

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

☐ Interim ☒ Final

Date of Report January 9, 2018

## Auditor Information

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Telephone: 262-930-5334	Date of Facility Visit: September 26-27, 2017

## Agency Information

Name of Agency: Lutheran Social Services of WI and Upper MI, Inc.		Governing Authority or Parent Agency (If Applicable): Click or tap here to enter text.	
Physical Address: 647 W. Virginia St.		City, State, Zip: Milwaukee, WI 53204	
Mailing Address: SAA		City, State, Zip: SAA	
Telephone: 414-246-2300		Is Agency accredited by any organization? <input checked="" type="checkbox"/> Yes <input 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: Motivated by the Compassion of Christ, we improve the quality of their lives.			
Agency Website with PREA Information: www.lsswis.org			

## Agency Chief Executive Officer

Name: Hector Colon	Title: President and Chief Executive Officer
Email: Hector.Colon@lsswis.org	Telephone: 414-246-2300

## Agency-Wide PREA Coordinator

Name: Laurie Lessard	Title: Director ARJ/CCD Programs
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<b>Email:</b> Laurie.Lessard@lsswis.org		<b>Telephone:</b> 715-456-5735	
<b>PREA Coordinator Reports to:</b> Keith Lang		<b>Number of Compliance Managers who report to the PREA Coordinator</b> 3	
<b>Facility Information</b>			
<b>Name of Facility:</b> BARRON AREA RESIDENTIAL TREATMENT FACILITY			
<b>Physical Address:</b> 806-29 ½ AVE. Barronett, WI 54813			
<b>Mailing Address (if different than above):</b> Click or tap here to enter text.			
<b>Telephone Number:</b> 715-671-0331			
<b>The Facility Is:</b>		<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit
<input type="checkbox"/> Municipal		<input type="checkbox"/> County	<input checked="" type="checkbox"/> Private not for Profit
		<input type="checkbox"/> State	<input type="checkbox"/> Federal
<b>Facility Type:</b>	<input type="checkbox"/> Community treatment center		<input checked="" type="checkbox"/> Halfway house
	<input type="checkbox"/> Mental health facility		<input type="checkbox"/> Restitution center
	<input type="checkbox"/> Alcohol or drug rehabilitation center		
<input type="checkbox"/> Other community correctional facility			
<b>Facility Mission:</b> Motivated by the compassion of Christ, we help others improve the quality of their lives.			
<b>Facility Website with PREA Information:</b> www.lsswis.org			
<b>Have there been any internal or external audits of and/or accreditations by any other organization?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
<b>Director</b>			
<b>Name:</b> Shelley Hammes		<b>Title:</b> Program Supervisors	
<b>Email:</b> Shelley.Hammes@lsswis.org		<b>Telephone:</b> 715-671-0331	
<b>Facility PREA Compliance Manager</b>			
<b>Name:</b> Lynda Olson		<b>Title:</b> Program Manager	
<b>Email:</b> Lynda.Olson@lsswis.org		<b>Telephone:</b> 715-456-5729	
<b>Facility Health Service Administrator</b>			
<b>Name:</b> NA		<b>Title:</b> Click or tap here to enter text.	
<b>Email:</b> Click or tap here to enter text.		<b>Telephone:</b> Click or tap here to enter text.	

Facility Characteristics			
Designated Facility Capacity: 8		Current Population of Facility: 5	
Number of residents admitted to facility during the past 12 months			26
Number of residents admitted to facility during the past 12 months who were transferred from a different community confinement facility:			21
Number of residents admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:			22
Number of residents admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:			26
Number of residents on date of audit who were admitted to facility prior to August 20, 2012:			0
Age Range of Population:	<input checked="" type="checkbox"/> Adults 18+	<input type="checkbox"/> Juveniles Click or tap here to enter text.	<input type="checkbox"/> Youthful residents Click or tap here to enter text.
Average length of stay or time under supervision:			81 days
Facility Security Level:			NA
Resident Custody Levels:			NA
Number of staff currently employed by the facility who may have contact with residents:			7
Number of staff hired by the facility during the past 12 months who may have contact with residents:			7
Number of contracts in the past 12 months for services with contractors who may have contact with residents:			0
Physical Plant			
Number of Buildings: 1		Number of Single Cell Housing Units: 0	
Number of Multiple Occupancy Cell Housing Units:		4	
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.): 4 cameras currently operable. Locations: front office, 3 outdoor. Control center is on first floor near main entrance.			
Medical			
Type of Medical Facility:		NA	
Forensic sexual assault medical exams are conducted at:		Lake View Medical Center, Rice Lake, WI	
Other			
Number of volunteers and individual contractors, who may have contact with residents, currently authorized to enter the facility:			0
Number of investigators the agency currently employs to investigate allegations of sexual abuse:			5



# Audit Findings

## Audit Narrative

The agency received the Pre-audit questionnaire for the Barron Area Residential Treatment Facility (BART) on August 5, 2017 and returned it on September 13, 2017 along with numerous documents. The Notice of Audit was sent to the agency On August 5. LSS managers stated that the Notice of Audit was posted on August 9. During the on-site visit, I observed the Notice of Audit posted outside in the main hallway outside the staff offices and near the main entrance. Staff and residents interviewed confirmed that the Notice was posted for several weeks prior to the on-site visit.

It should be noted that I have completed PREA audits of five LSS halfway houses in the past 1 ½ years. During the first audit of the Fahrman Center, a number of amendments were made to the policies and procedures, resident information, and training documents during the corrective action period. LSS made several amendments to these documents to comply with the standards. All of the six LSS halfway houses, including BART have virtually the same PREA policies and procedures, training materials, resident information, hiring procedures, and other practices related to PREA. Because of the previous audits, I am very familiar with the LSS facilities and it policies and procedures. I have had dozens of contacts with the PREA Coordinator and LSS staff during the past 1 ½ years. BART is a new halfway house, opening in March 2017.

The pre-audit preparation included a review of the questionnaire and supporting documents, including numerous agency policies and procedures, employee and residents notices and handbooks, training records, and other documents to support compliance with PREA standards.

On September 14, 2017, I interviewed Sara Edwards at the LSS administrative offices in Milwaukee. Edwards is the Human Capital Generalist for the residential halfway houses. At that time, I also reviewed the personnel files for all BART staff to determine whether criminal background checks and updates had been conducted according to the standard. I also reviewed personnel files to determine if all current staff completed PREA training.

I scheduled the on-site audit of BART for September 20-21; however, it was rescheduled to September 27-28 due to this auditor being ill. Although I planned to spend about two days at the facility, I only spent 5.5 hours at the facility. This was by far the shortest amount of time that I have spent in any facility. However, there several factors resulted in such a short visit. BART is a very small facility (8-bed capacity) with only five residents residing in the facility at the time of on-site visit. There was only six staff, with one on FMLA. The facility had only been open for 6 months and has only served 19 residents since it opened, thus there were limited files and risk screenings to review. Since the facility opened, there have been no PREA investigations. Prior to the on-site visit of BART, I interviewed Laurie Lessard, the agency PREA Coordinator and the designee for the LSS CEO and the agency's Human Capital Generalist. Services. I had also interviewed LSS PREA investigators and staff that monitor retaliation. In addition, my familiarity with the agencies policies and training materials resulted in an efficient audit process.

During the on-site visit, I interviewed all five residents and six staff. Staff interviewed included those responsible for conducting intake and completing risk screening. BART has no medical or mental health staff. BART currently has no contractors, volunteers, or interns. I reviewed all current resident files and the files of 14 discharged residents. I reviewed completed risk screening forms for the five current residents and 14 discharged residents. I inspected the physical facility along with the facility supervisor. I observed that the Notice of Audit posted in the facility and residents and staff confirmed that the Notice of Audit had been posted for several weeks.

I followed the recently updated PREA interview protocols for all staff and residents. I was able to conduct interviews in a private office.

Interviews with residents and staff at BART indicated that all had knowledge of PREA. All residents said that they received PREA information upon arrival in the facility, within 1-3 days. File reviews confirmed that residents received PREA information. All staff members interviewed were able to articulate the agency "no tolerance" policy and were able to describe what their responsibilities were in regards to preventing, responding, investigating, and reporting incidents of sexual abuse or harassment.

Following the on-site visit and interviews, I again conducted a thorough review of the agency's policies and procedures, handbooks, training records, resident information, physical facility details, and other information to determine compliance with the standards.

As part of correction action, I reviewed 18 additional risk screening forms for residents who admitted since the on-site visit or who were present at the time of the on-site visit and had screening forms completed. I also reviewed signed acknowledgments from 15 residents that they received PREA information at intake.

## Facility Characteristics

The Barron Area Residential Treatment Facility (BART) is a Community Based Residential Facility (CBRF)/ halfway house with a design capacity of eight. It serves only male residents who are under supervision of the State of Wisconsin Department of Corrections (DOC). The facility opened in March 2017. The program provides "Transitional Residential Treatment." Resident attend two groups per day in the morning and work search related activities in the afternoon. Prior to coming to BART, many of the residents were previously at another LSS halfway house, the Fahrman Center. The length of stay is usually 90 days.

As of September 20, 2017, the total population was five. Since the facility opened in March 2017, 19 residents have been admitted to the facility.

Lutheran Social Services (LSS) of Wisconsin and Upper Michigan, Inc., a not-for-profit agency, operates the Fahrman Center. LSS is a large, social service agency that provides a variety of human services for addiction, aging, corrections, disabilities, parenting, adoption and foster care, mental health and housing. LSS has over 700 employees throughout Wisconsin and Upper Michigan.

LSS operates six halfway houses including BART, as well as Fahrman Center and Affinity House in Eau Claire, WI, Cephas House in Waukesha, WI, Exodus House in Hudson, WI, and Wazee House in Black River Falls, WI. All of the LSS halfway houses have virtually the same PREA policies and procedures, staff training, and resident information.

BART currently has just six staff members, plus one staff on FLMA. BART has several vacant positions and the supervisor and program manager were interviewing candidates during the on-site visit. In addition to the supervisor, staff members include four Support Professionals and a Case Manager. There are currently no contract staff, volunteers or interns.

BART is licensed by the State of Wisconsin as a Community Based Residential Facility (CBRF) Halfway House. Its license classification is Class A ambulatory (AA). A class "A" ambulatory CBRF may serve only residents who are ambulatory and are mentally and physically capable of responding to an electronic fire alarm and exiting the facility without any help or verbal or physical prompting.

BART is a 2-story, stand-alone residential facility in Barronett, WI, an unincorporated town of about 400. It is located in a rural area of northwest Wisconsin. The building was previously a private residence and is located on the edge of town. Prior to the facility opening, there was significant community opposition to the facility. A community meeting was held in which LSS staff and DOC responded to citizen's concerns. According to the Program Manager, since the facility opened there have been no issues with the community. As mentioned earlier, the facility was once a private residence and is relatively small with four resident bedrooms. Four cameras monitor residents in the facility.

## Summary of Audit Findings

**Number of Standards Exceeded: 1**

**115.211**

**Number of Standards Met: 38**

**115.212, 115.213, 115.215, 115.216, 115.217, 115.218, 115.221, 115.222, 115.231, 115.232, 115.233, 115.234, 115.235, 115.241, 115.242, 115.251, 115.252, 115.253, 115.254, 115.261, 115.262, 115.263, 115.264, 115.265, 115.266, 115.267, 115.271, 115.272, 115.273, 115.276, 115.277, 115.278, 115.282, 115.283, 115.286, 115.287, 115.288, 115.289**

**Number of Standards Not Met: 0**

## Summary of Corrective Action (if any)

115.233 During the on-site visit, the agency reported that they have provided PREA information to all residents since the facility opened in March 2017. However, they did not have the residents sign an acknowledgment until about July 2017. The standard requires that the agency maintain documentation that residents received PREA information. After a three-month period of corrective action, the agency provided documentation (signed acknowledgment forms) that all 10 residents admitted since the on-site visit received PREA information upon intake. Based upon the documents that I reviewed, I conclude that the agency now complies with the standard.

115.241 During the on-site visit, I reviewed completed risk assessments for all residents admitted since the facility opened. There were three assessments not completed according to the standards. Normally, three missing screens would not necessarily result in corrective action. However, the sample size (19 residents) was very small. In my opinion, three missing screens was enough to require corrective action. After the three-month corrective action period, the agency submitted an additional 20 assessments and reassessments for all residents. Ten new residents were admitted since the on-site visit. The agency completed assessments and reassessments that were due for all residents admitted since the on-site visit and for residents who have been in the facility since the on-site visit. Based upon the documents that I reviewed, I conclude that the agency now complies with the standard.

## 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*)

#### Instructions for Overall Compliance Determination Narrative

When BART opened in March 2017, it implemented all of the PREA policies and procedures used at the five other LSS halfway houses. As mentioned earlier, LSS amended all of its PREA materials during previous audits that I conducted to comply with the standards. To date, the five other LSS halfway houses have been audited and were fully compliant after a period corrective action.

The PREA Notice to Residents describes the agency zero tolerance policy and the agency's effort to implement PREA standards. The PREA policy describes the agency zero tolerance policy. The policy includes a description of the agency efforts to reduce and prevent abuse and harassment of residents.



During interviews with six staff and five residents, there was an awareness of the agency zero tolerance policy and efforts to prevent, respond, report, and investigate sexual abuse and harassment.

During the on-site visit, I observed the Notice of Audit and PREA information for residents in posted in in the facility. Based upon my review of five current resident files interviews with those five residents, I confirmed that residents receive PREA information at intake. Based upon interviews with six staff and file reviews, I confirmed that staff receive PREA training upon hire and update training on a regular basis. All staff stated that PREA issues are frequently discussed at staff meeting and in discussions with supervisors.

Laurie Lessard has been the agency PREA Coordinator since April 2016. Prior to that time, she was very involved in the implementation of PREA standards at all LSS facilities. Lessard is the Director of LSS Addictions/Restorative Justice Services. During the five previous audits that I have completed of LSS facilities, I have had extensive contacts with Lessard and she has demonstrated extensive knowledge of PREA standards. Since she oversees all of the LSS halfway houses, she is able to implement changes to comply with standards. During the corrective action period for the previous audits, Lessard was able to quickly make changes at all the facilities.

The agency has demonstrated through previous audits that it is committed to fully implementing PREA standards at all its facilities. Based on this commitment and the efforts of it management staff, particularly the PREA Coordinator, I conclude that the agency exceeds this standard.

## **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*)

### Instructions for Overall Compliance Determination Narrative

According to the PREA Coordinator/CEO Designee, BART does not contract with other agencies to house residents.

## 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*)

Given the size of BART, the staffing pattern is simple. There is always a minimum of one staff member in the facility 24/7. As a licensed CBRF, Fahrman is required to maintain staff 24/7. A copy of the staffing plan was attached to the questionnaire. The staff that do primary supervision of residents are Support Professionals. There is usually one Support Professionals on each shift. During the day, the supervisor and case manager are usually present. The staffing pattern is consistent with the size and layout of the facility and is consistent with other halfway houses of this size in Wisconsin. According to interviews with the PREA Coordinator/ CEO designee, BART always complies with the staffing pattern. Because of their CBRF status, they must maintain the minimum staffing pattern at all times.

There four cameras in the facility that monitor the activities of the residents and the security of the building. There is one camera outside of the staff office, primarily to monitor medication disbursement. There are also three exterior cameras. Given the small size of the facility, the current cameras are sufficient.

As mentioned above, the facility is very small with four client bedrooms and common living areas. From the staff office, one is able to hear most of the activities throughout the building and visually see much of the general areas. There is a large open staircase that goes from the lower level to the upper level, which allows staff to monitor movement within the facility.

BART implemented the Rounds and Bed Check Procedure used at other LSS facilities. The procedure states that "regular rounds during awake hours and regular bed checks at night are required. Evening, midnight and all weekend/holiday shifts require that Support Professional staff make and document rounds. During awake hours, rounds are made by the staff on duty walking throughout the entire facility and noting whereabouts of all clients as well as any needed maintenance or cleaning. Regular rounds, over and above the required logged rounds, are encouraged. Staff on duty should not be staying in the office except to complete required documentation/office duties and to assist residents with signing in/out, monitoring medications, answer the phone, etc. Bed checks at all facilities are to be conducted both at set times and at least one additional random time during sleeping hours. All programs shall have in place a rule that requires residents to wear something to bed, not sleep in the nude or in only underwear. All rounds and bed checks will be logged on the Round/Bed Check Log form. The form is to be provided to the Supervisor for signature, comments, date and any needed actions weekly."

The PREA Policy and Procedures also includes additional procedures for staff conducting bed checks.

## 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?  
☒ Yes ☐ No **Facility prohibits any pat-downs or body searches of residents.**

#### 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 **Facility prohibits any pat-downs or body searches of residents.**

- Does the facility document all cross-gender pat-down searches of female residents? ☒ Yes ☐ No NA Male residents only. **Facility prohibits any pat-downs or body searches of residents.**

#### 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 **Pat down and body searches of residents are not allowed per policy.**
- 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 **Pat down and body searches are not allowed per policy.**

#### 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*)

According to the Pre-Audit Questionnaire and interviews with LSS staff, no searches or pat down of residents are allowed. During interviews with staff and residents, the no-search/pat-down policy is consistently followed. No reports of body searches of any kind were reported by the agency in the past 12 months.

Residents are able to shower, toilet, and change privately in two bathrooms that are attached to the bedroom area. The bathrooms are private and residents are able to lock the door. All five residents interviewed reported that they are able to toilet, shower, and change clothes in private. No one reported incidents where they were viewed naked by staff. BART does maintain a log in the event that a resident is viewed incidentally or for exigent circumstances. Residence are required to change clothing in the locked bathroom and must remain clothed in the bedroom and while sleeping.

The PREA Policy and Procedures prohibit staff of the opposite gender from viewing residents breasts, buttocks, or genitalia except in exigent circumstances or when viewing is incidental to routine cell checks. LSS reports that it follows Department of Health Services Code 83, which also prohibits this behavior by staff. The Policy and Procedure requires staff of the opposite gender to announce their presence when entering areas where residents may be showering, performing bodily functions, or changing clothing. During interviews with staff and residents, it was determined that staff of the opposite gender announce their presence.

Because the facility policy prohibits staff from conducting any body searches or pat downs of residents under any circumstances, it does not provide training in this area.

## **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 **BART does not accept residents who are deaf or hard of hearing.**
- 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 **BART does not accept residents who are blind or have low vision.**
- 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 **BART does not accept residents who are deaf or hard of hearing.**
- 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 **BART does not accept residents who are blind or have low vision.**

#### 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 **BART does not accept residents who are limited English proficient.**
- Do these steps include providing interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary? ☐ Yes ☐ No **BART does not accept residents who are limited English proficient.**

### 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*)

According to the PREA Coordinator, BART does not accept clients with physical disabilities. The cited several reasons for not accepting this population. Class "A" CBRF regulation prohibit the facility from accepting clients with physical disabilities. Residents must be ambulatory and must be are mentally and physically able to respond to an electronic fire alarm and exiting the facility without any help or verbal or physical prompting.

BART also does not accept clients who may have serious learning disabilities or very low reading levels, limited English proficiency, blind or low vision, deaf or hard of hearing. According to the PREA Coordinator, the facility does not accept these clients into the program because they would not be able to participate or benefit from in-house programs. If it is determined that a current resident has reading or comprehension limitations that were not previously known, intake staff would carefully read and explain the PREA handouts to residents. Interviews with intake staff confirmed that they assess the resident's reading and comprehension level when reviewing PREA materials. All of the residents interviewed stated that intake staff gave them the PREA handouts and verbally explained the material to them. According to the LSS CEO/ Designee, any changes to this policy of not accepting clients with disabilities, limited English proficiency, blind or low vision, and deaf or hard of hearing would require significantly more resources and would put unreasonable burdens for them financially. The contract with DOC does not require BART to accept these clients.

### 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*)

#### Instructions for Overall Compliance Determination Narrative

According to the LSS Human Capital Generalist and the PREA Coordinator, BART follows the LSS "Background Check Policy and Procedure". LSS amended the procedure during the Fahrman audit to comply with the standards.

The procedure states that background checks will be completed for all prospective and existing employees. It states that "LSS prohibits the hiring or promotion of anyone who has contact with residents, and will not enlist the services of any contractor who may have contact with residents, who has engaged in sexual abuse in correctional facility, has been convicted, engaging, or attempting to engage in sexual activity in the community or has been civilly or administratively adjudicated to have engaged in the activity described in (a) (2) of 115.217."

The agency policy procedure requires that the agency conduct background checks before enlisting the services of a contractor who may have contact with residents.

The agency policy and procedure states that the agency will consider any incidents of sexual harassment in hiring or promotions, or to enlist the services of a contractor who may have contact with residents.

On September 14, 2017, I interviewed the LSS Human Capital Generalist regarding the BART hiring and background check policies. I had previously met with her on numerous occasions at the LSS administrative offices in Milwaukee. She reports that the agency conducts background checks on all prospective employees, using Wisconsin Department of Justice-Crime Information Bureau (CIB) and private background check agencies.

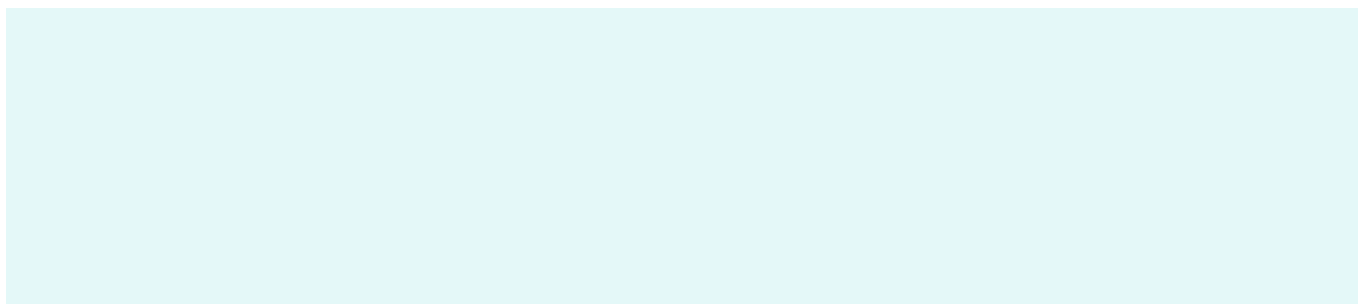
LSS currently uses In Check and has used Due Diligence Investigation Service HIRE RITE. These companies includes National Sex Offender Search, Wisconsin Sex Offender Registry, Wisconsin CIB, and other states where the employee has been known to reside.

I reviewed personnel files for all five existing BART employees, plus the staff member who is on FMLA. All employee files contained documentation that background checks were conducted prior to hire. All of the current staff were hired between October 2016 and July 17, 2017.

According to Ms. Edwards, LSS conducts background checks on all existing employees every four years, which complies with Wisconsin Caregiver requirements. All of the BART staff were hired within the past year. The LSS Background Check Policy and Procedure includes language that requires the completion of Caregiver Background checks every four years, which exceeds the standard.

The Background Check policy includes language that provides for contacting prior institutional employers for information regarding substantiated sexual abuse or investigations of allegations of sexual abuse. The policy also has language that requires that the agency will ask applicants for employment and employees considered for promotions in applications and interviews about previous misconduct.

The PREA Policy and Procedure has language that imposes upon employees a continuing affirmative duty to disclose any such misconduct and that material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination. It also states that the agency shall provide information on substantiated allegations of sexual abuse or harassment involving a former employee upon receiving a request from an institutional employer who whom such employee has applied for work. It also states the agency will contact prior institutional employers regarding potential employees having prior substantiated sexual abuse or investigations of alleged abuse as described in 115.217 (c) (2).



## 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*)

LSS opened (BART) in March 2017. In making decisions for the acquisition and design of BART, the agency considered issues that were raised during the five prior audits of LSS facilities. According to the Program Manager, the agency considered the safety of residents when designing the new facility. The new facility has a video monitoring system and the safety of residents and PREA standards were considered in the design process.

## 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 Facility does not accept clients under the age of 18.
- 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*)

## Instructions for Overall Compliance Determination Narrative

LSS is responsible for conducting administrative investigations of sexual abuse at BART. The agency follows a uniform evidence protocol for investigations. The Barron County Sheriff's Dept. conducts criminal investigations.

For administrative investigations, the PREA Policy and Procedure describes steps staff should take to preserve potential evidence. LSS provided training on preserving evidence to staff using the Relias LSS Power Point training. During interviews with six staff, all staff were able to describe specific steps they would take following an assault. There is a PREA binder in the staff office that describes the steps that staff would take following an assault. All staff were aware of the location of the binder and stated that they would refer to it if needed.

According to the PREA Coordinator, BART does not accept clients under the age of 18.

The PREA Policy and Procedure states that Lake View Medical Center in Rice Lake would conduct forensic exams for victims of sexual assault.

LSS has an Inter-Agency Agreement with Barron County Victim Witness Program which states that the program will provide ongoing emotional support and victim witness support and guidance. LSS also has an Inter-Agency Agreement with the Community Referral Agency that states that the program will "provide an advocate to accompany the victim to the forensic exam, investigatory interviews, and related follow up." It will also provide emotional support services as described in 115.253.

LSS has an Inter-Agency Agreement with Mayo Clinic Health Systems that states that the agency will "provide medical services/evaluations through a SAFE or SANE Nurse.

The Pre-Audit Questionnaire, the PREA Notice to Residents and the LSS PREA Policy and Procedures state that victims shall be offered forensic medical exams and that the victim may request a victim advocate accompany them through the exam and investigatory process. The victim shall be provided treatment services at no cost whether or not the victim cooperates with the investigation.

On October 16, 2017, I spoke with Kim Bates, who is a Sexual Assault Victim Advocate with the Community Referral Agency. Ms. Bates confirmed the information in the Inter-Agency Agreements. Their agency would coordinate the process of providing a victim advocate, setting up the forensic exam by a SANE nurse, and follow up services. She stated that victims could go to several different medical facilities, including Lake View for a forensic exam depending on the availability of a SANE nurse.

## 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*)

#### Instructions for Overall Compliance Determination Narrative

The LSS PREA Notice to Residents to state, "All reported incidents will be referred to law enforcement. It also states, "We will investigate all allegations of sexual abuse, sexual harassment, and staff sexual misconduct. We may work with the WI Department of Corrections or the Federal Bureau of Prisons, depending on the supervision status. Specially trained individuals will be assigned to investigate promptly, thoroughly and objectively, and gather and preserve direct and circumstantial evidence."

The PREA Policy and Procedure states that all allegations will be investigated and describes the responsibilities of the agency and law enforcement. It states that all investigations will be documented.

The LSS website also states, "All reported incidents will be referred to law enforcement, and all reported incidents will be investigated." BART has not had any investigations of sexual abuse or harassment in the past 12 months.



## 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*)

According to the Pre-Audit Questionnaire, LSS has trained all BART staff on PREA. The agency provided a copy of the training that all staff must complete. It is a Power Point presentation that LSS developed using Relias training. I reviewed the training slides and determined that the slides cover all of the criteria described in the standard. I verified that all staff at BART have reviewed the updated training slides. The slides include information on specific approaches for supervising male clients.

All BART staff also are required to review the PREA Policy and Procedure, which also covers the criteria described in the standards. Staff must sign an acknowledgment that they reviewed the PREA materials.

Through interviews and review of personnel files, I confirmed that all seven staff have received PREA training. Since LSS hired all BART staff between October 2016 and July 2017, refresher training is not required.

## 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 **There are no current contractors or volunteers at the facility.**

### 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*)

The Program Manager reports that BART currently has no contractors, volunteers, or interns.

The PREA Policy and Procedures states that volunteers (or interns) and contractors are required to complete the PREA training in Relias.

## 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 BART does not accept residents who are limited English proficient.
- Does the agency provide resident education in formats accessible to all residents, including those who: Are deaf? ☐ Yes ☐ No BART does not accept residents who are deaf.
- Does the agency provide resident education in formats accessible to all residents, including those who: Are visually impaired? ☐ Yes ☐ No BART does not accept residents who are visually impaired.
- 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*)

LSS reports that it provides the "PREA Notice to Residents" to all residents upon intake. The PREA Notice to Residents has extensive information about PREA and includes the criteria from the standards.

All five residents interviewed stated that they received PREA printed information in a packet upon arrival (all within 1-2 days). The residents stated that staff explained the material to them. I also reviewed files for the current five residents. All five files contained signed acknowledgements that residents received PREA at intake. However, in reviewing files of discharged residents, there was documentation in only three files that those residents received PREA information. In discussing the issues with the supervisor, she states that they did provide PREA information to all residents since the facility opened in March 2017. However, they did not keep documentation in the resident files until July 2017. Eleven discharged resident files did not contain documentation.

During the on-site visit, I interviewed the staff member who is responsible for conducting intake. He states that residents are provided PREA Notice to Residents upon arrival, usually the first day, and explains the material to them. If a resident has reading or other deficiencies, the material is read to them in more detail.

The PREA Notice to Residents addresses the agency zero tolerance policy, how to report incidents, their right to be free of abuse and retaliation, and the agency response to reports of abuse or harassment. As mentioned earlier, BART does not accept clients who are limited English proficient, deaf, visually impaired or who have physical disabilities.

During the on-site visit, I observed PREA information posted in a common area of the facility. The posting includes the PREA Notice to Residents and victim services, including 800 hotlines.

Because the facility had not consistently provided documentation that all residents received PREA information at intake, this matter was included in corrective action. After a three-month period of corrective action, the agency provided documentation (signed acknowledgment forms) that all 10 residents admitted since the on-site visit received PREA information upon intake. Based upon the documents that I reviewed, I conclude that the agency now complies with the standard.

## 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).] ☒ 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).] ☒ 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).] ☒ 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*)

The Pre-Audit Questionnaire states that LSS has designated five staff to conduct PREA investigations. The five investigators have completed NIC PREA Training for Investigators. LSS provided copies of the certificates from NIC. During audits of LSS facilities, I have interviewed four of the five designated investigators. All of the investigators displayed extensive knowledge of the investigation process as specified in the standards, i.e. steps to take in an investigation, techniques, Miranda/Garrity issues, collaborating with law enforcement, documentation, etc. BART has not had any investigations of sexual abuse or sexual harassment since the facility opened in March 2017.

## 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*)

### Instructions for Overall Compliance Determination Narrative

BART currently does not have any medical or mental health staff. However, some of the other LSS facilities have medical or mental health staff. LSS PREA Policy and Procedures states that medical and mental health staff shall receive PREA training. The training includes the criteria identified in the standards.

## 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*)

The Pre-Audit Questionnaire states that Risk Screenings are completed for residents upon arrival. The PREA Policy and Procedures state that staff will conduct the "Sexual Vulnerability/Predation Risk" assessment with residents during within 72 hours. The policy states that re-assessments shall occur "not to exceed 30 days" after arrival.

LSS uses a document called the Sexual Vulnerability/Predation Risk Assessment. This document was amended during the previous audit due to corrective action and now includes all the criteria in 115.241(d).

The PREA Policy and Procedures state that no sanctions will be applied who refuse to answer or respond to the screen and includes language to require a re-assessment based on information described in 115.241 (g).

The Program Supervisor keeps completed risk assessments in a locked cabinet.

During the on-site visit, I interviewed the Case Manager who is responsible for completing the risk screening. He said that he completes risk screening at intake, usually the first day that the resident arrives. The case manager said he does follow-up risk screening at about 14 days.

All five residents interviewed said that staff asked questions about their history of sexual abuse, victimization, and their safety upon intake. Two of these residents had been in the facility more than 30 days and they reported that staff did a follow-up screening during the first few weeks. However, while reviewing completed assessments, I could not locate the follow up assessment for one of the residents. The supervisor attempted to locate it, but later said that they forgot to complete it.

I also reviewed 26 completed risk assessments for 14 discharged residents. These are all of the residents admitted to the program since it opened in March 2017. Of those 26 completed assessments and reassessments, all but two were completed according to the standard. Those two residents had completed assessments done at intake, but reassessments were not completed even though the residents were in the program for over 30 days. The supervisor acknowledged that two screens were not completed because the case manager was on vacation. She said they have already changed procedures by putting PREA Screens and re-screens on staff calendars at admission.

Normally, three missing screens would not necessarily result in corrective action. However, the sample size (19 residents) was very small. In my opinion, the three missing screens was enough to require corrective action.

After the three-month corrective action period, the agency submitted an additional 20 assessments and reassessments. Ten new residents were admitted since the on-site visit. The agency completed assessments and reassessments that were due for all residents admitted since the on-site visit and for residents who have been in the facility since the on-site visit. All assessments were completed in a timely manner except for one initial assessment, which was completed with 5 days of intake. Based upon the documents that I reviewed, I conclude that the agency now complies with the standard. In summary, I reviewed a total of 39 assessments and reassessments for all residents admitted since the facility opened in March 2017.

## **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*)

#### Instructions for Overall Compliance Determination Narrative

According to the LSS PREA Policy regarding risk screening, "room assignments and general program participation will be predicated on the findings of the assessment." The Policy prevents placing LGBTI residents in dedicated facilities, units, or wings solely based on such identification or status as described in 115.242 (f). The staff ask all residents, including LGBTI residents, how they feel about their own safety.

During the on-site visit, I interviewed the Case Manager who is responsible for completing screening. If a screening shows that a resident is at risk, he would notify his supervisor and they would review the case with the supervisor. They would consider a number of options including housing the resident in a room close to the office. Individual determinations are considered. Because BART is a very small facility, there are limited options of where to place residents.

All residents are able to shower separately from others residents. There are two individual bathrooms in the facility in which residents are able to lock the door and use alone.

## 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*)

The PREA Notice to Residents, which is provided to all residents upon intake, states that residents can report sexual abuse “verbally, in writing, anonymously, or by a third party”. It also states that residents may tell any staff member, tell their probation/parole agent, contact the Manager for Fahrman Center, or the LSS PREA Coordinator, the Director of Addictions and Restorative Justice. It also states that they may send a letter to the Department of Corrections PREA Director or contact law enforcement by calling 911. There is reporting information posted in BART with phone numbers and addresses of agencies.

All residents interviewed were aware of multiple reporting options. During interviews with 6 staff members, all staff were aware of multiple reporting options for residents. All staff said that they could privately make reports to their supervisors without concerns.

The PREA Policy and Procedures states that residents may report abuse “verbally, in writing, anonymously, or by a third party” and states that residents can contact the Supervisor, PREA coordinator, managers, or LSS ARJ Director. The policy also specifies that staff may make a report of sexual abuse to the same entities and make complaints privately. The policy mandates that staff accept all reports of abuse regardless of the manner of reporting. Staff review a copy of the policy upon hire. The Relias PREA Power Point training, required of all employees, includes information about residents reporting abuse, and lists multiple reporting options.

## 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 **BART does not have the ability to discipline residents. All disciplinary decisions are made by DOC.**

#### 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 PREA Policy and Procedures and the PREA Notice to Residents include specific information regarding the filing grievances. These documents state that the grievance may be filed at any time and without time limitations, the grievance may be filed without submitting it to a staff member who is subject of the complaint, and such grievance is not referred to a staff member who is the subject of the complaint. The documents include information regarding emergency filing of grievances and states that residents may be disciplined for filing a grievance in bad faith. The Policy also listed the process for third party filing of grievances. Both these documents also include language from 115.252 (d) regarding response time (90 days), extensions, and lack of response to the grievance.

LSS reports that no residents at BART have filed a grievance that allege sexual abuse or harassment since the facility opened in March 2017.

## **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? ☒ 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*)

## Instructions for Overall Compliance Determination Narrative

The PREA Policy and Procedures and Notice to Residents state that residents shall be provided access to outside victim support services related to sexual abuse. The Resident Handbook lists a number of victim advocacy services, with addresses and phone numbers. BART has an Inter-Agency agreement with the Community Referral Agency to provide support services. I contacted the Sexual Assault Advocate who confirmed that victim would receive support services from their agency.

During the on-site visit, I observed that victim support information posted in common areas of the facility.

The PREA Policy and Procedures and Notice to Residents informs 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. The PREA Policy and Procedures and Notice to Residents states the facility will enable reasonable communication between residents and these organizations and agencies, in as confidential a manner as possible.

### 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*)

The LSS PREA Policy and Procedures and PREA Notice to Residents state that reports can be accepted from a third party. These documents state that third party reports can be made and lists a number of options for resident to report. The Policy also states how staff may file a report on behalf of a resident. I also observed that the agency website includes information about third party reporting.

During interviews with six staff and five residents, all were aware of third party reporting options.

## 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*)

The PREA Policy and Procedures states that staff are required to report any knowledge, suspicion, or information they receive regarding sexual abuse or harassment, whether it occurred at BART or another facility. New staff training, the LSS/Relias Power Point, also makes it clear that employee are required to report in any of the listed situations. The LSS Employee Handbook has several references that employees have a duty to warn. All staff are required to review the PREA Policy and Procedures and Relias Power Point after hire. A copy of the PREA Policy and Procedures is in the PREA binder in the staff office. All staff interviewed were aware of the PREA binder.

PREA Policy and Procedures the Relias Power Point state that staff are prohibited from revealing information related to a sexual abuse other than reasons cited in 115.261 (b). The policy also includes language from 115.261 (c) and includes language that requires the facility to report all allegations of sexual abuse and sexual harassment to the facility's designated investigators.

All BART staff interviewed stated that they are required to report any knowledge, suspicion, or information they receive regarding abuse. No staff members said that they reported any information regarding sexual abuse or harassment since they began working at BART.

Regarding 115.261 (d), the facility does not accept residents under the age of 18.

## 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*)

The agency addresses "Imminent Danger" in the PREA Policy and Procedures. The policy list steps staff shall take when they become aware of the potential of an imminent sexual assault on a client or observe a sexual assault taking place within the facility. Steps included calling 911 and a supervisor, assuring victim is provided with safety until perpetrator is removed; consider taking the intended victim into the locked staff office until the danger has been addressed.

The PREA Relias Power Point has similar language for dealing with imminent risk. All of the six staff interviewed gave appropriate responses to dealing with imminent risk.

According to the Pre-Audit Questionnaire and interviews with the Program Manager, BART has had no instances in the past 12 months where a resident was subject to a substantial risk.

## 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*)

The PREA Policy and Procedures includes specific steps to take if a resident reports an assault that occurred at another facility. The Program Manager will contact the head of the facility where the abuse occurred within 72 hours. The Program Manager will document the notification. This policy complies with the standard. The PREA Coordinator reports that BART has not had reports of residents being assaulted at other facilities since the facility opened in March 2017.

## 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?  
☒ 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? ☒ 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? ☒ 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? ☒ 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*)

The first responder duties are included in PREA Policy and Procedures and the Relias Power Point. The agency designates all staff on duty as first responders. The policy lists steps to take upon receiving a report of abuse, including. These steps assisting the client, providing emotional support, calling the supervisor and 911, preserve evidence/gather evidence. It also states that the client will be provided transportation to local victim services and medical services.

During interviews, all six staff had appropriate responses to dealing with an assault. All staff mentioned protecting the victim, isolating the victim from the perpetrator, calling a supervisor and/or 911, and preserving evidence.

### 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*)

The PREA Policy and Procedures includes specific steps that staff, investigators, and facility leadership shall take in response to an incident of sexual abuse. There are no medical or mental health staff at BART.



## 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 The agency does not have collective bargaining agreements at any of its facilities.

### 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*)

The agency does not have collective bargaining agreements at any of its facilities.

## 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*)

The PREA Policy and Procedures and Notice to Residents has details on the facility response to retaliation. The policy defines retaliation to include staff-on-staff, staff on resident, resident on resident, and resident on staff. The policy incorporate multiple protection measures, such as housing changes or transfers for resident victims or abusers, removal of alleged staff or resident abusers from contact with the victim, and emotional support services for staff or residents who fear retaliation. The policy states that monitoring retaliation shall occur for at least 90 days after the report and longer if needed. The Relias Power Point also has information on retaliation that complies with the standards.

Program Manager Lynda Olson and Supervisor Shelley Hammes are responsible for monitoring retaliation at BART. I interviewed Hammes using the "Monitoring Retaliation" protocol questions. Since it is a small facility, Hammes feels she would be able to determine if retaliation is occurring. In order to determine if retaliation against staff or residents was occurring, she would look at the person's behavior and how other people communicate with them. If it were staff member, she would look at how they are interacting with others. She would interact with either the staff or residents. Hammes identified several steps she would take to monitor retaliation. The major concern is where to house the resident.

If a staff member were retaliating, suspension or dismissal would be an option. They may also consider not having the staff member work alone at any time.

I previously interviewed the PREA Coordinator, Laurie Lessard and Program Manager Lynda Olson. Both identified several steps that the agency would take to deal with retaliation and mentioned the criteria identified in the standards.

## 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? ☒ 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? ☒ 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? ☒ 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).] ☒ 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*)

LSS has designated five agency staff as PREA investigators. LSS conducts administrative investigations only. LSS policy states that all suspected criminal behavior shall be referred to law enforcement (Barron County Sheriff's Department). The agency provided documentation that the five investigators completed the NIC Investigating PREA training.

The PREA Policy and Procedures has specific details that investigators shall follow. This is a summary of the steps taken in an investigation: "All reports are forwarded to the PREA Coordinator and managers. The investigation team will consist of at least two investigators. If allegations involve a staff member, administrative leave is considered. The team will begin conducting interviews within 3-5 business days. Decision made about referrals for criminal charges will be based on the preponderance of evidence. The PREA Coordinator will be involved in all decisions. Law enforcement are updated on administrative investigation. Supervisor or manager will remain in contact with law enforcement to keep up to date on the criminal investigation. Residents will be informed as to the outcome (described per the standard ). DOC will make the determination regarding the abusers discipline, with input from the administrative and criminal investigation. Any staff found to be engaged in sexual harassment or abuse will be terminated. Clients files are retained for 10 years when there is a PREA investigation. After 30 days after the PREA case has been closed, investigative team and program leadership will meet to review and discuss any strategies or changes to operations or policies to prevent suture situations."

I have interviewed the PREA Coordinator, who is one of the designated investigators, several times while doing audits of LSS facilities using the interview protocols for investigative staff. I have also interviewed two of the other designated investigators. The PREA Coordinator was able to recite the various steps in conducting investigations. The agency would notify law enforcement if they needed to do a compelled interview. The agency would also consider a victim's credibility on an individual basis, not on the person's status as a resident. The PREA investigator and the Program Manager have been involved in several investigations at LSS facilities in the past couple of years.

BART has had no investigations involving sexual abuse or harassment since the facility opened in March 2017.

## 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*)

According to the agency PREA Coordinator, LSS uses "a preponderance of evidence" in determining whether allegations of sexual abuse or harassment are substantiated. LSS also identifies this standard in the Investigations section of the Policy and Procedures.

### 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? ☒ 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.) ☒ 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? ☒ 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? ☒ 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? ☒ 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? ☒ 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*)

The PREA Notice to Residents states that LSS will notify residents as to the outcome of an investigation, whether the allegation is substantiated, unsubstantiated, or unfounded. The Notice to Residents and PREA Policy and Procedures state that it will inform the residents as to the status (indictment) or disposition of the criminal investigation.

The PREA Policy and Procedures states that the supervisor or manager will remain in contact with law enforcement in order regarding any criminal investigation. The Policy and Procedures states that if a staff member is the subject of an allegation, that residents will be informed whether the staff has been placed on leave, and the disposition and outcome of any indictments or convictions from the criminal investigation. The policy states that such all notifications will be documented in writing in the client chart. BART has not received any allegations of sexual abuse or harassment since the facility opened.



## 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*)

The PREA Policy and Procedures address possible disciplinary sanctions for staff who violate agency sexual abuse policies. The policy states, "Disciplinary sanctions for staff who violate sexual abuse policies relating to sexual abuse and harassment (other than actually engaging in sexual abuse), shall be commensurate with the nature and circumstance of the act committed, the staff member's disciplinary history, and the sanction imposed for comparable offenses by other staff with similar histories. This language complies with the language in 115.276. The policy also states, "Staff found to have engaged in sexual harassment, sexual misconduct, sexual abuse will be terminated from employment." In addition, the LSS PREA Power Point addresses disciplinary sanctions for staff.

The PREA Policy and Procedures include language from (D), regarding terminations for violations of agency sexual abuse or sexual harassment policies where notification to law enforcement and/or licensing bodies is required (includes staff, contractors, and volunteers).

## **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? ☒ Yes ☐ No
- Is any contractor or volunteer who engages in sexual abuse reported to: Law enforcement agencies unless the activity was clearly not criminal? ☒ Yes ☐ No
- Is any contractor or volunteer who engages in sexual abuse reported to: Relevant licensing bodies? ☒ 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*)

BART does not have contract staff, volunteers or interns.

Other LSS facilities may have contract staff, volunteers or interns, so the agency does have a policy to address those situations. On the Pre-Audit Questionnaire it was noted that the agency would terminate interns and volunteers if any sexual abuse or harassment policy was violated. The PREA Policy and Procedures includes the following, "Contractors and/or Volunteer found to have engaged in sexual harassment, sexual misconduct, sexual abuse will be dismissed from services at any LSS ARJ facility." The Relias Power Point, which is used for training contractors and interns, addresses these sanctions for contractors and interns who violated PREA policies. The PREA Policy and Procedures include language from (D), regarding terminations for violations of agency sexual abuse or sexual harassment policies where notification to law enforcement and/or licensing bodies is required (includes staff, contractors, and volunteers).

## **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 (See comments below)

#### **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 (See comments below)

#### **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 (See comments below)
- 

#### **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 (See comments below)
- 

#### 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*)

Per the CEO/Designee, BART has no authority to sanction residents who engage in sexual abuse or harassment. All agency policies state the residents who engage in sexual abuse or harassment would be removed from the program. DOC would detain the resident pending their investigation and final disposition. If DOC revokes the supervision of the resident, they would be entitled to due process.

Regarding 115.278 (f), the LSS PREA Investigations policy states that LLS programs "have no ability to discipline a correctional client for making a false report. The relevant correctional entity (DOC) would be contacted if the report is found to be false and although a recommendation would be made by LSS, any discipline would be up to the correctional entity."

## 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*)

The Notice to Residents, PREA Policy and Procedures and the Relias Power Point specify that resident victims shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services. Victims shall "receive information and access to emergency contraception, testing for and treatment of sexually transmitted infections, including HIV, and prophylaxis at no cost to the resident. All necessary services will be provided to the resident victim as no cost, regardless of whether the victim names an abuser or cooperates with the investigation." Since there is usually no medical or mental health practitioners at BART, The PREA Policy and Procedures states that first responders staff take steps to protect the victim and shall notify the appropriate medical and mental health practitioners.

LSS has Inter-agency agreements for medical, crisis intervention, and support services. LSS has an Inter-Agency Agreement with the Community Referral Agency who would facilitate advocacy services. This would include arranging for the forensic exam, accompany victims through the forensic medical exam process and interviews, and provide support services, information, and referrals.

LSS has an Inter-Agency Agreement with Barron County Victim Witness Program which states that the program will provide ongoing emotional support and victim witness support and guidance. LSS also has an Inter-Agency

Agreement with the Community Referral Agency that states that the program will “provide an advocate to accompany the victim to the forensic exam, investigatory interviews, and related follow up.” It will also provide emotional support services as described in 115.253.

LSS has an Inter-Agency Agreement with Mayo Clinic Health Systems that states that the agency will “provide medical services/evaluations through a SAFE or SANE Nurse.

On October 16, 2017, I spoke with Kim Bates, who is a Sexual Assault Victim Advocate with the Community Referral Agency. Ms. Bates confirmed the information in the Inter-Agency Agreements. Their agency would coordinate the process of providing a victim advocate, setting up the forensic exam by a SANE nurse, and follow up services. She stated that victims could go to several different medical facilities, including Lake View for a forensic exam depending on the availability of a SANE nurse.

## **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*)

The PREA Policy and Procedures and Notice to Residents describe on-going medical services for victims. The documents state that the facility shall 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. The facility shall provide such victims with medical and mental health care services consistent with the community level of care. The documents also state that testing and treatment for pregnancy and sexually transmitted infections shall be provided. All services will be provided at no cost to the victim regardless of whether the victim cooperates with the investigation. Evaluation and treatment shall include follow up services, treatment plans, and referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.

As mentioned in 115.282, LSS has Inter-agency agreements for medical, crisis intervention, and support services. LSS has an Inter-Agency Agreement with the Community Referral Agency who would facilitate advocacy services. This would include provide support services, information, and referrals.

LSS has an Inter-Agency Agreement with Barron County Victim Witness Program which states that the program will provide ongoing emotional support and victim witness support and guidance. LSS also has an Inter-Agency Agreement with the Community Referral Agency that states that the program will provide emotional support services as described in 115.253.

LSS has an Inter-Agency Agreement with Mayo Clinic Health Systems that states that the agency will "provide medical services/evaluations through a SAFE or SANE Nurse.

On October 16, 2017, I spoke with Kim Bates, who is a Sexual Assault Victim Advocate with the Community Referral Agency. Ms. Bates confirmed the information in the Inter-Agency Agreements. She confirmed that their agency would coordinate follow up services for victims.

The PREA Policy and Procedures also states that the facility shall attempt to conduct a mental health evaluation and treatment for all known resident-on-resident abusers.

## 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*)

BART has not had any investigations of sexual abuse or harassment since it opened.

PREA Policy and Procedures states that executive staff will review all incidents. It defines who will be part of the team. Upper-level management staff are part of the team along with along with other designated LSS staff. The policy states that the review shall consider whether the incident or allegation was motivated by any factor in 115.286 (2) and to examine the area where the incident occurred to assess whether physical barriers in the area may enable abuse, and assess whether staffing levels are adequate, whether monitoring technology would be deployed. In addition, the policy states that a report shall be completed which includes the determinations made pursuant to the paragraphs (d) (1)-(d) (5) in the standard, as well as recommendation for improvement. The report shall go to the facility head and PREA coordinator.

### 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*)

According to the Pre-Audit Questionnaire and LSS management, the agency collects data for all allegations of sexual abuse at its facilities. The LSS PREA Policy and Procedures, states that following an incident, data shall be collected on a "Significant Events Reporting Form" along with data from the "ARJ Demographic and Outcome Measurement Form". The data collected complies with the standard and includes data necessary to answer all questions from the most recent Survey of Sexual Violence conducted by the DOJ. The PREA policy states that these documents shall be stored electronically.

#### 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*)

## Instructions for Overall Compliance Determination Narrative

The PREA Policy and Procedures addresses the agency policy regarding data review and its annual report.

According to the PREA Coordinator, LSS is collecting and reviewing data from all PREA reports. The agency published a PREA annual report (for the period of September 2015-September 2016) on the agency website. The agency recently published another report for the period of September 2016-December 2016. The agency identified this as a quarterly report because they intend to issue another report in January 2018 in order to follow the regular calendar year.

The current report lists PREA incidents at all LSS facilities. The report lists several corrective actions that the agency has taken in response to audits and incidents that have occurred during this period. The information in the report complies with the standards. Laurie Lessard, Director of Addictions/Restorative Justice, approves 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?  
☒ 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? ☒ Yes   ☐ No

##### 115.289 (c)

- Does the agency remove all personal identifiers before making aggregated sexual abuse data publicly available? ☒ 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? ☒ 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 PREA Policy and Procedures states that incident-based data and aggregate data shall be securely retained. Further, the policy states that the agency shall make the data collected available to the public through its website. The policy states that all personal identifiers be removed from the aggregate data that is provided to the public and that this data be maintain for at least 10 years from the date of initial collection. The amended policy complies with the standard. The agency recently published its annual PREA report on the agency website.

## 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*)

LSS staff cooperated at every step of the audit process. Because there were a small number of staff and residents, I was able to complete the audit process very quickly. However, the audit was very thorough as I was able to review documents and records for the entire period since the facility opened.

### 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*)

I reviewed the LSS website and its includes final reports from the five previous audits of Fahrman Center, Affinity House, Exodus House, Wazee House, and Cephas House. These final audit reports were issued between November 2016 and April 2017.

## 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.

Lawrence J. Mahoney

January 9, 2018

**Auditor Signature**

**Date**