service documentation with ETC and/or BACS. If a SAFE or SANE is not available, the examinations will be performed by another qualified medical practitioner. Staff will document their efforts to provide SAFE or SANE professionals in the resident's progress notes and in all incident reports. ETC shall document its efforts to provide SAFEs or SANEs.

The SANE interviewee is a SANE-trained nurse at St. Peter's Hospital. He/she is SANE-trained, not SANE-certified. The SANE training is a State funded national standards training provided once per year.

SANE-trained nurses work in conjunction with an Emergency Room (ER) Physician. The physician is present during part of the examination however, he/she is not present during the evidence collection process. If a SANE-trained nurse is not available for some reason, it is expected that ER Nurses be able to facilitate a kit.

The interviewee is one of seven SANE-trained nurses at St. Peter's Hospital.

The interviewee, as well as, six other SANE-trained nurses are responsible for conducting forensic medical examinations for Helena citizens, as well as, ETC residents. According to the interviewee, there will always be a SANE-trained nurse available, even if the interviewee is called in.

Pursuant to the PAQ, the COO self reports the facility attempts to make a victim advocate (VA) from a rape crisis center available to the victim, either in person or by other means. The COO further self reports these efforts are documented. If and when a rape crisis center is not available to provide VA services, the facility provides a qualified staff member from a community-based organization or a qualified agency staff member.

ETC Policy 3.4 entitled Reporting, page 9, section II(E)(4) addresses 115.221(d). This policy stipulates ETC shall attempt to make available to the victim a victim advocate from a rape crisis center/Safe Space. If a rape crisis center/Safe Space is not available to provide victim advocate services, ETC shall make available to provide these services a qualified staff member from a community-based organization or a qualified staff member. ETC shall document efforts to secure services from rape crisis centers. For the purpose of this standard, a rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g(b)(2)(C), to victims of sexual assault of all ages. ETC may utilize a rape crisis center that is part of a governmental unit as long as the facility is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services.

The auditor has reviewed MOUs between the ETC COO and leadership at both The Friendship Center and Safe Space (dated February 28, 2017). Duties and expectations for both ETC staff and The Friendship Center/Safe Space are clearly articulated in each MOU. Confidentiality is also addressed in each MOU.

In addition to the above, the auditor reviewed documentation reflecting completion of the PREA Resource Center course entitled PREA and Victim Services: A Trauma-Informed Approach, by an ETC staff member. This is a VA course for facility staff. Accordingly, ETC does have the availability of a trained facility VA.

According to the BACS PREA Coordinator, HPRC makes available to residents VAs (pursuant to Safe Space and Friendship Center). Additionally, one PREA Resource Center trained VA is utilized at ETC. Safe Space VAs have been trained regarding PREA requirements by a PREA Coordinator from another company. MOUs have been developed between Safe Space and Friendship Center.

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

ETC Policy 3.4 entitled Reporting, page 9, section II(E)(5) addresses 115.221(e). This policy stipulates as requested by the victim, the victim advocate, qualified staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.

According to the BACS PREA Coordinator, if requested by the victim, a VA, qualified agency staff member, or qualified community-based organization staff member accompanies and provides emotional support, crisis intervention, information, and referrals during the forensic medical examination process and investigatory interviews.

Pursuant to the PAQ, the COO self reports that as the agency is not responsible for investigating criminal allegations of sexual abuse and relies on another agency to conduct these investigations, the ETC COO has requested that the responsible agency follow the requirements of paragraphs §115.221 (a) through (e) of the standards.

ETC Policy 3.4 entitled Reporting, page 9, section II(E)(6) and (7) addresses 115.221(f). This policy stipulates to the extent ETC itself is not responsible for investigating criminal allegations of sexual abuse, ETC shall request that the investigating agency/Jefferson County Sheriff's Department follow the requirements of paragraphs (a) through (e) of this section.

The requirements of this provision are reflected in the MOU between ETC and the Jefferson County Sheriff Department. The lead agency/Jefferson County Sheriff's Department shall follow PREA standards according to investigations.

The auditor reviewed an MOU dated August 10, 2017 between the COO and the Sheriff of the Jefferson County Sheriff Department Department regarding the conduct of criminal investigations of sexual abuse at ETC. Duties and responsibilities of both ETC PREA Investigator(s) and Jefferson County Sheriff Department investigators are clearly scripted in the MOU. The elements of this standard are reflected in the MOU.

Standard 115.222: Policies to ensure referrals of allegations for investigations

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

115.222 (a)

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

115.222 (b)

- Does the agency have a policy and practice in place to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior? Yes No
- Has the agency published such policy on its website or, if it does not have one, made the policy available through other means? Yes No
- Does the agency document all such referrals? Yes No

115.222 (c)

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

115.222 (d)

- Auditor is not required to audit this provision.

115.222 (e)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

Does Not Meet Standard (*Requires Corrective Action*)

Pursuant to the PAQ, the COO self reported the agency ensures an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment (including resident-on-resident sexual abuse and staff sexual misconduct). The COO further self reported 0 allegations of sexual abuse or sexual harassment were received during the past 12 months.

ETC Policy 3.10 entitled Investigations, page 1, section I addresses 115.222(a). This policy stipulates the Elkhorn Treatment Center (ETC) ensures that all reports of sexual abuse and sexual harassment are investigated promptly, thoroughly, and objectively, regardless of the source. Additionally, page 2, section II(B) of the same policy serves as further substantiation of 115.222(a). Specifically, this policy stipulates it is the policy of BACS and ETC to refer criminal investigations of sexual abuse to Jefferson County Sheriff Department, who will further refer substantiated allegations for prosecution if warranted.

When questioned as to whether the agency ensures an administrative or criminal investigation is completed for all allegations of sexual abuse or sexual harassment, the CEO responded in the affirmative. The CEO further expounded that administrative investigation(s) are conducted in sexual harassment scenarios. Witnesses are interviewed, cameras are reviewed, any relevant technology is reviewed, and the perpetrator is removed from the facility. Sexual abuse cases are referred to the ETC law enforcement point of contact. Separate victim and perpetrator immediately.

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

ETC Policy 3.4 entitled Reporting, page 3, section II(A)(12) addresses 115.222(b). This policy stipulates Jefferson County Sheriff's Department will be considered the lead agency for allegations of sexual assault investigations and will determine if criminal charges are warranted. A mutual agreement exists between ETC and Jefferson County Sheriff's Department for investigations related to sexual assault and sexual abuse. The existing MOU can be found on the BACS website at www.boydandrew.com. The Montana Department of Corrections shall be kept informed of proceedings conducted by the Jefferson County Sheriff's Department investigation team.

The auditor verified the MOU between ETC and the Jefferson County Sheriff Department is posted on the BACS website.

The BACS PREA Coordinator (interviewed as a PREA Investigator) asserts agency policy requires that allegations of sexual abuse or sexual harassment be referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. Jefferson County Sheriff Department investigators would facilitate criminal investigations of sexual abuse at ETC.

The auditor reviewed the MOU between ETC and the Jefferson County Sheriff Department and found the same to be commensurate with 115.222(c). Specifically, both agency and Jefferson County Sheriff Department responsibilities are articulated in the document.

The MOU is posted on the BACS website.

TRAINING AND EDUCATION

Standard 115.231: Employee training

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

115.231 (a)

- Does the agency train all employees who may have contact with residents on: Its zero-tolerance policy for sexual abuse and sexual harassment? Yes No
- Does the agency train all employees who may have contact with residents on: How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures? Yes No
- Does the agency train all employees who may have contact with residents on: Residents' right to be free from sexual abuse and sexual harassment Yes No
- Does the agency train all employees who may have contact with residents on: The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment? Yes No
- Does the agency train all employees who may have contact with residents on: The dynamics of sexual abuse and sexual harassment in juvenile facilities? Yes No
- Does the agency train all employees who may have contact with residents on: The common reactions of juvenile victims of sexual abuse and sexual harassment? Yes No
- Does the agency train all employees who may have contact with residents on: How to detect and respond to signs of threatened and actual sexual abuse? Yes No
- Does the agency train all employees who may have contact with residents on: How to avoid inappropriate relationships with residents? Yes No

- Does the agency train all employees who may have contact with residents on: How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents? Yes No
- Does the agency train all employees who may have contact with residents on: How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities? Yes No

115.231 (b)

- Is such training tailored to the gender of the residents at the employee's facility? Yes No
- Have employees received additional training if reassigned from a facility that houses only male residents to a facility that houses only female residents, or vice versa? Yes No

115.231 (c)

- Have all current employees who may have contact with residents received such training? Yes No
- Does the agency provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures? Yes No
- In years in which an employee does not receive refresher training, does the agency provide refresher information on current sexual abuse and sexual harassment policies? Yes No

115.231 (d)

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

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports the agency trains all employees who may have contact with residents on the following matters:

(1) Its zero-tolerance policy for sexual abuse and sexual harassment;

- (2) How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
- (3) Residents' rights to be free from sexual abuse and sexual harassment;
- (4) The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
- (5) The dynamics of sexual abuse and sexual harassment in confinement;
- (6) The common reactions of sexual abuse and sexual harassment victims;
- (7) How to detect and respond to signs of threatened and actual sexual abuse;
- (8) How to avoid inappropriate relationships with residents;
- (9) How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents; and
- (10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

ETC Policy 3.6 entitled Training, pages 1 and 2, section II(A)(1-10) address 115.231(a). This policy stipulates all new employees complete the National Institute of Corrections PREA training prior to having contact with residents. Additional training provided by ETC shall be presented through PREA trainers via Power Point presentation, handouts and audio-visual aides to all employees, volunteers and contractors who may have contact with residents on:

The facility's zero-tolerance policy for sexual abuse/sexual harassment;
How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies;
Residents' rights to be free from sexual abuse/sexual harassment;
Residents' and staffs' right to be free from retaliation when reporting sexual abuse and sexual harassment procedures;
The dynamics of sexual abuse and sexual harassment in confinement;
The common reactions of sexual abuse and sexual harassment victims;
How to detect and respond to signs of threatened and actual sexual abuse;
How to avoid inappropriate relationships with residents;
How to communicate effectively/professionally with residents and staff, including lesbian/gay/bisexual/transgender/questioning/intersex/gender nonconforming residents;
How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

The auditor has reviewed the following training resources that are provided to staff during Orientation and PREA Annual Refresher Training:

Guidance on Cross-Gender and Trans-Gender Pat Searches developed by the National PREA Resource Center in video, Power Point, Instructors Manual, and Webinar formats.

Gender Responsive Strategies produced by the National PREA Resource Center in Power Point format.

"What You Need to Know" produced by the National PREA Resource Center in video format.

PREA Refresher Course produced in Power Point format.

All ten of the requisite topics are addressed in these training resources. The training is tailored to both genders, although only female residents are housed at ETC.

The auditor reviewed sign-in sheets dated February 27, 2017, April 20, 2017, May 2, 2017, June 12, 2017, July 25, 2017, July 29, 2017, and August 10, 2017. A wide menu of courses were taught in these classes inclusive of Risk Screening, Risk Screening Disclaimer, Mental Health Referral, LGBTI Issues with Screening and Room Placement, general PREA Training, Transgender/Cross Gender Searches and Exigent Circumstances, What You Need to Know, and Gender Responsive Strategies. A total of 86 staff representing all disciplines participated in this training.

In addition to the above, the auditor reviewed PREA training files for 21 staff representing the COO, DD, BCS PREA Coordinator, and staff from numerous disciplines represented at the facility. At ETC, training is generally broken down by the course presented and participants each sign an ETC Staff Development and Training Record Form, reflecting their signature for receipt and understanding of the information received. This is clearly commensurate with standard 115.231.

Pursuant to the auditor's review of these files, he also determined that all staff files reviewed contained one or more PREA on-line courses presented by the National Institute of Corrections, the Moss Group, or outside vendors or receipt of programs from the MDOC. Clearly, the ETC leadership and staff have embraced PREA sexual safety training, signifying above and beyond standard expectations with respect to this critical area. Accordingly, the auditor has determined ETC staff have exceeded this standard.

All 12 random staff interviewees assert they have received training regarding the afore-mentioned topics. They have received this training during Orientation, dependent upon their entry on duty date with BACS, and during PREA Annual Refresher Training.

Pursuant to the PAQ, the COO self reports the training is tailored to the gender of the residents at the facility. The COO further self reports employees who are reassigned from facilities housing the opposite gender are given additional training.

ETC Policy 3.6 entitled Training, page 2, section II(C) addresses 115.231(b). This policy stipulates such training at ETC will be tailored to the gender of the female resident.

According to the PREA Coordinator, staff transferring from HPRC (male facility) receive the same training as that provided at ETC, with the exception of the Gender Responsive Strategies and Cross-gender pat searches. Accordingly, staff transfers from HPRC would receive these two training sessions.

Pursuant to the PAQ, the COO self reports that 11 of the 12 staff (10 of whom are no longer employed at ETC) hired during the past 12 months, who may have contact with residents, were trained or retrained in PREA requirements. This represents 91.7% of those staff employed by the facility, who may have contact with residents, who were trained or retrained in PREA requirements.

According to the COO, between trainings, staff receive additional PREA training pursuant to policy reviews which they certify as understanding the content of the same.

The COO self reports employees who may have contact with residents receive refresher training on PREA on an annual basis.

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

ETC Policy 3.6 entitled Training, page 2, section II(D) addresses 115.231(d). This policy stipulates employee training shall be documented through employee signature that employees understand the training they have received. Specialized training will be required of medical and mental health, investigators, and PREA Coordinator. The signed acknowledgment form will be maintained in the employee's personnel files.

Standard 115.232: Volunteer and contractor training

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

115.232 (a)

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

115.232 (b)

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

115.232 (c)

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

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports all volunteers and contractors who have contact with residents have been trained on their responsibilities under the agency's policies and procedures regarding sexual abuse/harassment prevention, detection, and response.

The COO further self reports 21 volunteers and four individual contractors who have contact with residents have been trained in agency policies and procedures regarding sexual abuse/harassment prevention, detection, and response. This equates to 100% who have been trained.

ETC Policy 3.6 entitled Training, page 2, section II(E) addresses 115.232(a). This policy stipulates volunteers and contractors who work with or have contact with residents will be trained on: Responsibilities under the agency's sexual abuse/harassment prevention, detection, and response policies and procedures; The zero-tolerance policy regarding sexual abuse and sexual harassment; and Method of reporting such incidents.

According to the BACS PREA Coordinator, the number of contractors at the time the PAQ was completed was 4 and 21 volunteers for a total of 25. There may have been a miscount on the number of contractors due to mislabeling them as vendors. The rest of the records are for vendors, most of whom have no contact with residents.

According to the volunteer interviewee, he/she has been trained regarding his/her responsibilities regarding sexual abuse and sexual harassment prevention, detection, and response. He/she reports he/she received the training during Fall, 2017.

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

ETC Policy 3.6 entitled Training, page 2, section II(F) addresses 115.232(b). This policy stipulates the level and type of training provided to volunteers and contractors shall be based on the services

they provide and level of contact they have with residents, but all volunteers and contractors who have contact with residents shall be notified of HPRC's zero tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

Review of PAQ materials reveals What You Need to Know (video) and Zero Tolerance, etc. (Power Point) was provided to volunteers. These resources clearly address the zero-tolerance policy regarding sexual abuse and sexual harassment and information regarding reporting.

With regard to contractors, they are provided a document entitled PREA Compliance Acknowledgment (Contractors, Volunteers, and Visitors) every time they enter the facility. This document addresses the afore-mentioned topics and contractors, volunteers, and visitors sign the same upon entry into the facility, attesting to their understanding of the contents of the document.

Volunteers and vendors also receive a copy of the PREA Brochure, providing additional information substantiating compliance with 115.232(b). Volunteers and contractors also sign a certification they have received the Brochure and BACS Policy 1.3.5.12, read, or had read to them, and understand the content of the same.

The auditor reviewed training rosters for the four contractors who have unsupervised contact with residents and found the contractors did receive the basic PREA training provided to other staff, as well as, the video "What You Need to Know". They affixed their signature to the sign-in sheets for the requisite classes. The auditor finds this to be commensurate with the provision however, there is no verbiage reflecting they understand the materials presented.

The auditor reviewed 17 ETC Vendor PREA Acknowledgment forms and finds the same adequately address the agency zero tolerance zero-tolerance policy regarding sexual abuse and sexual harassment and properly informs the reader how to report such incidents. The reader affixes their signature to the form, signifying their understanding of the information addressed.

The auditor also reviewed 22 volunteer files containing a variety of documents, inclusive of PREA training. Volunteers received BACS Policy 1.3.5.12 (PREA), MDOC policies regarding PREA, and ETC policies regarding PREA. Volunteers did sign various forms signifying their understanding of the content provided either through reading the documents or the same being read to them.

The auditor also reviewed sign-in sheets wherein 24 volunteers/contractors/vendors completed the Power Point presentation. These documents were previously referenced as relevant to the four contractors who have minimally supervised contact with residents.

According to the volunteer interviewee, the training he/she received consisted of a discussion about PREA, viewed the PREA video, and viewed the PREA Power Point presentation. Topics included zero tolerance regarding sexual abuse/sexual harassment of residents, reporting, red flags associated

with sexual abuse/sexual harassment, distancing oneself from residents, and definitions of sexual abuse/sexual harassment, among other topics.

Pursuant to the PAQ, the COO self reports the agency maintains documentation confirming that volunteers/contractors understand the training they have received.

ETC Policy 3.6 entitled Training, page 2, section II(G) addresses 115.232(c). This policy stipulates ETC Program will maintain documentation confirming volunteers and contractors understand the training they have received.

The auditor's review of PAQ documentation resulted in no evidence to substantiate the volunteer interviewee's receipt and understanding of the training received in Fall, 2017. Pursuant to contact with the BACS PREA Coordinator, ETC does not possess training documentation verifying that volunteers and contractors understand the What You Need to Know video and Zero Tolerance et. al. training. Accordingly, ETC is not in compliance with this standard provision.

To ensure compliance with this provision, a new form bearing the "I understand" caveat has been implemented for contractor and volunteer training. Pursuant to agreement between the PREA Coordinator and the auditor, the PREA Coordinator will use this form henceforth subsequent to provision of requisite training. Additionally, he will ensure that all current contractors/volunteers execute this form, subsequently forwarding copies of the same to the auditor. The PREA Coordinator has already commenced this process and the auditor has received numerous executed forms.

This process must be completed on or before May 6, 2018 to ensure the auditor can conclude review and assessment of corrective action prior to corrective action period closure (180 days from the date of this report). This provision can be closed prior to the afore-mentioned date based on the auditor's assessment.

12/18/2017 Update:

The auditor has received and reviewed three ETC Volunteer/Contractor/Vendor Training Record Forms reflecting understanding of PREA information provided pursuant to a Power Point presentation and the PREA video. Given the above, ETC is now compliant with 115.232(c).

Standard 115.233: Resident education

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

115.233 (a)

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

115.233 (b)

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

115.233 (c)

- Does the agency provide resident education in formats accessible to all residents, including those who: Are limited English proficient? Yes No
- Does the agency provide resident education in formats accessible to all residents, including those who: Are deaf? Yes No
- Does the agency provide resident education in formats accessible to all residents, including those who: Are visually impaired? Yes No
- Does the agency provide resident education in formats accessible to all residents, including those who: Are otherwise disabled? Yes No
- Does the agency provide resident education in formats accessible to all residents, including those who: Have limited reading skills? Yes No

115.233 (d)

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

115.233 (e)

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

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reported residents receive information at time of intake about the zero-tolerance policy, how to report incidents or suspicions of sexual abuse or harassment, their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents. The COO further self reported 121 residents were given this information at Intake during the past 12 months. This equates to 100% of the total number of admissions during the past 12 months.

ETC Policy 3.3 entitled Intake/Screening, pages 1 and 2, section II(A)(1)(a)(1-4) addresses 115.233(a). This policy stipulates during a resident's admission into the facility, staff will: Communicate to the resident, verbally and in writing, information about the Prison Rape Elimination Act, including:

The program's zero tolerance policy regarding sexual activity, abuse, and/or harassment;
Information on prevention/intervention, self-protection, and availability of treatment and/or counseling;

Methods of reporting sexual abuse/harassment and consequences for false reporting;
Resident's right to be free from sexual abuse and sexual harassment and from retaliation for reporting an incident of sexual abuse or harassment.

In addition to the above, section II(A)(1)(e) and (f) of the same policy clearly reflects each resident will be given a copy of the Resident PREA Handbook and note the resident's acceptance/denial of the handbook in the resident's progress notes. Additionally, residents shall sign the Resident PREA Handbook/PREA Acknowledgment form, verifying they have been given this information.

The auditor reviewed 15 ETC Handbook Receipts authored by residents at ETC. The auditor is convinced the practice of resident education is institutionalized at ETC.

All 11 of the random resident interviewees advise they received information about the facility's rules against sexual abuse and harassment when they first came to ETC. Specifically, they generally received the PREA packet (PREA Handbook and PREA Brochure) or PREA policies at Intake and subsequently, they viewed the PREA video during Orientation/participated in Question and Answer. Additionally, all of the 11 random resident interviewees assert they were told about their right to not be sexually abused or sexually harassed, how to report sexual abuse or sexual harassment, and their right not to be punished for reporting sexual abuse or sexual harassment. Reportedly, they received this information at Intake and during the Orientation phase.

The Intake Staff interviewee asserts residents are provided with information about the zero-tolerance policy and how to report incidents or suspicions of sexual abuse or sexual harassment at Intake pursuant to receipt of the PREA Handbook/PREA Brochure. The interviewee asserts zero tolerance is discussed with residents and PREA posters are pointed out during Intake. Additionally, residents are educated regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents pursuant to receipt of the PREA Handbook/PREA Brochure and during Orientation.

Pursuant to the PAQ, the COO self reports the facility provides residents who are transferred from a different community confinement facility with refresher information as described in 115.233(a). The PD further self reports that of the 119 residents received from a different community confinement facility, all received refresher information.

ETC Policy 3.3 entitled Intake/Screening, page 2, section II(A)(1)(d) addresses 115.233(b). This policy stipulates ETC training staff shall provide PREA orientation training within seven (7) days of admission whenever a resident is admitted to the ETC to include residents transferred from a different facility. PREA education shall be conducted as part of New Resident Orientation.

The auditor reviewed six ETC Intake Procedure/CDT Requirements forms regarding resident intakes at ETC. While this extensive array of functions is accomplished at Intake, the same includes the PREA video (What You Need to Know) and the Intake staff's discussion of PREA issues and concerns with the resident. In addition to receipt of the PREA Handbook, refresher education for the vast majority of residents who are received at ETC from other facilities, is sufficient.

According to the interviewee who performs Intakes, residents are made aware of the rights articulated in 115.233(a) immediately upon arrival (during Intake).

With the exception of one of the 11 random resident interviewees, all were transferred to ETC from other community confinement facilities, jails, or specialty minimum security facilities. The auditor's review of eight resident files during the on-site audit reveals compliance with this provision. The auditor reviewed five of the 11 random resident interviewees' files.

Pursuant to the PAQ, the COO self reports resident PREA education is available in accessible formats for all residents including those who are limited English proficient, deaf, visually impaired, otherwise disabled, as well as to residents who have limited reading skills.

ETC Policy 3.3 entitled Intake/Screening, page2, section II(A)(1)(b) addresses 115.233(c). This policy stipulates ETC will provide resident education in formats accessible to all residents, which will include written material and viewing the video "What You Need to Know", including those who are limited English proficient by providing interpreters who speak the same language, deaf, visually

impaired, or otherwise disabled as well as residents who have limited reading skills by reading the information to them.

The auditor reviewed the ETC PREA Handbook and finds the same to be comprehensive, well written, and commensurate with 115.233(a) and (c). The enlarged print version of the ETC PREA Handbook is used with those residents who may have low vision capabilities.

Additionally, the COO self reports in a memorandum dated August 28, 2017, ETC employs an individual who has worked with disabled populations in the past. She would be made accessible if such need arose at ETC.

It is also noted the PREA video "What You Need to Know" is closed captioned. Thus, residents who are deaf or hard of hearing also have access to education by virtue of this feature, as well as, reading the ETC PREA Handbook.

ETC Policy 3.3 entitled Intake/Screening, page 3, section II(A)(3) also addresses 115.233(c). This policy stipulates ETC shall take reasonable steps to ensure meaningful access to all efforts to prevent, detect, and respond to sexual abuse and sexual harassment to residents who are limited English proficient, including interpreters, where a list of interpreters can be provided from the Program Administrator, who are capable of interpreting effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

ETC contracts with CTS Language Link to provide interpretation services for residents who are limited English proficient. A copy of the contract was included with PAQ materials. In excess of 240 language translations are available pursuant to the Language Link contract.

In addition to the above, Montana Department of Corrections Probation and Parole Division Operational Procedure PPD 4.1.100, page 2, section III(A) and (B), corroborates the Executive Director's assertion. This policy stipulates (in the section entitled Requirements for Pre-Release Centers) that offenders will be physically and mentally capable of work, education, or vocational training. If they are unable to work due to a disability, i.e. a verified physical or mental handicap, and/or they are eligible for Veterans Administration Benefits, SSI, or Vocational Rehabilitation Services, they must have a realistic plan to subsidize their stay at the PPD facility. In the section entitled Requirements for all Facilities, the policy stipulates that if an offender has a medical or psychological condition, facility staff and the facility's screening coordinator will assess the offender to determine if his/her needs can be met in a community-based setting.

Pursuant to the PAQ, the COO self reports the agency maintains documentation of resident participation in PREA education sessions.

ETC Policy 3.3 entitled Intake/Screening, page 2, section II(A)(1)(d-f) addresses 115.233(d). This policy stipulates ETC training staff shall provide refresher information whenever a resident is

transferred to and from a different facility. Residents will be offered a copy of the Resident PREA handbook and note the resident's acceptance/denial of the handbook in the resident's progress notes. Residents shall sign the resident PREA Handbook/PREA Acknowledgment form, verifying they have been given this information.

The auditor reviewed 15 signed ETC Receipts of PREA Handbook.

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

ETC Policy 3.3 entitled Intake/Screening, page 2, section II(A)(1)(c) addresses 115.233(e). This policy stipulates in addition to providing such education, ETC shall ensure that key information is continuously and readily available or visible to Residents through posters and Resident handbooks.

The auditor has reviewed the ETC PREA Handbook and determined the same is comprehensive providing a good source of PREA operational information. Additionally, the enlarged version of the ETC PREA Handbook is available for those resident(s) with low vision.

Throughout the facility tour, the auditor noted the numerous PREA posters available in all areas of the facility. Posters are informative with telephone numbers, addresses, etc.

Standard 115.234: Specialized training: Investigations

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

115.234 (a)

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

115.234 (b)

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

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

115.234 (c)

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

115.234 (d)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports in addition to the general training provided to all employees pursuant to 115.231, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.

ETC Policy 3.6 entitled Training, page 3, section II(I)(1) addresses 115.234(a). This policy stipulates in addition to the general training provided to all employees pursuant to § 115.231, ETC shall ensure that, to the extent ETC itself conducts the initial sexual abuse investigations, its investigators, PREA Manager, and COO have received training in conducting such investigations in confinement settings through the NIC learning website, particularly PREA and any Department of Corrections or trainings for investigators they may provide. Even though the PREA Manager, and COO may not participate in an initial sexual abuse or sexual harassment investigation, completion of the Specialized Investigator training is key in understanding and supporting the SART process.

The auditor has reviewed two training files and finds that both investigators have completed the requisite PREA training.

According to the investigative staff interviewee, he completed the NIC Courses (Basic and Advanced: Conducting Sexual Abuse Investigations in a Confinement Setting). The basic course was an overview, providing basics regarding interviewing, organizing the investigation, and legal parameters. The Advanced course was more intense with an actual practice case study. This included the conduct of mock interviews, Miranda and Garrity warnings, conduct of a mock investigation (step by step processing), and evidence collection.

ETC Policy 3.6 entitled Training, page 3, section II(I)(2) addresses 115.234(b). This policy stipulates specialized Investigator training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.

According to the investigative staff interviewee, the specialized training referenced above addressed techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.

Pursuant to the PAQ, the COO self reported the agency maintains documentation showing that investigators have completed the required training. The COO further self reports two Administrative PREA Investigators are currently utilized at ETC and both have completed requisite training.

ETC Policy 3.4 entitled Training, page 3, section II(I)(3) addresses 115.234(c). This policy stipulates ETC will maintain documentation the facility's investigators have completed the required specialized training in conducting sexual abuse investigations.

The auditor reviewed NIC Certificates for (PREA- Investigating Sexual Abuse in a Confinement Setting: Basic and Advanced Investigations) for two investigators. Pursuant to research of the NIC website, the training criteria referenced in the above policy is addressed.

Standard 115.235: Specialized training: Medical and mental health care

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

115.235 (a)

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in: How to detect and assess signs of sexual abuse and sexual harassment? Yes No

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

115.235 (b)

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

115.235 (c)

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

115.235 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.231? Yes No
- Do medical and mental health care practitioners contracted by and volunteering for the agency also receive training mandated for contractors and volunteers by §115.232? [N/A for circumstances in which a particular status (employee or contractor/volunteer) does not apply.] Yes No NA

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports the agency has a policy related to the training of medical and mental health practitioners who work regularly in its facilities. The COO further self reported that the seven medical and mental health care practitioners who work regularly at the facility received specialized training. This constitutes 100% of medical/mental health staff that received specialized training.

ETC Policy 3.5 entitled Medical and Mental Health, pages 3 and 4, section III(A) addresses 115.235(a). This policy stipulates ETC requires all part-time and full-time medical and mental health care practitioners who work regularly to attend the specialized training course offered through the NIC learning website or the Department of Corrections hands-on training that they may provide on the following:

How to detect and assess signs of sexual abuse and sexual harassment;

How to preserve physical evidence of sexual abuse;

How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and

How and to whom allegations/suspicious of sexual abuse/harassment should be reported.

Of the seven medical and mental health practitioners, the auditor reviewed NIC Certificates for seven staff. Four staff successfully completed the PREA: Medical Health Care for Sexual Assault Victims in a Confinement Setting and three staff have completed PREA: Behavioral Health Care for Sexual Assault Victims in a Confinement Setting.

According to the medical staff interviewee, she did receive the requisite specialty training. She completed regular PREA training and the NIC course for Medical regarding Sexual Abuse in a Confinement Setting. The course was on-line and involved treating sexual abuse victims in a confinement setting. The mental health staff interviewee asserts the specialty course he/she completed was an NIC course entitled Mental Health; Sexual Abuse in a Confinement Setting. Minimally, both the medical and mental health provider advise the training included information regarding detection and assessment of signs of sexual abuse and sexual harassment, how to preserve physical evidence of sexual abuse, how to respond effectively and professionally to victims of sexual abuse and sexual harassment, and how and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

Pursuant to the PAQ, the COO self reports forensic examinations are not conducted at ETC. Such examinations would be conducted at a community hospital.

Both the medical and mental health staff interviewees assert forensic examinations are neither conducted at ETC nor do ETC staff conduct the same.

In view of the above, the auditor has determined this provision (115.235(b) is not applicable to ETC.

Pursuant to the PAQ, the COO self reports the agency shall maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere.

As reflected in the narrative for 115.235(a), the auditor reviewed NIC Certificates for all (specialized training) ETC medical and mental health practitioners. Clearly, HPRC demonstrates compliance with this provision as the practitioners possess evidence substantiating completion of the requisite training.

The auditor's review of training documentation for the medical/mental health providers at ETC has determined they did complete PREA courses provided to all ETC staff. Specifically, the auditor reviewed ETC Staff Development and Training Record Forms for medical and mental health employees and finds they completed the following courses as part of In-Service training:

PREA- What You Need to Know;

Zero Tolerance Policy/Laws/Reporting, First Responder Duties;

Gender Responsive Strategies; and

Guidance on Cross-Gender and Trans-Gender Pat Searches.

The auditor did find that one Physician Assistant had not completed the Guidance on Cross-Gender and Trans-Gender Pat Searches course. However, this is not viewed as an indicator of ETC failure to properly train medical and mental health staff in terms of PREA procedures and operations. Accordingly, the auditor finds this provision is clearly institutionalized at ETC.

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Standard 115.241: Screening for risk of victimization and abusiveness

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

115.241 (a)

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

115.241 (b)

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

115.241 (c)

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

115.241 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident has a mental, physical, or developmental disability? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: The age of the resident? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: The physical build of the resident? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident has previously been incarcerated?
 Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident's criminal history is exclusively nonviolent?
 Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident has prior convictions for sex offenses against an adult or child? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the resident about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the resident is gender non-conforming or otherwise may be perceived to be LGBTI)? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident has previously experienced sexual victimization? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: The resident's own perception of vulnerability? Yes No

115.241 (e)

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

115.241 (f)

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

115.241 (g)

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

115.241 (h)

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

115.241 (i)

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

Auditor Overall Compliance Determination

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

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

ETC Policy 3.3 entitled Intake/Screening, pages 3 and 4, section II(B) addresses 115.241(a). This policy stipulates residents are screened by Chemical Dependency Technicians through the use of the ETC screening tool, within 24 hours of arrival at the facility, for potential vulnerabilities or

tendencies of being sexually abused by other residents or sexually abusive toward other residents. Security staff meets with the resident within twenty-four (24) hours and completes the medical and mental health –screening instrument. Medical staff will screen the resident within seven (7) days. Housing and programming assignments are made accordingly on a case-by-case basis by the Admission and Intake Supervisor, Security Coordinator and PREA Manager.

According to one staff who performs screening for risk of victimization and abusiveness interviewee, he/she screens residents upon admission to ETC or transfer from another facility for risk of sexual abuse victimization or sexual abusiveness toward other residents. The other interviewee asserts he/she does not facilitate such screenings. He/she does not actually conduct Initial PREA Screenings as he/she facilitates Re-assessments.

Of the 11 random resident interviewees, nine advised when they first arrived at ETC, they were asked questions like whether they had been in jail or prison before, whether they had ever been sexually abused, whether they identify as being gay, lesbian, or bisexual and whether they think they might be in danger of sexual abuse at ETC. All interviewees who responded in the affirmative asserted they were asked the above questions on the day of arrival, within one hour of arrival, and during Intake. Of the two random resident interviewees who arrived at ETC and asserted they received their Initial Screening within 1-30 days of arrival, the auditor's on-site review of their files reveals they received their Initial Screening on the day of arrival at ETC.

Pursuant to the PAQ, the COO self reports policy requires that residents be screened for risk of sexual victimization or risk of sexually abusing other residents within 72 hours of their intake.

Pursuant to follow-up with the BACS PREA Coordinator, thirty-three residents entered the facility (either through intake or transfer) whose length of stay in the facility was for 72 hours or more who were screened for risk of sexual victimization or risk of sexually abusing other residents within 72 hours of their entry into the facility. This statement is based on residents admitted to ETC since March, 2017.

Policy provisions are reflected in the narrative for 115.241(a).

The auditor reviewed 28 ETC Risk Screening documents (new screening tool implemented in late February, 2017) and found that all were completed on the day of arrival. The auditor reviewed 17 additional (old PREA Risk Screening Tools) that were in place prior to late February, 2017. Similarly, this tool was administered upon the date of arrival.

It is noted that document does not meet the full panoply of assessment factors articulated in 115.241(d). Many of the documents reflected clarification or expansion on issues relevant to PREA classification.

Pursuant to the staff who performs initial PREA screening interviewee, he/she asserts incoming residents are screened for risk of sexual victimization or risk of sexually abusing other residents at Intake.

Pursuant to the PAQ, the COO self reports risk assessment is conducted using an objective screening instrument.

ETC Policy 3.3 entitled Intake/Screening, page 4, section II(B)(1) addresses 115.241(d). This policy stipulates the objective PREA screening instrument shall assess the resident's risk of sexual victimization through information pertaining to:

Whether the resident has a mental, physical, or developmental disability;

The age of the resident;

The physical build of the resident;

If the Resident has previously been incarcerated;

If the Resident's criminal history is exclusively nonviolent;

If the Resident has prior convictions for sex offenses against an adult or child;

If the Resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming ;

If the Resident has previously experienced sexual victimization;

The Residents' own perception of vulnerability;

The transgender or intersex Resident's gender identity; whether the Resident self-identifies as male or female.

Pursuant to the PAQ, the COO self reports the intake screening shall consider, at a minimum, the following criteria to assess residents for risk of sexual victimization:

(1) Whether the resident has a mental, physical, or developmental disability;

(2) The age of the resident;

(3) The physical build of the resident;

(4) Whether the resident has previously been incarcerated;

(5) Whether the resident's criminal history is exclusively nonviolent;

(6) Whether the resident has prior convictions for sex offenses against an adult or child;

(7) Whether the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;

(8) Whether the resident has previously experienced sexual victimization; and

(9) The resident's own perception of vulnerability.

The requisite policy citation and language are reflected in the narrative for 115.241(d).

The auditor reviewed the objective screening tool and finds that minimally, all of the requisite criteria are addressed in the ETC Risk Screening Tool.

In addition to the above, the screening tool is used to assess history of prior institutional violence

or sexual abuse, as known to the agency. Specifically, there are questions that address both issues within a confinement setting. Additionally, residents are asked if they have a history of predatory behavior while institutionalized, including jail and whether they have an institutional history of sexual activity.

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

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

The auditor reviewed 28 ETC Risk Screening documents and found that all of the requisite issues were addressed with a response. The majority of the documents reflected clarification or expansion on issues relevant to the PREA classification. The PREA Manager did not sign the Risk Screening Tool, indicating review and either concurrence or disapproval, in only two cases.

Pursuant to conversation with the BACS PREA Coordinator, PREA screeners use a screening key as the only other reference material in the risk assessment screening. The information is verified after the event by the COO with any information he might have available. It is noted this information would typically be available before the intake arrives (as referenced in the narrative for 115.216(a) by virtue of the pre-screening conducted by ETC staff) so the agency will already have some idea about abuser or victim status prior to arrival and can anticipate a bed status. Screeners also have access to designated status of other residents to avoid any possible conflict. The PREA Manager validates typically the next day, but all validations would take place within a maximum of 7 days.

The staff who perform screening for risk of victimization and abusiveness interviewee asserts the initial screening tool considers whether resident is a victim of sexual abuse, an aggressor, confined in a prison, jail, or juvenile facility, age, build, weight, whether the resident feels safe at ETC, and how she resident identifies (LGBTI, heterosexual).

In regard to the process for conducting the initial screening, the PREA Risk Screening Form is used. Questions are asked and values are added. This determines whether the resident is a Potential Victim, Potential Aggressor, Known Victim, or Known Aggressor. The screening is conducted in a private setting.

ETC Policy 3.3 entitled Intake/Screening, page 4, section II(B)(2) addresses 115.241(e). This policy stipulates the intake screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to ETC in assessing

Residents for risk of being sexually abusive. If screening results indicate the resident is likely to be an aggressor, or to be vulnerable to sexually abusive or assaultive behavior, the resident status will be logged in the staff log book.

As reflected in the narrative for 115.241(d), all of these components are addressed in the ETC Risk Screening tool. The auditor has verified the same pursuant to review of the actual tool and its implementation.

Pursuant to the PAQ, the COO self reports the policy requires that the facility reassess each resident's risk of victimization or abusiveness within a set time period, not to exceed 30 days after the resident's arrival at the facility, based upon any additional, relevant information received by the facility since the intake screening. The PD further self reports 78 residents have entered the facility (either through intake or transfer) who were reassessed for their risk of sexual victimization or of being sexually abusive within 30 days after their arrival at the facility based upon any additional, relevant information received since intake.

ETC Policy 3.3 entitled Intake/Screening, page 4, section II(B)(3) addresses 115.241(f). This policy stipulates within a set time period, not to exceed 30 days from the resident's arrival at the facility, the facility's Case Managers will reassess the residents' risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.

The auditor reviewed 13 Initial PREA Risk Assessments and 13 Re-Assessments regarding the same residents. Nine of the 13 Re-Assessments were completed on or before the end of the requisite 30-day maximum. The auditor finds this documentation that was included with the PAQ information provides substantial confirmation of compliance with the provision. Two of the four delinquent Re-Assessments were completed within days of the 30-day threshold.

In addition to the above, the auditor reviewed eight random resident files or files associated with residents interviewed during the on-site audit (five) and found that all Re-assessments were conducted within 30 days of Intake.

Of the 11 random resident interviewees, eight residents assert they received a re-assessment. Two interviewees assert they do not recall if they received a Re-assessment and one interviewee states she received a Re-assessment within 60 days of Intake. The three interviewees did receive timely Re-assessments as addressed in the preceding paragraph.

The staff responsible for risk screening (Re-assessments) interviewee asserts Re-assessments are conducted on or before 30 days of arrival.

Pursuant to the PAQ, the COO self reports the policy requires that a resident's risk level be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness.

ETC Policy 3.3 entitled Intake/Screening, page 5, section II(B)(4) addresses 115.241(g). This policy stipulates a residents' risk level shall be reassessed by Case Managers when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the residents risk of sexual victimization or abusiveness.

Pursuant to follow-up with ETC staff, it has been learned that there were no Re-assessments completed within the past 90 days based on a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness.

According to the staff responsible for risk screening Re-assessments, a resident's risk level would be re-assessed, as needed, due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness. The interviewee asserts no such occurrences have arisen, however.

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

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

ETC Policy 3.3 entitled Intake/Screening, page 5, section II(B)(6) addresses 115.241(h). This policy stipulates residents may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to this section. Residents will sign a disclaimer prior to all questions being asked.

Both staff responsible for risk screening interviewees assert residents cannot be disciplined in any way for refusing to respond to (or for not disclosing complete information related to):

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

Both interviewees assert the resident signs a Disclaimer, explaining these issues, prior to the conduct of the initial screening.

ETC Policy 3.3 entitled Intake/Screening, page 5, section II(B)(7) addresses 115.241(i). This policy stipulates ETC shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is

not exploited to the Resident's detriment by staff or other Residents. ETC enforces the breach of confidentiality through our personal policies and ETC policies.

According to the BACS PREA Coordinator, the COO, PREA Coordinator, and the screener constitute the individuals who have access to a resident's risk assessment within the facility in order to protect sensitive information from exploitation. The two staff responsible for risk screening corroborated the statement of the BACS PREA Coordinator, stating the PD and PREA Coordinator are the primary links in the screening informational chain. Additionally, the staff member facilitating room assignments would be in the informational loop.

The auditor has determined that information dissemination controls are sufficient to meet the requirements of 115.241(i).

Standard 115.242: Use of screening information

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

115.242 (a)

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

115.242 (b)

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

115.242 (c)

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

115.242 (d)

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

115.242 (e)

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

115.242 (f)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

Does Not Meet Standard (*Requires Corrective Action*)

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

ETC Policy 3.3 entitled Intake/Screening, page 5, section II(C)(2) addresses 115.242(a). This policy stipulates ETC shall use information, through the use of access to the server, from the risk screening to inform housing, bed, work, education, and program assignments with the goal of keeping separate those Residents at high risk of being sexually victimized from those at high risk of being sexually abusive.

At ETC, a daily room assignment or count sheet is used to track bed/room assignments. Potential Victims (PV), Potential Predators (PP), Known Victims, and Known Predators are identified on a separate document. The auditor reviewed several documents and found no evidence suggesting that PPs/PVs and KAs/KVs were housed together. The documents were quite thoroughly screened.

According to the PREA Coordinator, risk screening information is translated into PAs, PVs, KAs, and KVs and they are geographically separated by room or wing. Staff are aware of the labeling and extra precautions may be employed. According to the two staff responsible for risk screening, information gleaned from the risk screening is used to make housing and programming sexual safety decisions. PVs, PAs, KVs, and KAs are not housed together.

Pursuant to the PAQ, the COO self reports the agency shall make individualized determinations about how to ensure the safety of each resident.

ETC Policy 3.3 entitled Intake/Screening, page 6, section II(C)(3) addresses 115.242(b). This policy stipulates the COO, Chief of Security, and PREA Manager shall make individualized determinations about how to ensure the safety of each Resident.

Pursuant to memorandum authored by the COO dated April 7, 2017, housing decisions are made by the Clinical Coordinator. Intake staff can override the housing assignment based upon the outcome of the PREA risk assessment. The PREA assessments are then reviewed and finalized by the Security Coordinator and PREA Manager.

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

ETC Policy 3.3 entitled Intake/Screening, page 6, section II(C)(4) and (5) addresses 115.242(c). This policy stipulates 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, including

possible transfer to another facility if most appropriate, ETC shall consider on a case-by-case basis whether a placement would ensure the resident's health and safety, and whether the placement would present management or security problems.

ETC will consider facility factors, including resident populations, staffing patterns, and physical layouts. Best practices include initial consultation and multiple reviews of a transgender or intersex resident's housing and programming plan with administration, security, medical and mental health staff. Housing and programming must allow for gender identity when appropriate.

Although no transgender/intersex residents were housed at ETC during the on-site audit, the PREA Coordinator advised staff and resident's perceptions of personal safety would be a primary consideration when determining housing and programming assignments. Genitalia may not be the primary consideration in the final analysis. There are no specific wings or facilities wherein transgender/intersex residents are housed. The resident's health and safety is always a consideration in terms of placement. Additionally, management and security problems would be a consideration in terms of placement.

ETC Policy 3.3 entitled Intake/Screening, page 6, section II(C)(6) addresses 115.242(d). This policy stipulates a transgender or intersex Resident's own views with respect to his or her own safety shall be given serious consideration.

The PREA Coordinator asserts that a transgender/intersex resident's own views with respect to her own safety would be given serious consideration in placement and programming assignments. The two staff responsible for risk screening also assert a transgender/intersex resident's own view of her safety would be given serious consideration in placement and programming assignments. The question is asked on the Screening Tool.

ETC Policy 3.3 entitled Intake/Screening, page 7, section II(C)(9) addresses 115.242(e). This policy stipulates transgender and intersex Residents shall be given the opportunity to shower separately from other Residents.

The auditor learned that there is a designated area in which transgender/intersex residents can shower. During the tour, the auditor also observed the shower and discussed such shower operations with staff finding they were aware of the same and operational procedures employed in terms of such showering arrangements. The auditor finds the arrangement and shower area to be clean and suitable for its purpose.

Both staff responsible for risk screening advised there is a location for showering transgender/intersex residents separate from the remainder of the population, if they so choose. One interviewee corroborated the statement of the PREA Coordinator, asserting there is a designated location for such showering accommodations.

ETC Policy 3.3 entitled Intake/Screening, page 7, section II(C)(10) addresses 115.242(f). This policy stipulates ETC shall not place lesbian, gay, bisexual, transgender, or intersex Residents in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such Residents.

According to the PREA Coordinator, BACS is not subject to a consent decree, legal settlement, or legal judgment requiring that it establish a dedicated facility, unit, or wing for lesbian, gay, bisexual, transgender, or intersex residents. Additionally, there are no specialized wings at ETC wherein such housing arrangements are effected.

The two LGB interviewees validated the statements of staff, asserting they have not been placed in a housing area designated for only LGBTI residents.

REPORTING

Standard 115.251: Resident reporting

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

115.251 (a)

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

115.251 (b)

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

115.251 (c)

- Do staff members accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties? Yes No

- Do staff members promptly document any verbal reports of sexual abuse and sexual harassment? Yes No

115.251 (d)

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

Auditor Overall Compliance Determination

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

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

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

ETC Policy 3.4 entitled Reporting, page 1, section II(A)(2) addresses 115.251(a). This policy stipulates staff shall inform residents on the multiple internal ways (another staff, write a letter, call one of the numbers listed) to privately report sexual abuse and sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents through resident intake, and orientation. Also, refer to resident PREA Section of the Resident Handbook.

The auditor reviewed the ETC PREA Handbook and determined that resident reporting options are scripted on page 4, section entitled How to Report an Incident of Sexual Abuse. Reporting to an agency external to ETC is also addressed in this section. The names and addresses of the Jefferson County Sheriff Department, BACS, and Safe Space are provided.

Eleven of the 12 random staff interviewees were able to identify at least three resident reporting options with respect to the above. Options ranged from reporting to staff, contacting Jefferson County Sheriff Department, submission of an Emergency Grievance, Third Party Report, contact the PREA Hotline, and submit a kite.

Of the 11 random resident interviewees, all cited at least three reporting options. Reporting options quoted were reporting to staff, send a kite to the COO/Security Coordinator, advise mental health staff, telephone MDOC, Third Party Report, submit an Emergency Grievance, contact the Hotline, and advise family. All 11 random resident interviewees were able to identify someone or an entity

external to the facility who could report an incident. Options included contacting the PREA Hotline and family/friends who could submit a Third Party Report.

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

ETC Policy 3.4 entitled Reporting, page 2, section II(A)(3-5) addresses 115.215(b). This policy stipulates staff and residents may report abuse, harassment, retaliation, or neglect, to any staff, director, volunteer, parole officer, attorney, or Safe Space.

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

Contact information for Safe Space, a rape crisis center and victims advocate program, will be posted next to phones. Reports to this agency allow the resident to remain anonymous upon request.

The auditor reviewed the MOU between ETC and Safe Space and finds that the same is commensurate with this provision. Safe Space represents the method for residents to report sexual abuse to an entity external to the facility.

According to the PREA Coordinator, residents may report incidents as referenced in 115.251(a) to Safe Space or Friendship Center, or Jefferson County Sheriff Department. There are MOUs with all of the above. These procedures do enable receipt and immediate transmission of resident reports of sexual abuse and sexual harassment to agency officials that allow the resident to remain anonymous upon request. Pursuant to the MOUs, the process enables immediate reporting to the COO.

As mentioned in the narrative for 115.251(a), several of the 11 random resident interviewees assert incidents can be reported to the Hotline or MDOC. Additionally, family/friends can submit a Third Party Request.

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

ETC Policy 3.4 entitled Reporting, page 2, section II(A)(7) addresses 115.251(c). This policy stipulates in the event that sexually abusive or assaultive behaviors are alleged, threatened, or have occurred, staff will take immediate action to intervene and ensure the safety of all persons involved. Staff will immediately document all reports and notify their Shift Supervisor, who will then consult with the COO for guidance.

Pursuant to the auditor's review of PAQ documentation and inquiry, no reports of sexual abuse or sexual harassment of residents have been received at ETC during the past 12 months.

All 12 random staff interviewees assert that when a resident alleges sexual abuse, she can do so verbally, in writing, anonymously, and from third parties. Nine of the 12 interviewees assert they would immediately document such reports, while three assert they would document the report as soon as possible following their knowledge of the incident.

All of the 11 random resident interviewees assert residents can make reports of sexual abuse either in person or in writing. While three interviewees were uncertain whether a report could be made by a Third Party so that the resident did not have to be named, eight responded in the affirmative.

The auditor finds substantial compliance with 115.251(c).

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

ETC Policy 3.4 entitled Reporting, page 1, section II(A)(1) addresses 115.251(d). This policy stipulates staff members may make private reports to the COO or Security Supervisor in any timely manner to include via cell phone, facility extension, in private communications within the office of the COO or Security Supervisor, via agency email, or to a third party entity such as the Jefferson County Sheriff Department, Safe Space, or the Friendship Center. Residents may report in any of the same manner as listed above with the exception of access to private or secure staff cell phone numbers.

As reflected in the narrative for 115.231, staff receive training regarding reporting options. The same is provided in the form of a Power Point presentation.

With the exception of one random staff interviewee, 11 of the 12 interviewees were able to identify at least three methods to privately report sexual abuse and sexual harassment of residents. Reporting methods included, but were not limited to: contact Jefferson County Sheriff Department; verbally contact COO; e-mail COO or Security Coordinator; contact COO/Security Coordinator cell phone; report to supervisor; drop a note in the Emergency Grievance Box; and write a report.

Standard 115.252: Exhaustion of administrative remedies

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

115.252 (a)

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

115.252 (b)

- Does the agency permit residents to submit a grievance regarding an allegation of sexual abuse without any type of time limits? (The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.) (N/A if agency is exempt from this standard.) Yes No NA
- Does the agency always refrain from requiring a resident to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse? (N/A if agency is exempt from this standard.) Yes No NA

115.252 (c)

- Does the agency ensure that: A resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) Yes No NA
- Does the agency ensure that: Such grievance is not referred to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) Yes No NA

115.252 (d)

- Does the agency issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance? (Computation of the 90-day time period does not include time consumed by residents in preparing any administrative appeal.) (N/A if agency is exempt from this standard.) Yes No NA
- If the agency determines that the 90-day timeframe is insufficient to make an appropriate decision and claims an extension of time [the maximum allowable extension of time to respond is 70 days per 115.252(d)(3)] , does the agency notify the resident in writing of any such extension and provide a date by which a decision will be made? (N/A if agency is exempt from this standard.) Yes No NA
- At any level of the administrative process, including the final level, if the resident does not receive a response within the time allotted for reply, including any properly noticed extension, may a resident consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.) Yes No NA

115.252 (e)

- Are third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, permitted to assist residents in filing requests for administrative remedies

relating to allegations of sexual abuse? (N/A if agency is exempt from this standard.)

Yes No NA

- Are those third parties also permitted to file such requests on behalf of residents? (If a third-party files such a request on behalf of a resident, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.) (N/A if agency is exempt from this standard.)

Yes No NA

- If the resident declines to have the request processed on his or her behalf, does the agency document the resident's decision? (N/A if agency is exempt from this standard.)

Yes No NA

115.252 (f)

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

- After receiving an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse, does the agency immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken? (N/A if agency is exempt from this standard.)

Yes No NA

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

- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)

Yes No NA

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

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

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

115.252 (g)

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

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports the agency has an administrative procedure for dealing with resident grievances regarding sexual abuse.

ETC Policy 3.4 entitled Reporting, pages 3,4, and 5, section II(A)(13)(a-f) addresses 115.252(a).

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

ETC Policy 3.4 entitled Reporting, page 3, section II(A)(a-d) addresses 115.252(b). This policy stipulates:

ETC shall not impose a time limit on when a resident may submit a grievance regarding an allegation of sexual abuse. Any report given shall be dealt with immediately by the COO and the Security Coordinator.

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

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

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

The auditor has reviewed the ETC PREA Handbook and finds the requisite information identified in this provision is accurately captured at page 6, section entitled Grievance Procedure (a). This provision stipulates:

(1) ETC will not impose a time limit on when a resident may submit a grievance regarding an allegation of sexual abuse.

(2) ETC may apply otherwise-applicable time limits on any portion of a grievance that does not allege an incident of sexual abuse.

(3) ETC will not require a resident to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

(4) Nothing in this section will restrict ETC's ability to defend against a lawsuit filed by a resident on the ground that the applicable statute of limitations has expired.

Pursuant to the PAQ, the COO self reports agency policy and procedure allows a resident to submit a grievance alleging sexual abuse without submitting it to the staff member who is the subject of the complaint. The COO further self reports agency policy and procedure requires that a resident grievance alleging sexual abuse not be referred to the staff member who is the subject of the complaint.

ETC Policy 3.4 entitled Reporting, page 4, section II(A)(13)(e)(5) addresses 115.252(c). This policy stipulates ETC shall ensure that— (1) A resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint. Grievance forms are located on all units of the ETC facility, and there is a locked grievance box as well for all residents and (2) Such grievance is not referred to a staff member who is the subject of the complaint. Grievances are reviewed by the Security Coordinator and COO.

The auditor has reviewed the ETC PREA Handbook and finds the requisite information identified in this provision is accurately captured at page 7, section entitled Grievance Procedure (b). This provision stipulates:

(1) A resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and

(2) Such grievance is not referred to a staff member who is the subject of the complaint.

Pursuant to the PAQ, the COO self reports agency policy and procedure requires that a decision on the merits of any grievance or portion of a grievance alleging sexual abuse be made within 90 days of the filing of the grievance. The COO further self reports that zero grievances have been filed (alleging sexual abuse) during the past 12 months. In cases where the agency requested an extension of the 90-day period to respond to a grievance and had reached final decisions by the time of the PREA audit, there were no grievances that took longer than a 70-day extension period to resolve. Finally, the COO self reports the agency would always notify the resident, in writing, when the agency files for an extension, including notice of the date by which a decision will be made.

ETC Policy 3.4 entitled Reporting, pages 4 and 5, section II(A)(13)(f)(1-4) addresses 115.252(d). This policy stipulates:

ETC shall issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance;

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

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

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

Pursuant to the PAQ, the COO self reports agency policy and procedure permits third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse and to file such requests on behalf of residents. The COO further self reports agency policy and procedure requires that if the resident declines to have third-party assistance in filing a grievance alleging sexual abuse, the agency documents the resident's decision to decline. There were zero grievances alleging sexual abuse filed by residents in the past 12 months in which the resident declined third-party assistance, containing documentation of the resident's decision to decline.

ETC Policy 3.4 entitled Reporting, page 8, section II(D)(2) and (3) addresses 115.252(e). This policy stipulates:

Third parties, including fellow residents, staff members, attorneys, family members and outside advocates, shall be permitted to assist residents in filing requests for administrative remedies, such as filing grievances relating to allegations of sexual abuse and sexual harassment, and will also be permitted to file such requests on behalf of residents;

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

Pursuant to the PAQ, the COO self reports the agency has a policy and established procedures for filing an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse. The COO further self reports agency policy and procedure for emergency grievances alleging substantial risk of imminent sexual abuse, requires an initial response within 48 hours. There were no emergency grievances filed during the past 12 months, alleging substantial risk of imminent sexual abuse. According to the COO, agency policy and procedure for emergency

grievances alleging substantial risk of imminent sexual abuse requires that a final agency decision be issued within five days.

ETC Policy 3.4 entitled Reporting, pages 3 and 4, section II(A)(13)(e)(1 and 2) addresses 115.252(f). This policy stipulates ETC has an emergency grievance procedure in place for alleging a resident is in imminent risk of sexual abuse or sexual harassment. All emergency grievances are dealt with immediately and an initial response will be provided within 48 hours upon receipt.

Upon receiving an emergency grievance, the Security Coordinator along with Program Administrator shall review and make a final decision within 5 calendar days.

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

During the facility tour, the auditor observed clearly identified Emergency Grievance boxes on each unit. Additionally, the auditor reviewed several pages of a log reflecting staff checks of the Emergency Grievance Boxes and documents contained therein when checked. Boxes are checked Monday through Friday by the COO and Security Coordinator. Clearly, based on the auditor's review, ETC staff display vigilance in terms of attending to this method of resident reporting of sexual abuse and sexual harassment.

Pursuant to the PAQ, the COO self reports the agency has a written policy that limits its ability to discipline a resident for filing a grievance alleging sexual abuse to occasions where the agency demonstrates that the resident filed the grievance in bad faith. The COO further reports in the past 12 months, there were no resident grievances alleging sexual abuse that resulted in disciplinary action by the agency against the resident for having filed the grievance in bad faith.

ETC Policy 3.4 entitled Reporting, page 4, section II II(A)(13)(e)(3) addresses 115.252(g). This policy stipulates ETC may discipline a resident for filing a grievance related to alleged sexual abuse only where ETC demonstrates that the resident filed the grievance in bad faith.

Standard 115.253: Resident access to outside confidential support services

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

115.253 (a)

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

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

115.253 (b)

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

115.253 (c)

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

Auditor Overall Compliance Determination

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

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

ETC Policy 3.5 entitled Medical and Mental Health, page 2, section II(B)(1) addresses 115.253(a). This policy stipulates ETC provides residents with access to outside victim advocates through Safe Space and other outside agencies for emotional support services related to sexual abuse by giving residents mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and by enabling reasonable communication between residents and these organizations, in as confidential a manner as possible. These numbers are posted near the phones and throughout the facility as well as located in the PREA section of the Resident Handbook. PREA brochures are located throughout the facility as well.

The auditor has reviewed the ETC PREA Handbook and notes that addresses and telephone numbers for Safe Space are located on pages 5 and 6 of the same. Additionally, addresses and telephone numbers are reflected on posters and available pursuant to resident contact with their case manager.

The auditor also reviewed the MOUs with Safe Space and The Friendship Center and finds the same to be in compliance with this provision including confidentiality language with respect thereof.

All of the 11 random resident interviewees relate they know there are services available outside of the facility for dealing with sexual abuse, if needed. Ten of the 11 interviewees identified specific services that are available. All interviewees stated available services telephone numbers and addresses are posted on walls (in the form of posters) and near resident telephones and noted in the PREA Handbook. Finally, all 11 interviewees asserted they could talk to people from these services at anytime.

Six interviewees assert the subject-matter of such conversations remains private while four interviewees responded that content of the conversations does not remain private and one interviewee did not know. Four interviewees advise of circumstances wherein the content (law enforcement need to address a crime, medical need(s), or crisis intervention) of such conversations would be shared.

Clearly, residents present substantial knowledge regarding available outside services (access in the event of a sexual abuse incident) and, at a minimum, where they can research the same.

Pursuant to the PAQ, the COO self reports the facility informs residents, prior to giving them access to outside support services, of the extent to which such communications will be monitored. The COO further self reports the facility informs residents, prior to giving them access to outside support services, of the mandatory reporting rules governing privacy, confidentiality, and/or privilege that apply to disclosures of sexual abuse made to outside victim advocates, including any limits to confidentiality under relevant federal, state, or local law.

ETC Policy 3.5 entitled Medical and Mental Health, page 2, section II(B)(2 and 3) addresses 115.253(b). This policy stipulates ETC shall inform residents, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws regarding PREA incidents. ETC has entered into a memoranda of understanding with Safe Space to provide emotional support services.

Confidentiality is generally addressed on page 4 of the ETC PREA Handbook entitled Resident Access to Outside Confidential Support Services.

A discussion regarding the random resident interviewee responses regarding the subject-matter of 115.253(b) is reflected in the narrative for 115.253(a). The auditor finds sufficient compliance with this provision.

Pursuant to the PAQ, the COO self reports the agency or facility maintains memoranda of understanding (MOUs) or other agreements with community service providers that are able to provide residents with emotional support services related to sexual abuse. The COO further self reports the facility maintains copies of these agreements.

Discussion of the MOUs with Safe Space and The Friendship Center has been addressed in the narratives for 115.253(a and b).

Standard 115.254: Third-party reporting

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

115.254 (a)

- Has the agency established a method to receive third-party reports of sexual abuse and sexual harassment? Yes No

- Has the agency distributed publicly information on how to report sexual abuse and sexual harassment on behalf of a resident? Yes No

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports the agency or facility provides a method to receive third-party reports of resident sexual abuse or sexual harassment. A Third Party reporting form is located on all floors and the www.boydandrew.com website. All reports go directly to the PREA Coordinator who, in turn, distributes the same to each facility. All phone calls are taken by the COO or PREA Manager at the facility. If the PREA Coordinator is contacted, he immediately contacts the COO. Emails are another source of receiving third party reports and they are brought to the COO immediately.

The auditor reviewed the BACS Third-Party Reporting Form and determined the same is comprehensive and commensurate with the standard. The name, address, and telephone number of the PREA Coordinator are clearly reflected in the document. Contact information for the reporter

consists of name, telephone, and best time to contact. Description of Incident information includes date of the alleged incident, names of offender(s) and staff involved, type of incident (sexual abuse, sexual harassment, unknown), facility wherein offender resides, and the facility wherein the alleged incident occurred, and finally, a description of the alleged incident.

The auditor did review the BACS website and determined the Third Party Reporting Form is available on the same, as well as, relevant addresses and telephone numbers for contact. The auditor also validated the fact Third Party Reporting Forms are available in all units.

According to the COO, no Third-Party reports have been made during the past 12 months.

OFFICIAL RESPONSE FOLLOWING A RESIDENT REPORT

Standard 115.261: Staff and agency reporting duties

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

115.261 (a)

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency? Yes No
- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding retaliation against residents or staff who reported an incident of sexual abuse or sexual harassment? Yes No
- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment or retaliation? Yes No

115.261 (b)

- Apart from reporting to designated supervisors or officials, do staff always refrain from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions? Yes No

115.261 (c)

- Unless otherwise precluded by Federal, State, or local law, are medical and mental health practitioners required to report sexual abuse pursuant to paragraph (a) of this section? Yes No

- Are medical and mental health practitioners required to inform residents of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services? Yes No

115.261 (d)

- If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, does the agency report the allegation to the designated State or local services agency under applicable mandatory reporting laws? Yes No

115.261 (e)

- Does the facility report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators? Yes No

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports staff must report immediately and according to policy any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency, inclusive of the following;

- Any retaliation against residents or staff who reported such an incident;
- Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

ETC Policy 3.4 entitled Reporting, page 6, section II(C)(1) addresses 115.261(a). This policy stipulates staff, volunteers, and contractors will immediately report to the COO or Security Coordinator any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred at the ETC facility, and any other facility, whether or not the facility is part of BACS, retaliation against residents or staff who report such an incident, any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

As previously noted throughout this report, staff/contractor/volunteer training clearly addresses PREA reporting responsibilities. Several "checks and balances" are in place, ensuring the above groups are aware not only of their reporting responsibilities but also, mechanisms to accomplish the same.

Ten of the 12 random staff interviewees advise all staff must immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility; retaliation against residents or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Two interviewees assert such reports must be made as soon as possible following report of such incident(s). Interviewees advise such reports are made to the COO, Security Coordinator, Shift Supervisor, and/or PREA Coordinator.

Pursuant to the PAQ, the COO self reports apart from reporting to designated supervisors or officials and designated state or local service agencies, agency policy prohibits staff from revealing any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.

ETC Policy 3.4 entitled Reporting, page 6, section II(C)(3) addresses 115.261(b). This policy stipulates staff will take pictures of visible signs of injury except in cases where the injury is to the genitals or breasts. Other evidence shall be preserved and protected. Apart from reporting to COO, Security Coordinator, Shift Supervisor or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in ETC policy, to make treatment, investigation, and other security and management decisions.

ETC Policy 3.4 entitled Reporting, page 6, section II(C)(5) addresses 115.261(c). This policy stipulates unless otherwise precluded by Federal, state, or local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to paragraph (a) of this section, regarding 115.261, and to inform residents of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.

Both medical and mental health interviewees advise that at the initiation of services to a resident, they disclose the limitations of confidentiality and their duty to report. They are also required to report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment to a designated supervisor or official immediately upon learning the same. Both state law and licensure require mandatory reporting. Neither interviewee has ever become aware of such incidents.

ETC Policy 3.4 entitled Reporting, page 6, section II(C)(4) addresses 115.261(d). This policy stipulates if the alleged victim is under the age of 18 or considered a vulnerable adult under a state or local vulnerable person's statute, ETC shall report the allegation to the designated state or local services agency under applicable mandatory reporting laws.

As reported to the auditor by the BACS PREA Coordinator, no residents meeting the criteria of the Montana Elder and Persons with Developmental Disabilities Abuse Prevention Act, have been housed at ETC during the past 12 months.

According to the COO, no residents under the age of 18 are housed at ETC. It would be a rare occasion that a vulnerable adult would be housed at ETC due to the need for cognitive acuity to complete the program. This issue would be addressed during the pre-program screening. If a vulnerable adult was housed at ETC and lodged a sexual abuse allegation, Montana Protective Services would be contacted for reporting purposes, as well as, MDOC officials. The same was again substantiated during the BACS PREA Coordinator's interview.

ETC Policy 3.11 entitled Coordinated Response/Staff First Responder Duties, page 1, section II(1 and 2) addresses 115.261(e). This policy stipulates all staff, volunteers, and contractors of ETC shall immediately report to the Shift Supervisor, Security Coordinator, or COO any knowledge, suspicion, or information they receive regarding any incident of resident sexual abuse or resident sexual harassment. The COO or designee of ETC shall ensure an investigation is conducted. According to the COO, he is a PREA Investigator. Reports would come directly to him and he would initiate an investigation.

Standard 115.262: Agency protection duties

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

115.262 (a)

- When the agency learns that a resident is subject to a substantial risk of imminent sexual abuse, does it take immediate action to protect the resident? Yes No

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports when the agency or facility learns that a resident is subject to a substantial risk of imminent sexual abuse, it takes immediate action to protect the resident (i.e., it takes some action to assess and implement appropriate protective measures without unreasonable delay). The COO further self reports in the past 12 months, there was 0 times the facility determined a resident was subject to substantial risk of imminent sexual abuse.

ETC Policy 3.4 entitled Reporting, page 2, section II(A)(7) addresses 115.262(a). This policy stipulates in the event that sexually abusive or assaultive behaviors are alleged, threatened, or have occurred, staff will take immediate action to intervene and ensure the safety of all persons involved.

Staff will immediately document all reports and notify their Shift Supervisor, who will then consult with the COO for guidance.

In response to protective action taken when it is learned that a resident is or may be subject to a substantial risk of imminent sexual abuse, the BACS CEO asserts an investigation and monitoring are initiated. Provision of emotional support is also initiated. The resident would be moved to a safe place and the shift supervisor would be notified to intensify rounds.

In response to a similar question, the COO asserts the potential victim will be placed in a safe place (separate wing from the suspected perpetrator). Resident(s) might be removed from the program based on safety considerations, if deemed appropriate.

All 12 random staff interviewees assert that if it was learned a resident was at risk of imminent sexual abuse, they would remove the potential victim from harm's way, generally monitoring her while they report and document. Some interviewees advised they would assign staff to discretely monitor any known or suspected perpetrator(s). Actions would be initiated immediately.

Standard 115.263: Reporting to other confinement facilities

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

115.263 (a)

- Upon receiving an allegation that a resident was sexually abused while confined at another facility, does the head of the facility that received the allegation notify the head of the facility or appropriate office of the agency where the alleged abuse occurred? Yes No

115.263 (b)

- Is such notification provided as soon as possible, but no later than 72 hours after receiving the allegation? Yes No

115.263 (c)

- Does the agency document that it has provided such notification? Yes No

115.263 (d)

- Does the facility head or agency office that receives such notification ensure that the allegation is investigated in accordance with these standards? Yes No

Auditor Overall Compliance Determination

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

- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the COO self reports the agency has a policy requiring that, upon receiving an allegation a resident was sexually abused while confined at another facility, the head of the facility must notify the head of the facility or appropriate office of the agency or facility where sexual abuse is alleged to have occurred. The COO further self reports there were seven allegations received during the past 12 months, that a resident was abused while confined at another facility.

ETC policy 3.4 entitled Reporting, page 7, section II(C)(10) addresses 115.263(a). This policy stipulates if staff receives information that a resident was sexually abused or sexually harassed while confined in another facility they will immediately report it to the COO. The COO will then notify the head of the facility where the alleged abuse occurred within seventy-two (72) hours. Documentation of notification will be maintained in the COO's office. Once notification is made, it is up to the facility head or agency office which received notification to ensure the allegation is fully investigated according to state law and PREA standards.

The auditor reviewed seven separate packets of resident reports of sexual abuse or sexual harassment that allegedly occurred at other facilities. In each incident, the COO alerted either the MDOC PREA Coordinator, CCCS PREA Coordinator, the Montana Women's Prison Classification Manager/Grievance Coordinator, or PREA Coordinator at the Missoula County Detention Center and the PREA Coordinator at the Cascade County Detention Center. Such notification was accomplished via e-mail or telephone call (attachments included) within 1-3 days of the report.

The COO reports contact with the PREA Coordinator at the Cascade County Detention Center was accomplished following a call to the Detention Center and the call was routed to him by senior staff at the facility. The COO called and spoke with the PREA Coordinator at the Missoula County Detention Center and made a verbal report to him. The PREA contact at the Missoula County Detention Center told the COO they were unaware of the occurrence and the alleged perpetrator was no longer there. The COO was also given two names by the MDOC PREA Coordinator to contact at the Montana Women's Prison regarding PREA matters, finding the Classification Manager/Grievance Coordinator was quite responsive in both phone and email communication.

It is noted that acknowledgments and follow-up communication regarding findings and/or the status of follow-up investigations, was received in all cases but one.

Pursuant to the PAQ, the COO self reports agency policy requires the facility head provides such notification as soon as possible, but no later than 72 hours after receiving the allegation. The policy provision is addressed in the narrative for 115.263(a).

Pursuant to the PAQ, the COO self reports the agency or facility documents that it has provided such notification within 72 hours of receiving the allegation.

Pursuant to the PAQ, the COO self reports facility policy requires that allegations received from other facilities/agencies are investigated in accordance with the PREA standards. The COO further self reports in the past 12 months, there was zero allegations of sexual abuse received from other facilities regarding incidents allegedly arising at ETC.

When questioned as to the designated point of contact at ETC for receipt of allegations of sexual abuse or sexual harassment referred from another administrator regarding an incident allegedly occurring at ETC, the CEO advises such report would be directed to the COO. If the alleged incident occurred at our facility, the investigation would be initiated at ETC. No such referrals were received at ETC that the CEO recalled.

When an allegation is received from another facility or agency regarding an incident of sexual abuse or sexual harassment that allegedly occurred at ETC, the COO asserts an investigation would be initiated immediately and findings would be shared with the reporting official. No such allegations have been received during the past 12 months.

Standard 115.264: Staff first responder duties

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

115.264 (a)

- Upon learning of an allegation that a resident was sexually abused, is the first security staff member to respond to the report required to: Separate the alleged victim and abuser?
x Yes No
- Upon learning of an allegation that a resident was sexually abused, is the first security staff member to respond to the report required to: Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence? x Yes No
- Upon learning of an allegation that a resident was sexually abused, is the first security staff member to respond to the report required to: Request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence? x Yes No
- Upon learning of an allegation that a resident was sexually abused, is the first security staff member to respond to the report required to: Ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence? x Yes No

115.264 (b)

- If the first staff responder is not a security staff member, is the responder required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff? Yes No

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports the agency has a first responder policy for allegations of sexual abuse. The COO further self reports the agency policy requires upon learning of an allegation that a resident was sexually abused, the first security staff member to respond to the report shall be required to:

- (1) Separate the alleged victim and abuser;
- (2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;
- (3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
- (4) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

During the past 12 months, there were zero allegations of resident sexual abuse at ETC.

ETC Policy 3.11 entitled Coordinated Response/Staff First Response Duties, pages 1 and 2, section II(A)(1)(a-m) addresses 115.264(a). This policy stipulates the first staff member responding at an allegation of sexual abuse must:

- Physically separate the alleged victim from the alleged abuser;
- Notify all necessary staff (immediate supervisor, administrator, medical, mental health) of HPRC;
- Address the need for acute medical treatment and contact community medical (hospital) personnel if needed;
- Follow universal precautions for bodily fluids;
- Ensure a staff member stays with the alleged victim until the alleged victim is placed in the care of another staff member such as mental health or medical personnel;
- Preserve and protect any potential crime scene until law enforcement arrives;

Escort residents to “dry” areas where water may not be accessed, ensuring sight and sound separation of alleged victim and alleged abuser;

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

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

If the abuse occurred within 72 hours, first responder staff shall immediately ensure that the alleged perpetrator not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

Ensure pictures are taken of any scratches, abrasions, wounds, or other visible signs of injury except in cases where the injury is to the genitals or breasts;

One security staff member is to supervise each resident (alleged victim and alleged offender). One staff member or mental health staff member will stay with alleged victim until alleged victim is placed in the care of another staff member via directive of supervision of security staff or administrator;

Consult with Supervisor and complete the necessary significant incident report. This incident report must include:

The date and time of the incident;

Name of the residents or residents involved;

Nature and extent of the abuse; person or persons involved in the abuse; and as much detail as possible describing the incident.

All 12 random staff interviewees, inclusive of two case managers, two licensed addiction counselors, and one shift lead were administered the random staff interview questionnaire. Accordingly, seven of the interviewees represent security staff. The random staff interview questionnaire includes a question regarding staff first responder duties. Since all staff receive the same first responder training, there is no disparity in operations.

Six of the 12 random staff interviewees responded appropriately to all four requirements of 115.264. Four of the remaining interviewees addressed at least three of the four requirements. Two interviewees did not address either asking the victim to not destroy physical evidence and/or ensuring the perpetrator does not destroy physical evidence. Only one of the 12 random staff interviewees mentioned contact with medical/mental health practitioners.

According to the COO, each staff member has a laminated card in their pouch that addresses first responder steps in chronological sequence. Additionally flow charts are posted throughout the facility.

Given the above, the auditor finds sufficient compliance with 115.264(a and b). All interviewees assert they would promptly report the incident to the shift supervisor, security coordinator, COO, or

BAC PREA Coordinator and presumably, decision-making and further direction would flow in accordance with ETC Policy 3.11.

Despite the above, it is recommended staff be reminded of all four requirements of evidence preservation as applicable to first responders. Additionally, contact with medical/mental health practitioners must also be included in the training.

The BACS PREA Coordinator will forward copies of completed training documentation to the auditor, certifying staff understand the requirements of ETC Policy 3.11. Training may be accomplished pursuant to presentation of Power Point slides or pursuant to provision of ETC 3.11 to all staff with a memo regarding expectations.

The above will be forwarded to the auditor by May 6, 2018.

Standard 115.265: Coordinated response

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

115.265 (a)

- Has the facility developed a written institutional plan to coordinate actions among staff first responders, medical and mental health practitioners, investigators, and facility leadership taken in response to an incident of sexual abuse? Yes No

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports the facility has developed a written institutional plan to coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

It is noted the document is comprehensive, covering every aspect of provision 115.265(a).

ETC Policy 3.11 entitled Coordinated Response/Staff First Response Duties, pages 1-8 provides an excellent guideline for staff use in the event of a sexual assault or sexual harassment incident at ETC. The ETC PREA Checklist serves as a comprehensive tool to document steps taken at all levels and stages of the PREA incident. Additionally, the ETC Coordinated Response to PREA

Incidents schematic serves as an excellent visual display of PREA incident stages and staff responsibilities.

According to the COO, a plan is in place to coordinate actions amongst staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse. Each staff member has a laminated card in their pouch that addresses steps in chronological sequence. Additionally flow charts are posted throughout the facility.

Standard 115.266: Preservation of ability to protect residents from contact with abusers

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

115.266 (a)

- Are both the agency and any other governmental entities responsible for collective bargaining on the agency's behalf prohibited from entering into or renewing any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with any residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted? Yes No

115.266 (b)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports the facility, or any other governmental entity responsible for collective bargaining on the agency's behalf, has NOT entered into or renewed any collective bargaining agreement or other agreement since August 20, 2012, or since the last PREA audit, whichever is later. By virtue of the fact there is no evidence of non-compliance with 115.266, the auditor finds ETC is compliant with the same.

Standard 115.267: Agency protection against retaliation

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

115.267 (a)

- Has the agency established a policy to protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff? Yes No
- Has the agency designated which staff members or departments are charged with monitoring retaliation? Yes No

115.267 (b)

- Does the agency employ multiple protection measures, such as housing changes or transfers for resident victims or abusers, removal of alleged staff or resident abusers from contact with victims, and emotional support services for residents or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations? Yes No

115.267 (c)

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of residents or staff who reported the sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Act promptly to remedy any such retaliation? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor any resident disciplinary reports? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor resident housing changes? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor resident program changes? Yes No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff? Yes No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need? Yes No

115.267 (d)

- In the case of residents, does such monitoring also include periodic status checks?
 Yes No

115.267 (e)

- If any other individual who cooperates with an investigation expresses a fear of retaliation, does the agency take appropriate measures to protect that individual against retaliation?
 Yes No

115.267 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports the agency has a policy to protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff. The COO further self reports the agency designates staff member(s) or charges department(s) with monitoring for possible retaliation.

Pursuant to ETC Policy 3.9 entitled Findings, Sanctions, and False Reporting, page, 4, section II(J) (1), the COO and Grievance Coordinator are charged with monitoring retaliation at ETC.

ETC Policy 3.9 entitled Findings, Sanction, and False Reporting, page 4, section II(J)(1-4) addresses 115.267(a).

Pursuant to conversation with the BACS PREA Coordinator, the COO monitors both staff and resident retaliation as prescribed in this standard. The Grievance Coordinator (Deputy Director) would complete these duties in the absence of the COO.

ETC Policy 3.9 entitled Findings, Sanctions, and False Reporting, page 4, section II(J)(2) and (4) addresses 115.267(b). This policy stipulates staff and residents who fear retaliation can speak to the mental health professional on site. Staff can also access the Company's Employee Assistance Program. Alternative protection against retaliation may include moving a resident to another housing unit or to another detention facility if deemed necessary by the Program Administrator. Additionally, ETC staff shall monitor residents with increased security rounds, staff member contact and visual observations when the ETC has a reasonable belief that a resident may be subject to retaliation. ETC may utilize room reassignment or facility transfers for the purpose of protecting a resident when it has a reasonable belief that a resident may be subject to retaliation.

In addition to the above, ETC Policy 3.10 entitled Investigations, page 2, section II(A)(1)(c) addresses this provision. This policy stipulates upon all allegations involving ETC staff, reports shall be forwarded to the CEO of BACS for further investigation. ETC staff who have been alleged to have engaged in sexual abuse, harassment or misconduct may be placed on administrative leave during any part of, or during the entirety, of the investigative process.

The BACS CEO asserts the following in terms of strategies to protect residents and staff from retaliation for sexual abuse or sexual harassment allegations. The perpetrator would be moved to another facility/jail while investigating the allegation. If the allegation is substantiated, the perpetrator would not be returned to the facility. Victims would be monitored for retaliation for 90 days. Frequent check-ins with the victim would be employed and immediate Medical/Mental Health support would be invoked. If the victim requests, MDOC may move the victim to another facility.

Staff may be moved to HPRC. The Shift Supervisor could be directed to increase monitoring of the victim staff member. Shift(s) or housing unit/post assignment(s) could be modified. Finally, EAP might be invoked.

In regard to the strategies available for implementation to protect residents and staff from retaliation in response to reporting sexual abuse and sexual harassment, the COO asserts retaliation monitoring would be invoked. A form is used to document monitoring of both staff and residents. Monitoring meetings would be conducted on a weekly basis. Strategies might include separation of the individuals involved, during groups and in housing. Housing units may be changed for those involved. Resident(s) may be removed from the facility. Staff duty station could be moved to HPRC. A staff member found to be implicated in retaliation may be placed on Administrative Leave. Support services may be recommended. Finally, VAs may be accessed.

According to the designated staff member charged with monitoring retaliation, he/she would follow-up with the victim, staff or resident, weekly for 90 days. This pertains to his/her role in preventing retaliation against residents and staff who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment allegations. Strategies to be employed with resident victims of retaliation may include resident housing changes, removal of the victim from the facility, removal of the perpetrator from the facility, change in case management, and/or invoking additional community resources. In regard to staff victims of retaliation, changing duty station (post) and/or shift, or transfer to HPRC may constitute strategies to address retaliation.

When questioned as to whether he/she would initiate contact with residents who have reported sexual abuse, he/she advised contact would be initiated if he/she became aware of situation. Other than that, the COO would direct contact.

Pursuant to the PAQ, the COO self reports the facility monitors the conduct or treatment of residents or staff who reported sexual abuse and of residents who were reported to have suffered sexual abuse to see if there are any changes that may suggest possible retaliation by residents or staff. The COO further self reports the facility monitors the conduct or treatment for a period of 90 days following a report of sexual abuse and would extend such monitoring if the initial monitoring indicates a continuing need. The facility acts promptly to remedy any such action. There has been no incidents of retaliation within the past 12 months.

ETC Policy 3.9 entitled Findings, Sanctions, and False Reporting, page 4, section II(J)(3)(a-d) addresses 115.267(c). This policy stipulates the COO shall monitor the conduct or treatment of resident(s) and staff for a minimum of ninety (90) days after a report of abuse has been made. This measure is an attempt to ensure that retaliatory behavior towards those individuals is not occurring.

This includes initiating documented periodic checks, occurring at least one time weekly, with the resident, monitoring resident incident reports, housing changes, program changes, and negative performance of staff;

If it has been found that retaliation has taken place, the Program Administrator shall take action in attempt to remedy the situation;

The Program Administrator may elect to continue monitoring beyond ninety (90) days to ensure safety and security of resident and staff;

ETC's obligation to monitor shall terminate if it determines that the allegation is unfounded.

According to the COO, the measures reflected in the narrative for 115.267(b) are implemented when retaliation is suspected. Additionally, the designated staff member charged with monitoring retaliation would reach out to the victims regarding their report/perceptions and initiate retaliation monitoring, if warranted. Facts would be gathered prior to implementation of retaliation monitoring.

According to the staff member charged with monitoring retaliation, he/she looks for an increase or decrease in disciplinary history, isolation, staying visible so more individuals see her, if the resident stops showing up for meetings, increases in grievance submissions, and working more to avoid facility contact. These observations would apply to resident victims.

In regard to staff victims, an increase in write-ups, reports of other staff talking about them (lunch room talk), tardiness, avoiding residents and other staff, and documentation of every move they make (e.g. in an e-mail), are signs.

Retaliation monitoring for both staff and residents would be invoked minimally on a weekly basis for 90 days. However, resident monitoring could be invoked for the entirety of stay and as long as needed for staff. The ultimate length of monitoring would be determined by their behavior.

ETC Policy 3.9 entitled Findings, Sanctions, and False Reporting, page 4, section II(J)(3)(a) addresses 115.267(d). The policy provision is stipulated in the narrative for 115.267(c).

ETC Policy 3.9 entitled Findings, Sanctions, and False Reporting, page 4, section II(J)(1-3) addresses 115.267(e). Policy verbiage is articulated in the narrative for 115.267(c).

According to the BACS CEO, the same strategies he/she addressed in the narrative for 115.267(b) apply to 115.267(e).

INVESTIGATIONS

Standard 115.271: Criminal and administrative agency investigations

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

115.271 (a)

- When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, does it do so promptly, thoroughly, and objectively? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.221(a).] Yes No NA
- Does the agency conduct such investigations for all allegations, including third party and anonymous reports? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.221(a).] Yes No NA

115.271 (b)

- Where sexual abuse is alleged, does the agency use investigators who have received specialized training in sexual abuse investigations as required by 115.234? Yes No

115.271 (c)

- Do investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data? Yes No
- Do investigators interview alleged victims, suspected perpetrators, and witnesses?
 Yes No
- Do investigators review prior reports and complaints of sexual abuse involving the suspected perpetrator? Yes No

115.271 (d)

- When the quality of evidence appears to support criminal prosecution, does the agency conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution? Yes No

115.271 (e)

- Do agency investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and not on the basis of that individual's status as resident or staff?
 Yes No
- Does the agency investigate allegations of sexual abuse without requiring a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding? Yes No

115.271 (f)

- Do administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse? Yes No
- Are administrative investigations documented in written reports that include a description of the physical evidence and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings? Yes No

115.271 (g)

- Are criminal investigations documented in a written report that contains a thorough description of the physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible? Yes No

115.271 (h)

- Are all substantiated allegations of conduct that appears to be criminal referred for prosecution?
x Yes No

115.271 (i)

- Does the agency retain all written reports referenced in 115.271(f) and (g) for as long as the alleged abuser is incarcerated or employed by the agency, plus five years? x Yes No

115.271 (j)

- Does the agency ensure that the departure of an alleged abuser or victim from the employment or control of the agency does not provide a basis for terminating an investigation?
x Yes No

115.271 (k)

- Auditor is not required to audit this provision.

115.271 (l)

- When an outside entity investigates sexual abuse, does the facility cooperate with outside investigators and endeavor to remain informed about the progress of the investigation? [N/A if an outside agency does not conduct administrative or criminal sexual abuse investigations. See 115.221(a).] x Yes No NA

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports the facility has a policy related to criminal and administrative agency investigations.

ETC Policy 3.10 entitled Investigations, page 1, section I addresses 115.271(a). This policy stipulates the Elkhorn Treatment Center (ETC) 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.

The auditor reviewed the single administrative investigation (more of a disciplinary case, as opposed to sexual harassment) conducted during the last 12 months. Staff first became aware of the incident (allegedly occurred on March 24, 2017) on March 25, 2017. The record reflects the investigation commenced on the same date and concluded on March 30, 2017. On that same date,

the alleged victim was advised of the outcome of the investigation, as evidenced by the COO's memorandum.

According to the investigative staff interviewee, PREA investigations would generally be initiated within one hour of notification regarding the alleged incident. Additionally, anonymous and third-party reports of sexual abuse or sexual harassment would be handled in the same manner as any allegation.

ETC Policy 3.10 entitled Investigations, page 1, section II(A) addresses 115.271(b). This policy stipulates ETC shall use investigators that have received specialized training in handling sexual abuse and sexual harassment cases. ETC will use the COO or PREA Coordinator for administrative cases.

PREA investigative training is described in detail in the narrative for 115.234(a). The primary PREA investigators at ETC have completed training above and beyond the Basic course.

ETC Policy 3.10 entitled Investigations, page 2, section II(C)(3) addresses 115.271(c). This policy stipulates ETC 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, are reviewed.

Pursuant to the investigation referenced in 115.271(a), video evidence was utilized to make a determination. Additionally, staff reports and interview results were utilized.

According to the investigative interviewee, first investigative steps would include interview with the victim/perpetrator/witnesses/staff consuming approximately 2-3 hours dependent upon events and circumstances. Check to ensure the crime scene is secure and photograph same, consuming approximately five minutes. Collect files and data, consuming approximately 10 minutes. Review physical evidence and camera surveillance, consuming approximately one to two hours.

The investigative process would include initiation of a facility lock down. Interview victim(s), perpetrator(s), witness(es), and staff dependent upon events and circumstances. Check to ensure the crime scene is secure and photographed. Collect files and data. Review physical evidence and camera surveillance. Assess victim/witness credibility. Write report. Refer for criminal investigation, if warranted.

In regard to direct and circumstantial evidence, the facility PREA investigators would be responsible for gathering the same in an incident of sexual abuse. Interviewing other residents, reviewing records, reviewing camera surveillance/audio, and pulling Mental Health/Medical records comprise the same.

ETC Policy 3.10 entitled Investigations, Page 2, section II(B) addresses 115,271(d). This policy stipulates it is the policy of BACS and ETC to refer criminal investigations of sexual abuse to the Jefferson County Sheriff's Department, who will further refer substantiated allegations for prosecution if warranted. BACS and ETC do not conduct compelled interviews.

According to the investigative interviewee, compelled interviews are not facilitated at ETC by ETC PREA Investigators. Prosecution referral would be facilitated by Jefferson County Sheriff Department.

ETC Policy 3.10 entitled Investigations, page 2, section II(C)(4) and (5) addresses 115.271(e). This policy stipulates ETC 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. BACS, and ETC 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.

According to the investigative interviewee, credibility assessments are based on how stories coincide with physical evidence and totality of circumstances. An examination of motive also ensues in any credibility assessment.

According to the interviewee, criminal investigations are not conducted by ETC PREA investigators. Accordingly, under no circumstances would ETC PREA investigators require a resident who alleges sexual abuse to submit to a polygraph examination or truth-telling device as a condition for proceeding with an investigation.

ETC Policy 3.10 entitled Investigations, page 3, section II(C)(6) addresses 115.271(f). This policy stipulates 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.

To assess and determine whether staff actions or failures to act contributed to the sexual abuse, the investigative interviewee considers what staff knew or should they have known, did staff deliberately turn a blind eye, and was there any neglect. He would check training records as part of the above determination.

The interviewee further advises that administrative investigation findings are documented in a written report. Reports include recapitulation of interview notes, synopsis of records, evaluation of credibility of interviewees, description and assessment of physical or circumstantial evidence, and assessment of staff negligence/intent.

ETC Policy 3.10 entitled Investigations, page 3, section II(C)(6) addresses 115.271(g). This policy stipulates 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.

Pursuant to interview, it has been determined no criminal sexual abuse investigations have been conducted during the past 12 months.

The investigative interviewee asserts criminal investigations are documented. As previously mentioned, criminal investigations are facilitated and completed by Jefferson County Sheriff Department investigators. The content of the investigation would be similar to that referenced in the narrative for 115.271(f). The interviewee would document that he referred the case for criminal investigation. He would ask for a copy of the report, however, the investigating agency ultimately determines release of the investigation.

Pursuant to the PAQ, the COO self reports substantiated allegations of conduct that appear to be criminal are referred for prosecution. The COO further self reports there were no allegations of conduct that appear to be criminal that were referred for prosecution since August 20, 2012.

According to the investigative interviewee, he would refer sexual abuse/harassment cases for criminal investigation when there appears to be a statutory violation. Jefferson County Sheriff Department refers such cases for prosecution.

Pursuant to the PAQ, the COO self reports the agency retains all written reports pertaining to the administrative or criminal investigation of alleged sexual abuse or sexual harassment for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.

ETC Policy 3.10 entitled Investigations, page 3, section II(D) addresses 115.271(i). This policy stipulates ETC retains all written reports as long as the alleged abuser is incarcerated or employed by the agency, plus five years.

Given the fact this is an initial audit, the time frame reference above is not applicable to ETC.

ETC Policy 3.10 entitled Investigations, page 1, section I addresses 115.271(j). This policy stipulates investigations are carried to completion, even if the victim or reporter recants the allegation or if the alleged abuser or victim left the control or employment of the facility.

According to the investigative interviewee, sexual abuse cases would be referred to Jefferson County Sheriff Department. The (facility PREA investigator) would continue his/her administrative investigation. This pertains to situations wherein a staff member alleged to have committed sexual abuse terminates employment prior to a completed investigation into his/her conduct. In regard to the situation wherein a victim who alleges sexual abuse or sexual harassment recants her allegation/ departs from the facility or an alleged abuser leaves the facility prior to a completed investigation into the incident, the investigation would continue.

ETC Policy 3.10 entitled Investigations, page 2, section II(C)(2) addresses 115.271(l). This policy stipulates ETC cooperates with outside investigators, and endeavors to remain informed about the outside agency's progress of the investigation.

According to the COO, he/she would contact the investigating entity (ordinarily Jefferson County Sheriff Department investigators) at least weekly for updates. He/she is also a PREA Investigator. The PREA Coordinator asserts there would be weekly contact between the facility investigator and Jefferson County Sheriff Department investigators.

The investigative interviewee also asserts, in terms of his/her role with outside investigators, he/she would work as a liaison, documenting and collecting additional non-physical evidence, advising appropriate parties of the progress of the investigation, and checking on the status of the investigation on a weekly basis.

Standard 115.272: Evidentiary standard for administrative investigations

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

115.272 (a)

- Is it true that the agency does not impose a standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated? Yes No

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports the agency imposes a standard of preponderance of the evidence or a lower standard of proof when determining whether allegations of sexual abuse or sexual harassment are substantiated.

ETC Policy 3.10 entitled Investigations, page 3, section II(E) addresses 115.272(a). This policy stipulates all allegations will be considered substantiated if supported by no standard higher than a preponderance of the evidence. If evidence is insufficient, the allegations will be considered unsubstantiated, but not unfounded.

The PREA Investigator interviewee describes the requisite administrative preponderance of the evidence required for an administrative finding as 51% while the criminal evidence requisite is 75%- 90% (beyond a reasonable doubt).

Standard 115.273: Reporting to residents

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

115.273 (a)

- Following an investigation into a resident's allegation that he or she suffered sexual abuse in an agency facility, does the agency inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded? x Yes No

115.273 (b)

- If the agency did not conduct the investigation into a resident's allegation of sexual abuse in an agency facility, does the agency request the relevant information from the investigative agency in order to inform the resident? (N/A if the agency/facility is responsible for conducting administrative and criminal investigations.) x Yes No NA

115.273 (c)

- Following a resident's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The staff member is no longer posted within the resident's unit? x Yes No
- Following a resident's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The staff member is no longer employed at the facility? x Yes No
- Following a resident's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The agency learns that the staff member has been indicted on a charge related to sexual abuse in the facility? x Yes No
- Following a resident's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility? x Yes No

115.273 (d)

- Following a resident's allegation that he or she has been sexually abused by another resident, does the agency subsequently inform the alleged victim whenever: The agency learns that the

alleged abuser has been indicted on a charge related to sexual abuse within the facility?

Yes No

- Following a resident's allegation that he or she has been sexually abused by another resident, does the agency subsequently inform the alleged victim whenever: The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility?

Yes No

115.273 (e)

- Does the agency document all such notifications or attempted notifications? Yes No

115.273 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

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

Does Not Meet Standard (*Requires Corrective Action*)

Pursuant to the PAQ, the COO asserts the agency has a policy requiring that any resident who makes an allegation that she suffered sexual abuse in an agency facility is informed, verbally or in writing, as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation by the agency. The COO further asserts there were 0 criminal and/or administrative investigations of alleged resident sexual abuse that were completed by the facility during the past 12 months.

ETC Policy 3.10 entitled Investigations, page 3, section III(A) addresses 115.273(a). This policy stipulates following an investigation into a resident's allegation of sexual abuse/sexual harassment in the facility, the COO informs the resident of the findings-whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

While the COO asserts no allegations of sexual abuse were received during the past 12 months, the auditor did review one investigation regarding an unwanted touching allegation (more of an administrative disciplinary charge) that had been determined to be unfounded. A memorandum reflecting notification of the resident regarding the outcome of the investigation, was dated March 30, 2017.

It is noted the standard provision applies only to allegations of sexual abuse suffered in an agency facility. The ETC policy addresses reporting the outcome of the investigation to the alleged victim(s) of both sexual abuse and sexual harassment. Clearly, the policy and implementation of the

same exceeds standard expectations. Accordingly, the auditor finds that ETC exceeds Standard 115.273.

According to the COO, the facility does notify a resident who makes an allegation of sexual abuse when the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation. With the afore-mentioned investigation, although not defined as either sexual abuse or sexual harassment, he completed notification of the alleged resident victim that the investigation was “Unfounded”.

The investigative interviewee asserts agency procedure requires that a resident who makes an allegation of sexual abuse must be informed as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation.

Pursuant to the PAQ, the COO asserts if an outside agency conducts such investigations, the agency requests the relevant information from the investigative entity in order to inform the resident of the outcome of the same. The COO further asserts there were 0 investigations during the past 12 months of alleged sexual abuse in the facility that were completed by an outside agency.

ETC Policy 3.10 entitled Investigations, Page 3, section iii(B) addresses 115.273(b). This policy stipulates ETC shall request the relevant information from Jefferson County Sheriff Department, or other outside agencies who may have completed the investigation, in order to inform the resident.

Pursuant to the PAQ, the COO asserts following a resident's allegation that a staff member has committed sexual abuse against the resident, the facility subsequently informs the resident (unless the agency has determined that the allegation is unfounded) whenever:

The staff member is no longer posted within the resident's unit;

The staff member is no longer employed at the facility;

The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or

The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

The COO further relates there has been 0 substantiated or unsubstantiated complaints (not unfounded) of sexual abuse committed by a staff member against a resident in an agency facility during the past 12 months.

ETC Policy 3.10 entitled Investigations, page 3, section III(C) addresses 115.273(c). This policy stipulates following a resident’s allegation of sexual abuse by a staff member, ETC informs the resident (unless the allegation is unfounded) whenever:

The staff member is no longer assigned to the resident’s unit;

The staff member is no longer employed at the facility;

ETC learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or

ETC learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

Pursuant to the PAQ, the COO asserts following a resident's allegation that he or she has been sexually abused by another resident in an agency facility, the agency subsequently informs the alleged victim whenever:

The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or

The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

ETC Policy 3.10 entitled Investigations, pages 3 and 4, section III(D) addresses 115.273(d). This policy stipulates following a resident's allegation of sexual abuse by another resident ETC shall subsequently inform the alleged victim whenever:

ETC learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or

ETC learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

Pursuant to the PAQ, the COO asserts the agency has a policy that all notifications to residents described under this standard are documented. The COO further asserts 0 notifications to resident were provided pursuant to this standard during the past 12 months.

ETC Policy 3.10 entitled Investigations, page 4, section III(E) addresses 115.273(e). This policy stipulates all such notifications or attempted notifications shall be documented.

In the narrative for 115.273(a), documentation regarding the investigation, in question, is articulated. Clearly, ETC is compliant with 115.273(e).

DISCIPLINE

Standard 115.276: Disciplinary sanctions for staff

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

115.276 (a)

- Are staff subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies? Yes No

115.276 (b)

- Is termination the presumptive disciplinary sanction for staff who have engaged in sexual abuse? Yes No

115.276 (c)

- Are disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories? Yes No

115.276 (d)

- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Law enforcement agencies unless the activity was clearly not criminal? Yes No
- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Relevant licensing bodies? Yes No

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO asserts staff is subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.

ETC Policy 3.9 entitled Findings, Sanctions, and False Reporting, page 3, section II(H) addresses 115.276(a). This policy stipulates ETC staff shall be subject to disciplinary sanctions up to and including termination for violating ETC sexual abuse or sexual harassment policies.

Pursuant to the PAQ, the COO asserts 0 staff have violated agency sexual abuse or sexual harassment policies during the past 12 months.

ETC Policy 3.9 entitled Findings, Sanctions, and False Reporting, page 3, section II(H)(1) addresses 115.276(b). This policy stipulates termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.

Pursuant to the PAQ, the COO asserts disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) are commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. The COO further self reports in the past 12 months, 0 staff from the facility have been disciplined, short of termination, for violation of agency sexual abuse or sexual harassment policies.

ETC Policy 3.9 entitled Findings, Sanctions, and False Reporting, page 3, section II(H)(2) addresses 115.276(c). This policy stipulates disciplinary sanctions for violations of ETC policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

Pursuant to the PAQ, the COO self reports all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, are reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies. The COO further self reports in the past 12 months, 0 staff from the facility have been reported to law enforcement or licensing boards following termination (or resignation prior to termination) for violating agency sexual abuse or sexual harassment policies.

ETC Policy 3.9 entitled Findings, Sanctions, and False Reporting, page 3, section II(H)(3) addresses 115.276(d). This policy stipulates all terminations for violations of ETC sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to Jefferson County Sheriff Department, unless the activity was clearly not criminal, and to any relevant licensing bodies.

Standard 115.277: Corrective action for contractors and volunteers

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

115.277 (a)

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with residents? x Yes No
- Is any contractor or volunteer who engages in sexual abuse reported to: Law enforcement agencies unless the activity was clearly not criminal? x Yes No
- Is any contractor or volunteer who engages in sexual abuse reported to: Relevant licensing bodies? x Yes No

115.277 (b)

- In the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer, does the facility take appropriate remedial measures, and consider whether to prohibit further contact with residents? Yes No

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports agency policy requires any contractor or volunteer who engages in sexual abuse be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. The COO further self reports agency policy requires that any contractor or volunteer who engages in sexual abuse be prohibited from contact with residents. There were 0 incidents within the past 12 months wherein contractors or volunteers have been reported to law enforcement agencies and relevant licensing bodies for engaging in sexual abuse of residents.

ETC Policy 3.9 entitled Findings, Sanctions, and False Reporting, page 3, section II(I) addresses 115.277(a). This policy stipulates any contractor or volunteer who engages in sexual abuse/sexual harassment shall be prohibited from contact with residents and shall be reported to Jefferson County Sheriff's Department, unless the activity was clearly not criminal, and to relevant licensing bodies.

Pursuant to the PAQ, the COO self reports the facility takes appropriate remedial measures and considers whether to prohibit further contact with residents in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

ETC Policy 3.9 entitled Findings, Sanctions, and False Reporting, page 3, section II(I)(2) addresses 115.277(b). This policy stipulates ETC shall take appropriate remedial measures, and shall consider whether to prohibit further contact with residents, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

According to the COO, in the case of any violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer, privileges would be terminated pending investigation. Another contractor may be used.

Standard 115.278: Interventions and disciplinary sanctions for residents

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

115.278 (a)

- Following an administrative finding that a resident engaged in resident-on-resident sexual abuse, or following a criminal finding of guilt for resident-on-resident sexual abuse, are residents subject to disciplinary sanctions pursuant to a formal disciplinary process? Yes No

115.278 (b)

- Are sanctions commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories? Yes No

115.278 (c)

- When determining what types of sanction, if any, should be imposed, does the disciplinary process consider whether a resident's mental disabilities or mental illness contributed to his or her behavior? Yes No NA

115.278 (d)

- If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, does the facility consider whether to require the offending resident to participate in such interventions as a condition of access to programming and other benefits? Yes No

115.278 (e)

- Does the agency discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact? Yes No

115.278 (f)

- For the purpose of disciplinary action does a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred NOT constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation? Yes No

115.278 (g)

- Does the agency always refrain from considering non-coercive sexual activity between residents to be sexual abuse? (N/A if the agency does not prohibit all sexual activity between residents.)
 Yes No NA

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports residents are subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse. The COO further self reports residents are subject to disciplinary sanctions only pursuant to a formal disciplinary process following a criminal finding of guilt for resident-on-resident sexual abuse. There has been 0 administrative findings of resident-on-resident sexual abuse that have occurred at the facility during the past 12 months. There has been 0 criminal findings of resident-on-resident sexual abuse that have occurred at the facility during the past 12 months.

ETC Policy 3.9 entitled Findings, Sanctions, and False Reporting, page 2, section II(C) addresses 115.278(a). This policy stipulates residents who have been found to have engaged in offender-on-offender sexual abuse/sexual harassment, or following a criminal investigation that has substantiated offender-on-offender sexual abuse/sexual harassment shall be subject to a formal disciplinary process.

ETC Policy 3.9 entitled Findings, Sanctions, and False Reporting, page 2, section II(C)(1-3) addresses 115.278(b). This policy stipulates the disciplinary sanctions shall take into consideration the following:

Nature and circumstances of the abuse committed;

Resident's disciplinary history;

Sanctions imposed for comparable offenses by other residents with similar histories.

According to the COO, disciplinary sanctions available for residents following an administrative or criminal finding that the resident engaged in resident-on-resident sexual abuse are transfer to a secure facility, imposition of new criminal charges, and discharge from the ETC program. MDOC would actually make determinations regarding placement, etc. in consideration of the COO's recommendations. Class 1 and 2 disciplinary hearings are handled by MDOC staff.

The auditor reviewed the MDOC policy regarding the conduct of resident administrative disciplinary proceedings and while not specifically articulated in the same, some factors regarding assessment of mental disability or mental illness in terms of the imposition of sanctions, appear to be covered.

The auditor has determined MDOC staff conduct administrative misconduct hearings pursuant to contract with ETC. Accordingly, ETC plays a minimal role in terms of the conduct of the hearings.

MDOC policy has been provided regarding assessment of whether the resident's mental disabilities or mental illness contributed to his or her behavior (when determining the type of sanction, if any, should be imposed), and the following generically addresses the issue:

P&P Policy 140-1, page 10 stipulates before making any decision, the Hearing Officer should be informed of the offender's

- criminal history background;
- treatment history;
- whether the offender is a DOC or MSP commitment;
- conditions of sentence;
- Previous behavior in the PRC;
- Previous programming such as TSCTC; Connections Corrections; PRC; ISP etc.;
- Length of time the offender has been in the program; and
- Time until discharge or parole.

In view of the above, the auditor finds that 115.278(c) is not applicable to ETC, given the above discussion. Rather, by contract and actual practice, MDOC staff are responsible for making the requisite determination(s).

Pursuant to the PAQ, the COO self reports the facility offers therapy, counseling, or other interventions designed to address and correct the underlying reasons or motivations for abuse. The COO further self reports the facility considers whether to require the offending resident to participate in such interventions as a condition of access to programming or other benefits.

ETC Policy 3.9 entitled Findings, Sanctions, and False Reporting, page 2, section II(D)(2 and 3) addresses 115.278(d). This policy stipulates when determining the type of sanction, if any, to be imposed, the COO:

May offer therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse; and

May consider whether to require the offending resident to participate in these interventions as a condition of access to any type of behavior based programming, but not to general programming or education.

According to the Mental Health interviewee, whether to offer therapy, counseling, or other intervention services designed to address and correct the underlying reasons or motivations for sexual abuse, to offending resident(s) would be considered. Therapies and treatment may include one-on-one counseling, Cognitive Behavior Therapy (CBT), Cognitive Re-structuring, and/or group therapy. The interviewee would make the therapy/treatment recommendation to the COO. Additionally, consideration as to whether participation is required as a condition of access to programming or other benefits, would ensue.

As previously indicated, the perpetrator of sexual abuse would, more than likely, be moved to a secure facility by virtue of COO recommendation and MDOC decision. Accordingly, the auditor finds the majority of this provision to be contingent upon the decision-making process with MDOC and, more than likely, not applicable to ETC.

Pursuant to the PAQ, the COO self reports the agency disciplines residents for sexual conduct with staff only upon finding that the staff member did not consent to such contact.

ETC Policy 3.9 entitled Findings, Sanctions, and False Reporting, page 3, section II(G) addresses 115.278(e). This policy stipulates ETC may discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

Pursuant to the PAQ, the COO self reports the agency prohibits disciplinary action for a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred, even if an investigation does not establish evidence sufficient to substantiate the allegation.

ETC Policy 3.9 entitled Findings, Sanctions, and False Reporting, page 2, section II(E) addresses 115.278(f). This policy stipulates for the purpose of disciplinary action, a report of sexual abuse/sexual harassment made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

Pursuant to the PAQ, the COO self reports the agency prohibits all sexual activity between residents. The COO further self reports the agency deems an incident to constitute sexual abuse only if it determines that the activity is coerced.

ETC Policy 3.9 entitled Findings, Sanctions, and False Reporting, pages 2 and 3, section II(F) addresses 115.278(g). This policy stipulates ETC prohibits all sexual activity between residents and disciplines residents for such activity with a Class II violation of inappropriate misconduct. ETC does not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

MEDICAL AND MENTAL CARE

Standard 115.282: Access to emergency medical and mental health services

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

115.282 (a)

- Do resident victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment?

Yes No

115.282 (b)

- If no qualified medical or mental health practitioners are on duty at the time a report of recent sexual abuse is made, do security staff first responders take preliminary steps to protect the victim pursuant to § 115.262? Yes No

- Do security staff first responders immediately notify the appropriate medical and mental health practitioners? Yes No

115.282 (c)

- Are resident victims of sexual abuse offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate? Yes No

115.282 (d)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident? Yes No

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports resident victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services. The nature and scope of such services are determined by medical and mental health practitioners according to their professional judgment.

ETC Policy 3.5 entitled Medical and Mental Health, page 2, section II(A) addresses 115.282(a). This policy stipulates resident victims of sexual abuse will receive timely, unimpeded access to emergency medical treatment and crisis intervention services, to the level determined necessary by medical and mental health professionals.

As there were no sexual abuse incidents invoking such medical procedures during the past 12 months, no completed documents were reviewed. However, the auditor reviewed documents that would be completed in the event of a sexual abuse incident. Specifically, an ETC PREA Response Checklist Medical Response form reflects times and dates of implementation of certain medical steps within the response context. The document also references the incident by case number, resident name, location of the incident. Specific medical services and treatment would be maintained in the affected resident's medical file.

According to both the medical and mental health interviewees, resident victims of sexual abuse receive timely and unimpeded access to emergency medical treatment and crisis intervention services. Both interviewees further assert such services are rendered almost immediately. If the

medical interviewee was at the facility, she would see the victim immediately. The victim would be sent to the hospital with whom ETC has an MOU. Security staff handle hospital transports during non-regular business hours.

The nature and scope of these services would be initially determined according to their professional judgment if summoned to the facility however, if transferred to a hospital, medical judgment becomes the purview of hospital provider(s). According to the medical interviewee, a Protocol Sheet, developed by Medical Department staff, would be followed to ensure adequate care in accordance with community standards.

ETC Policy 3.5 entitled Medical and Mental Health, page 1, section II(B) addresses 115.282(b). This policy stipulates if mental health professionals are not on duty when alleged abuse is reported, staff will remain with the victim to protect and comfort her; and immediately contact the COO. possible describing the incident.

ETC Policy 3.11 entitled Coordinated Response/Staff First Response Duties, pages 1 and 2, section II(A)(1) also addresses 115.282(b). This policy stipulates the first staff member responding at an allegation of sexual abuse must physically separate the alleged victim from the alleged abuser; Notify all necessary staff (immediate supervisor, administrator, medical, mental health) of ETC; Address the need for acute medical treatment and contact community medical (hospital) personnel if needed;

Follow universal precautions for bodily fluids;

Ensure a staff member stays with the alleged victim until the alleged victim is placed in the care of another staff member such as mental health or medical personnel;

Preserve and protect any potential crime scene until law enforcement arrives;

Escort residents to “dry” areas where water may not be accessed, ensuring sight and sound separation of alleged victim and alleged abuser;

If the alleged abuse occurred within 72 hours, first responder staff shall immediately request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating;

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

If the abuse occurred within 72 hours, first responder staff shall immediately ensure that the alleged perpetrator not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating;

Ensure pictures are taken of any scratches, abrasions, wounds, or other visible signs of injury except in cases where the injury is to the genitals or breasts;

One security staff member is to supervise each resident (alleged victim and alleged offender). One staff member or mental health staff member will stay with alleged victim until alleged victim is placed in the care of another staff member via directive of supervision of security staff or administrator;

Consult with Supervisor and complete the necessary significant incident report. This incident report must include;

The date and time of the incident;

Name of the residents or residents involved;

Nature and extent of the abuse; person or persons involved in the abuse; and as much detail as possible describing the incident.

The PREA Checklist completed by the shift supervisor serves as a platform for documentation of date(s) and time(s) for each step of the incident time line, inclusive of medical.

Six of the 12 random staff interviewees responded appropriately to all four requirements of 115.262. Four of the remaining interviewees addressed at least three of the four requirements. Two interviewees did not address either asking the victim to not destroy physical evidence and/or ensuring the perpetrator did not destroy physical evidence. Only one of the 12 random staff interviewees mentioned contact with medical/mental health practitioners.

According to the COO, a plan is in place to coordinate actions amongst staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse. Each staff member has a laminated card in their pouch that addresses steps in chronological sequence. Additionally flow charts are posted throughout the facility.

Given the above, the auditor finds sufficient compliance with 115.282(b). All interviewees assert they would promptly report the incident to the shift supervisor, security coordinator, COO, or BAC PREA Coordinator and presumably, decision-making and further direction would flow in accordance with ETC Policy 3.11. Pursuant to this policy, the shift supervisor assumes a significant role in ensuring the steps previously articulated, are completed. Despite the above, it is recommended staff be reminded of all four requirements of evidence preservation as applicable to first responders. Additionally, contact with medical/mental health practitioners must also be included in the training.

The BACS PREA Coordinator will forward copies of completed training documentation to the auditor, certifying staff understand the requirements of ETC Policy 3.11. Training may be accomplished pursuant to presentation of Power Point slides or pursuant to provision of ETC 3.11 to all staff with a memo regarding expectations. This documentation must be received by the auditor by May 6, 2017.

Pursuant to the PAQ, the COO self reports resident victims of sexual abuse while incarcerated are offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis in accordance with professionally accepted standards of care, where medically appropriate. The COO further self reports medical and mental health staff maintain secondary materials documenting the timeliness of emergency medical treatment and crisis intervention services that were provided; the appropriate response by non-health staff in the event

health staff are not present at the time the incident is reported; and the provision of appropriate and timely information and services concerning contraception and sexually transmitted infection prophylaxis.

ETC Policy 3.5 entitled Medical and Mental Health, page 2, section II(B) addresses 115.282(c). This policy stipulates medical and mental health staff maintain secondary materials documenting the timeliness of emergency medical treatment and crisis intervention services that were provided; the appropriate response by non-health staff in the event health staff are not present at the time the incident is reported; and the provision of appropriate and timely information and services concerning contraception and sexually transmitted infection prophylaxis.

The medical staff interviewee asserts victims of sexual abuse are offered timely information about access to emergency contraception and sexually transmitted infection prophylaxis. He/She would question the resident upon return to the facility from the hospital as to whether she was offered timely information about access to emergency contraception and sexually transmitted infection prophylaxis. Hospitals generally have scripted protocols to address the same.

Pursuant to the PAQ, the COO self reports treatment services are provided to every victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

ETC Policy 3.5 entitled Medical and Mental Health, page 3, section II(C)(3) addresses 115.282(d). This policy stipulates treatment services, and all necessary testing, shall be provided to victims of sexual abuse without financial cost, regardless of whether the victim names the abuser, and regardless of whether or not the victim cooperates with any investigation arising from initial report of the incident.

Standard 115.283: Ongoing medical and mental health care for sexual abuse victims and abusers

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

115.283 (a)

- Does the facility offer medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility? Yes No

115.283 (b)

- Does the evaluation and treatment of such victims include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody? Yes No

115.283 (c)

- Does the facility provide such victims with medical and mental health services consistent with the community level of care? Yes No

115.283 (d)

- Are resident victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests? (N/A if all-male facility.) Yes No NA

115.283 (e)

- If pregnancy results from the conduct described in paragraph § 115.283(d), do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services? (N/A if all-male facility.) Yes No NA

115.283 (f)

- Are resident victims of sexual abuse while incarcerated offered tests for sexually transmitted infections as medically appropriate? Yes No

115.283 (g)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident? Yes No

115.283 (h)

- Does the facility attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners? Yes No

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports the facility offers medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.

ETC Policy 3.5 entitled Medical and Mental Health, pages 2 and 3, section II(C)and (1) addresses 115.283(a). This policy stipulates ETC will offer a medical and mental health evaluation, at no

financial cost, and if appropriate, treatment to all residents who have been victimized by sexual abuse in any community corrections facility, juvenile facility, jail or lockup.

ETC Policy 3.5 entitled Medical and Mental Health, page 3, section II(C)(1) addresses 115.283(b). This policy stipulates ETC will offer a medical and mental health evaluation, at no financial cost, and if appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, community corrections facility, juvenile facility, jail or lockup. The mental health and medical health professionals will need to ensure that when the victim is released or transferred from the facility to another facility, or released from custody that there are follow-up services, treatment plans, and referrals for continued mental and medical healthcare.

In response to the question as to what evaluation and treatment of residents who have been victimized entails, the mental health interviewee stated he/she would assess the victim for Post Traumatic Stress Disorder (PTSD), anxiety, whether the victim isolates, increase in anger outbursts, and mood swings. Additionally, he/she would provide comfort and answer any questions and he/she would let the victim know that "how you are feeling is normal". The medical interviewee asserts he/she would facilitate an immediate basic assessment (Is the victim bleeding, breathing, and are there contusions anywhere?). Vital signs, neuro-status, and whether the victim is in shock would be assessed. The interviewee relates he/she would provide comfort, administer oxygen, if needed, and follow the protocol sheet.

ETC Policy 3.5 entitled Medical and Mental Health, page 3, section II(C)(3) addresses 115.283(c). This policy stipulates ETC shall provide such victims with medical and mental health services consistent with the community level of care.

Both medical and mental health staff interviewees advise care would be provided consistent with the community level of care. As noted throughout the medical/mental health provisions in this report, initial care, as described in the narrative for 115.283(b) may be provided by ETC medical/mental health staff if time allows for them to report to the facility. At any rate, care would be transferred to a community hospital for SAFE/SANE examination and any follow-up care.

Pursuant to the PAQ, the COO self reports female victims of sexually abusive vaginal penetration while incarcerated are offered pregnancy tests.

ETC Policy 3.5 entitled Medical and Mental Health, page 3, section II(C)(3) addresses 115.283(d). This policy stipulates treatment services, and all necessary testing, shall be provided to victims of sexual abuse without financial cost, regardless of whether the victim names the abuser, and regardless of whether or not the victim cooperates with any investigation arising from initial report of the incident.

As reflected throughout this report, no sexual abuse incidents have been perpetrated at ETC during the past 12 months. Accordingly, the residents who reported a sexual abuse interview was not conducted.

Pursuant to the PAQ, the COO self reports if pregnancy results from the conduct described in 115.283(d), such victims would receive timely and comprehensive information about and timely access to all lawful, pregnancy-related medical services.

BACS Policy 1.3.5.12 entitled PREA, page 25, section 115.283(e) addresses 115.283(e). This policy stipulates if pregnancy results from conduct specified in paragraph (d) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy related medical services.

The medical interviewee asserts if pregnancy results from sexual abuse while incarcerated, victims are given timely information and access to all lawful pregnancy-related services. Provision of education would be provided by ETC medical, with a notation in the medical file regarding provision of the same. Information would be provided upon the victim's return to the facility from the hospital. The referral process regarding lawful pregnancy-related medical services would be initiated right away.

Pursuant to the PAQ, the COO self reports resident victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.

ETC Policy 3.5 entitled Medical and Mental Health, page 3, section II(C)(4) addresses 115.283(f). This policy stipulates timely access to sexually transmitted infection prophylaxis, general information, and forensic exams will be available, at no financial cost, for any resident victim of sexual abuse while incarcerated, as medically appropriate.

Pursuant to the PAQ, the COO self reports treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

ETC Policy 3.5 entitled Medical and Mental Health, page 3, section II(C)(3) addresses 115.283(g). This policy stipulates treatment services, and all necessary testing, shall be provided to victims of sexual abuse without financial cost, regardless of whether the victim names the abuser, and regardless of whether or not the victim cooperates with any investigation arising from initial report of the incident.

Pursuant to the PAQ, the COO self reports the facility attempts to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning such abuse history, and offers treatment when deemed appropriate by mental health practitioners.

ETC Policy 3.5 entitled Medical and Mental Health, page 3, section II(C)(5) addresses 115.283(h). This policy stipulates ETC will contact a mental health professional to conduct a mental health

evaluation of all known offender-on-offender abusers within sixty (60) days of learning of such abuse history, and offer treatment when deemed appropriate by mental health practitioners.

The mental health staff interviewee asserts he/she reviews all incoming psychology files and conducts a mental health evaluation with respect to each new commitment. The interviewee asserts he/she doesn't believe any resident-on-resident sexual abusers have been housed at ETC during the past 12 months.

DATA COLLECTION AND REVIEW

Standard 115.286: Sexual abuse incident reviews

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

115.286 (a)

- Does the facility conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded? Yes No

115.286 (b)

- Does such review ordinarily occur within 30 days of the conclusion of the investigation? Yes No

115.286 (c)

- Does the review team include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners? Yes No

115.286 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse? Yes No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility? Yes No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse? Yes No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts? Yes No

- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff? Yes No
- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.286(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager? Yes No

115.286 (e)

- Does the facility implement the recommendations for improvement, or document its reasons for not doing so? Yes No

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports the facility conducts a sexual abuse incident review at the conclusion of every criminal or administrative sexual abuse investigation, unless the allegation has been determined to be unfounded. The COO further self reports in the past 12 months, there were no criminal and/or administrative investigations of alleged sexual abuse completed at ETC, excluding only "unfounded" incidents.

ETC Policy 3.7 entitled Data Collection, Aggregation, and Review, page 1, section II(A)(1)(a) addresses 115.286(a). This policy stipulates ETC shall conduct a sexual abuse incident review at the conclusion of every criminal or administrative sexual abuse or sexual harassment investigation including whether the allegation has not been substantiated, unless the allegation has been determined to be unfounded.

The auditor's review of a mock SART revealed substantial compliance with each provision of this standard. Specific narrative is referenced throughout the following paragraphs.

By virtue of policy which also requires the conduct of a SART following a finding of Substantiated or Unsubstantiated in a sexual harassment investigation, the auditor finds ETC to exceed standard expectations with respect to 115.286(a). The standard provision speaks only to the conduct of a SART upon conclusion of a sexual abuse investigation that was found to be Substantiated or Unsubstantiated and does not include such sexual harassment incidents. Additionally, the mock SART serves as evidence of BACS and ETC executive's' commitment to sexual safety at ETC.

Pursuant to the PAQ, the COO self reports the facility ordinarily conducts a sexual abuse incident review within 30 days of the conclusion of the criminal or administrative sexual abuse investigation. The COO further self reports in the past 12 months, 0 criminal and/or administrative investigations of alleged sexual abuse were completed at the facility that were followed by a sexual abuse incident review within 30 days, excluding only "Unfounded" incidents.

ETC Policy 3.7 entitled Data Collection, Aggregation, and Review, page 1, section II(A)(1)(b) addresses 115.286(b). This policy stipulates such review shall occur within 30 days of the conclusion of the investigation.

The date of the alleged incident referenced in the mock SART review was August 2, 2017. The substantiated investigation was completed on August 5, 2017 and the SART was conducted on August 29, 2017. Accordingly, parameters regarding timeliness were met during the mock SART exercise.

Pursuant to the PAQ, the COO self reports the sexual abuse incident review team includes upper-level management officials and allows for input from line supervisors, investigators, and medical or mental health practitioners.

ETC Policy 3.7 entitled Data Collection, Aggregation, and Review, page 1, section II(A)(1)(c) addresses 115.286(c). This policy stipulates the SART team includes the following; PREA Manager, COO, Security Coordinator, Mental Health, Nurse, Shift Supervisor, and PREA Investigator(s).

The ETC mock SART did not include all of the identified staff as articulated in policy. The COO, Mental Health, Case Manager, Security Coordinator, Nurse, and PREA Coordinator conducted the SART. The auditor finds this group of attendees to be representative of the SART membership.

The COO further related during his interview that ETC does have a sexual abuse incident review team. The same does include the composition of staff as required in the provision.

Pursuant to the PAQ, the COO self reports the facility prepares a report of its findings from sexual abuse incident reviews, including but not necessarily limited to, determinations made pursuant to paragraphs 1-5 of 115.286(d) and any recommendations for improvement and submits such report to the facility head and PREA Coordinator.

ETC Policy 3.7 entitled Data Collection, Aggregation, and Review, page 2, section II(A)(1)(d) addresses 115.286(d). This policy stipulates the review team shall; (1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; (2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility; (3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; (4) Assess the adequacy of staffing levels in

that area during different shifts; (5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and (6) Prepare a report of its findings, including but not necessarily limited to determinations made, and any recommendations for improvement, and submit such report to the PREA Coordinator for review. The ETC COO will be involved in the initial review process as part of the SART team.

The auditor reviewed the mock SART and finds that all provision requirements were met. The SART Checklist contains many response boxes however, narrative is included, where appropriate.

According to the COO, the SART considers needed policy changes, needed room changes, needed technology enhancements, and procedural implementation flaws.

The COO also stated the SART: (1) Considers whether the incident or allegation was motivated by race, ethnicity, gender identity, lesbian/gay/bisexual/transgender/intersex identification, status, or perceived status, or gang affiliation, or was motivated or otherwise caused by other group dynamics at the facility; (2) Examines the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; (3) Assesses the adequacy of staffing levels in that area during different shifts; and (4) Assesses whether monitoring technology should be deployed or augmented to supplement supervision by staff. The SART interviewee also confirmed these issues are considered during the SART review.

The PREA Coordinator advises a report is prepared of SART findings including any determinations regarding the factors previously identified in this provision. The reports are forwarded to the PREA Coordinator however, he/she is often times involved in SART reviews. No trends have been identified. If deficiencies are identified subsequent to the PREA Coordinator's review or participation in the SART, he/she makes recommendations and discusses the same with the BACS CEO.

Pursuant to the PAQ, the COO self reports the facility implements the recommendations for improvement or documents its reasons for not doing so.

ETC Policy 3.7 entitled Data Collection, Aggregation, and Review, page 2, section II(A)(1)(e) addresses 115.286(e). This policy stipulates ETC will implement the recommendations for improvement, or shall document its reasons for not doing so.

Pursuant to review of the mock SART, the auditor finds recommendation(s) were noted on the last page of the report. The same were clearly documented, reflecting adoption of recommendation(s).

The auditor finds substantial compliance with 115.286(e)

Standard 115.287: Data collection

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

115.287 (a)

- Does the agency collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions? Yes No

115.287 (b)

- Does the agency aggregate the incident-based sexual abuse data at least annually? Yes No

115.287 (c)

- Does the incident-based data include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice? Yes No

115.287 (d)

- Does the agency maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews? Yes No

115.287 (e)

- Does the agency also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its residents? (N/A if agency does not contract for the confinement of its residents.) Yes No NA

115.287 (f)

- Does the agency, upon request, provide all such data from the previous calendar year to the Department of Justice no later than June 30? (N/A if DOJ has not requested agency data.) Yes No NA

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports the agency collects accurate, uniform data for every allegation of sexual abuse as facilities under its direct control using a standardized instrument and

set of definitions. The COO further self reports the standardized instrument includes, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.

ETC Policy 3.7 entitled Data Collection, Aggregation, and Review, page 2, section II(A)(2) addresses 115.287(a)/(c). This policy stipulates ETC shall collect accurate, uniform data for every allegation of sexual abuse and sexual harassment using the standardized instrument known as the Survey of Sexual Violence (SSV) and it will be collected annually.

If the SSV data collection is not conducted by the Bureau of Justice Statistics, the following data shall be collected:

The number of incidents that met the definition of sexual abuse and sexual harassment as outlined in the PREA Standards;

The area where the incident occurred;

The time of the incident;

The victim's age, ethnicity, and gender;

The type of abuse or injury;

How the incident was reported;

If the incident was resident on resident, staff on resident, or resident on staff;

The perpetrator's age, ethnicity, and gender;

The nature of the incident; and

Sanctions imposed on the perpetrator;

The auditor's review of Elkhorn Data Reports for 2016 and 2017 reveals the majority of data as required by 115.287(a)/(c) is compiled and documented. The auditor also reviewed ETC SSVs for 2014, 2015, and 2016.

The auditor finds there is substantial compliance with 115.287(a)/(c).

Pursuant to review of the afore-mentioned documents, the auditor finds that incident-based sexual abuse data is aggregated at least annually.

Pursuant to the PAQ, the COO self reports the agency maintains, reviews, and collects data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.

ETC Policy 3.7 entitled Data Collection, Aggregation, and Review, page 3, section II(A)(3) addresses 115.287(d). This policy stipulates the data shall be collected, reviewed and maintained on an ongoing basis as needed from all available incident-based documents, including reports, investigation files, and sexual abuse/sexual harassment incident reviews.

Pursuant to conversations with the COO and the BACS PREA Coordinator, the auditor is convinced this on-going process is implemented at ETC.

The auditor finds 115.287(e) to be Not Applicable to ETC. Specifically, ETC does not contract with any private facilities for the confinement of its residents.

The auditor finds that 115.287(f) is Not Applicable to ETC as the U.S. Department of Justice has not requested any ETC sexual abuse/sexual harassment data from the previous calendar year.

Standard 115.288: Data review for corrective action

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

115.288 (a)

- Does the agency review data collected and aggregated pursuant to § 115.287 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas? Yes No
- Does the agency review data collected and aggregated pursuant to § 115.287 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis? Yes No
- Does the agency review data collected and aggregated pursuant to § 115.287 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole? Yes No

115.288 (b)

- Does the agency's annual report include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse Yes No

115.288 (c)

- Is the agency's annual report approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means? Yes No

115.288 (d)

- Does the agency indicate the nature of the material redacted where it redacts specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility? Yes No

Auditor Overall Compliance Determination

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

- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Pursuant to the PAQ, the COO self reports the agency reviews data collected and aggregated pursuant to 115.287 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, and training, including:

Identifying problem areas;

Taking corrective action on an ongoing basis; and

Preparing an annual report of its findings from its data review and any corrective actions for each facility, as well as, the agency as a whole.

ETC Policy 3.7 entitled Data Collection, Aggregation, and Review, page 3, section II(B)(1)(a-c) addresses 115.288(a). This policy stipulates ETC shall review data collected and aggregated pursuant to this section in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:

Identifying problem areas;

Taking corrective action; and

Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.

According to the CEO, incident-based sexual abuse data is used to assess and improve sexual abuse prevention, detection, and response policies, practices, and training through review of annual reports, assessing patterns, assessing camera surveillance, and assessing staffing needs. This provides a guideline to enhancing resident sexual safety at ETC.

According to the PREA Coordinator, he does review data collected and aggregated pursuant to 115.287 in order to assess and improve the effectiveness of ETC's sexual abuse prevention, detection, and response policies, and training. His primary role in the process includes collection of aggregated data, identification of trends, and making changes in training, policy, and/or staffing. This data is stored and locked in a file cabinet in the PREA Coordinator's office. Corrective action with respect to review of such data has not yet been required however, BACS and ETC response to any needs identified would be implementation of immediate corrective action.

The PREA Coordinator asserts annual reports are generated from each individual facility.

Pursuant to the PAQ, the COO self reports the annual report includes a comparison of the current year's data and corrective actions with those from prior years. The COO further self reports the annual report provides an assessment of the agency's progress in addressing sexual abuse.

ETC Policy 3.7 entitled Data Collection, Aggregation, and Review, page 3, section II(B)(2) addresses 115.288(b). This policy stipulates the ETC report shall include a comparison of the

current year's data and corrective actions with those from prior years and shall provide an assessment of ETC's progress in addressing sexual abuse.

The auditor's review of the ETC Annual PREA Report covering the years of 2014 through 2016 reflects substantial compliance with 115.288(b).

Pursuant to the PAQ, the COO self reports the agency makes its annual report readily available to the public at least annually through its website. The COO further self reports the annual reports are approved by the agency head.

ETC Policy 3.7 entitled Data Collection, Aggregation, and Review, page 4, section II(B)(3) addresses 115.288(c). This policy stipulates ETC's report shall be approved by BACS, CEO and made readily available to the public through its website.

The auditor verified the ETC Annual Report, as previously described, is available on the BACS website. The document is approved by the CEO with COO and BACS PREA Coordinator signatures also reflected on the same.

The BACS CEO asserts she does approve annual reports written pursuant to this standard.

Pursuant to the PAQ, the COO self reports when the agency redacts material from an annual report for publication, the redactions are limited to specific materials where publication would present a clear and specific threat to the safety and security of the facility. The COO further self reports the agency indicates the nature of the material redacted.

ETC Policy 3.7 entitled Data Collection, Aggregation, and Review, page 4, section II(B)(4) addresses 115.288(d). This policy stipulates ETC may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of ETC, but must indicate the nature of the material redacted.

The auditor's review of the ETC Annual Report revealed no redactions within the report.

The PREA Coordinator asserts any personal identifiers or sensitive security/safety information would be redacted from the Annual Report. It would be practice to indicate the nature of the material redacted from the report.

Standard 115.289: Data storage, publication, and destruction

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

115.289 (a)

- Does the agency ensure that data collected pursuant to § 115.287 are securely retained?
x Yes No

115.289 (b)

- Does the agency make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means? x Yes No

115.289 (c)

- Does the agency remove all personal identifiers before making aggregated sexual abuse data publicly available? x Yes No

115.289 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.287 for at least 10 years after the date of the initial collection, unless Federal, State, or local law requires otherwise? x Yes No

Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the COO self reports the agency ensures resident-based and aggregated data are securely retained.

ETC Policy 3.7 entitled Data Collection, Aggregation, and Review, page 4, section II(C)(1) addresses 115.289(a). This policy stipulates ETC shall ensure that data collected pursuant to § 115.287 are securely retained. Data will be securely maintained with the COO or PREA Coordinator.

During the facility tour and throughout the audit, the auditor noted data is securely retained in the BACS PREA Coordinator's Office.

According to the BACS PREA Coordinator pursuant to his interview, data collected pursuant to the narrative in 115.287 is locked in a file cabinet in his office. This coincides with the observation noted in the preceding paragraph.

Pursuant to the PAQ, the COO self reports agency policy requires that aggregated sexual abuse data from facilities under its control and private facilities with which it contracts, be made readily available to the public, at least annually, through its website.

ETC Policy 3.7 entitled Data Collection, Aggregation, and Review, page 4, section II(C)(2) addresses 115.289(b). This policy stipulates ETC shall make all aggregated sexual abuse/sexual harassment data, readily available to the public at least annually through its website.

The auditor's review of the BACS website confirmed compliance with 115.289(b). Specifically, requisite documents are available for review on the website.

Pursuant to the PAQ, the COO self reports before making aggregated sexual abuse data publicly available, the agency removes all personal identifiers.

ETC Policy 3.7 entitled Data Collection, Aggregation, and Review, page 4, section II(C)(3) addresses 115.289(c). This policy stipulates before making aggregated sexual abuse/sexual harassment data publicly available, ETC shall remove all personal identifiers.

The auditor's review of the document(s) referenced in 115.289(c) reflects no personal identifiers.

Pursuant to the PAQ, the COO self reports the agency maintains sexual abuse data collected pursuant to 115.287 for at least 10 years after the date of initial collection, unless federal, state, or local law requires otherwise.

ETC Policy 3.7 entitled Data Collection, Aggregation, and Review, page 4, section II(C)(4) addresses 115.289(d). This policy stipulates ETC shall maintain sexual abuse/sexual harassment data collected pursuant to § 115.287 for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.

Given the fact this audit is an Initial PREA Audit, validation beyond the 12 month threshold cannot be accomplished. Accordingly, the auditor finds ETC to be substantially compliant with 115.289(d).

AUDITING AND CORRECTIVE ACTION

Standard 115.401: Frequency and scope of audits

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

115.401 (a)

- During the three-year period starting on August 20, 2013, and during each three-year period thereafter, did the agency ensure that each facility operated by the agency, or by a private

organization on behalf of the agency, was audited at least once.? (N/A before August 20, 2016.)

Yes No NA

115.401 (b)

- During each one-year period starting on August 20, 2013, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited? Yes No

115.401 (h)

- Did the auditor have access to, and the ability to observe, all areas of the audited facility?
 Yes No

115.401 (i)

- Was the auditor permitted to request and receive copies of any relevant documents (including electronically stored information)? Yes No

115.401 (m)

- Was the auditor permitted to conduct private interviews with inmates, residents, and detainees?
 Yes No

115.401 (n)

- Were residents permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel? Yes No

Auditor Overall Compliance Determination

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

The BACS PREA Coordinator was very facilitative in terms of assembly of PAQ materials. As the auditor identified questions and required additional information, the PREA Coordinator provided the same in expeditious fashion. Facility staff were very transparent and attentive to the auditor's needs.

Interview accommodations at the facility were exceptional. The PREA Coordinator ensured that randomly selected interviewees arrived in expeditious fashion, thereby facilitating an effective interview process. All interviews were conducted in a private and confidential setting.

PREA Audit Notices were generously posted throughout the facility. Both residents and staff were generally aware of the audit and PREA standards.

Standard 115.403: Audit contents and findings

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

115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports within 90 days of issuance by auditor. The review period is for prior audits completed during the past three years PRECEDING THIS AGENCY AUDIT. In the case of single facility agencies, the auditor shall ensure that the facility's last audit report was published. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.) Yes No NA

Auditor Overall Compliance Determination

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

This is an Initial Audit and accordingly, no Final Audits have been issued in the past three years.

AUDITOR CERTIFICATION

I certify that:

- The contents of this report are accurate to the best of my knowledge.
- No conflict of interest exists with respect to my ability to conduct an audit of the agency under review, and
- I have not included in the final report any personally identifiable information (PII) about any resident or staff member, except where the names of administrative personnel are specifically requested in the report template.

Auditor Instructions:

Type your full name in the text box below for Auditor Signature. This will function as your official electronic signature. Auditors must deliver their final report to the PREA Resource Center as a searchable PDF format to ensure accessibility to people with disabilities. Save this report document into a PDF format prior to submission.¹ Auditors are not permitted to submit audit reports that have been scanned.² See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

K. E. Arnold
Auditor Signature

02/28/2018
Date

¹ See additional instructions here: <https://support.office.com/en-us/article/Save-or-convert-to-PDF-d85416c5-7d77-4fd6-a216-6f4bf7c7c110> .

² See *PREA Auditor Handbook*, Version 1.0, August 2017; Pages 68-69.