

Prison Rape Elimination Act (PREA) Audit Report Adult Prisons & Jails

☐ Interim ☒ Final

Date of Report: March 15, 2020

Auditor Information

Name: Michelle L. Burrows

Email: burrowsm66@aol.com

Company Name:

Mailing Address: P.O. Box 802

City, State, Zip: Canal Winchester, OH 43110

Telephone: 614.519.8181

Date of Facility Visit: February 4-6, 2020

Agency Information

Name of Agency:

NY State Department of Corrections and Community Supervision

Governing Authority or Parent Agency (If Applicable):

Physical Address: **1220 Washington Avenue**

City, State, Zip: **Albany, NY 12226-2050**

Mailing Address:

City, State, Zip:

The Agency Is:

☐ Military

☐ Private for Profit

☐ Private not for Profit

☐ Municipal

☐ County

☒ State

☐ Federal

Agency Website with PREA Information:
<https://doccs.ny.gov/prea>

Agency Chief Executive Officer

Name: **Anthony J. Annucci**

Email: **commissioner@doccs.ny.gov**

Telephone: **518.457.8134**

Agency-Wide PREA Coordinator

Name: **Jason D. Effman**

Email: **Jason.effman@doccs.ny.gov**

Telephone: **518.457.3955**

PREA Coordinator Reports to:

Acting Commissioner

Number of Compliance Managers who report to the PREA Coordinator
16

Facility Information

Name of Facility: Attica Correctional Facility

Physical Address: 639 Exchange Street

City, State, Zip: Attica, NY 11401

Mailing Address (if different from above):
P.O. Box 149

City, State, Zip: Attica, NY 11401

The Facility Is:

☐ Military

☐ Private for Profit

☐ Private not for Profit

☐ Municipal

☐ County

☒ State

☐ Federal

Facility Type:

☒ Prison

☐ Jail

Facility Website with PREA Information: <https://doccs.ny.gov/location/attica-correctional-facility>

Has the facility been accredited within the past 3 years? ☒ Yes ☐ No

If the facility has been accredited within the past 3 years, select the accrediting organization(s) – select all that apply (N/A if the facility has not been accredited within the past 3 years):

☒ ACA

☐ NCCHC

☐ CALEA

☐ Other (please name or describe:

☐ N/A

If the facility has completed any internal or external audits other than those that resulted in accreditation, please describe:
PREA audit 2/15-17/2017

Warden/Jail Administrator/Sheriff/Director

Name: Joseph H. Noeth

Email: Joseph.Noeth@doccs.ny.gov

Telephone: (585) 591-2000 extension 2000

Facility PREA Compliance Manager

Name: Tim Franclemont, Assistant Deputy Superintendent/PREA Compliance Manager

Email: Tim.Franclemont@doccs.ny.gov

Telephone: (585) 591-2000 extension 2160

Facility Health Service Administrator ☐ N/A

Name: David Williams, M.D.

Email: David.Williams@doccs.ny.gov

Telephone: (585) 591-2000 extension 6000

Facility Characteristics		
Designated Facility Capacity:	2143	
Current Population of Facility:	1840	
Average daily population for the past 12 months:	1926	
Has the facility been over capacity at any point in the past 12 months?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Which population(s) does the facility hold?	<input type="checkbox"/> Females <input checked="" type="checkbox"/> Males <input type="checkbox"/> Both Females and Males	
Age range of population:	21-88	
Average length of stay or time under supervision:	981	
Facility security levels/inmate custody levels:	Maximum	
Number of inmates admitted to facility during the past 12 months:	1700	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:	1495	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:	1194	
Does the facility hold youthful inmates?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Number of youthful inmates held in the facility during the past 12 months: (N/A if the facility never holds youthful inmates)	<input checked="" type="checkbox"/> N/A	
Does the audited facility hold inmates for one or more other agencies (e.g. a State correctional agency, U.S. Marshals Service, Bureau of Prisons, U.S. Immigration and Customs Enforcement)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Select all other agencies for which the audited facility holds inmates: Select all that apply (N/A if the audited facility does not hold inmates for any other agency or agencies):	<input type="checkbox"/> Federal Bureau of Prisons <input type="checkbox"/> U.S. Marshals Service <input type="checkbox"/> U.S. Immigration and Customs Enforcement <input type="checkbox"/> Bureau of Indian Affairs <input type="checkbox"/> U.S. Military branch <input type="checkbox"/> State or Territorial correctional agency <input checked="" type="checkbox"/> County correctional or detention agency <input type="checkbox"/> Judicial district correctional or detention facility <input type="checkbox"/> City or municipal correctional or detention facility (e.g. police lockup or city jail) <input type="checkbox"/> Private corrections or detention provider <input type="checkbox"/> Other - please name or describe: Click or tap here to enter text. <input type="checkbox"/> N/A	
Number of staff currently employed by the facility who may have contact with inmates:	795	

Number of staff hired by the facility during the past 12 months who may have contact with inmates:	138 hires/transfers
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:	14
Number of individual contractors who have contact with inmates, currently authorized to enter the facility:	23
Number of volunteers who have contact with inmates, currently authorized to enter the facility:	239
Physical Plant	
Number of buildings: Auditors should count all buildings that are part of the facility, whether inmates are formally allowed to enter them or not. In situations where temporary structures have been erected (e.g., tents) the auditor should use their discretion to determine whether to include the structure in the overall count of buildings. As a general rule, if a temporary structure is regularly or routinely used to hold or house inmates, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.	74
Number of inmate housing units: Enter 0 if the facility does not have discrete housing units. DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house inmates of differing security levels, or who are grouped by some other operational or service scheme. Generally, the control room is enclosed by security glass, and in some cases, this allows inmates to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.	9
Number of single cell housing units:	8
Number of multiple occupancy cell housing units:	0
Number of open bay/dorm housing units:	1 (5 bed RCTP Dorm)
Number of segregation cells (for example, administrative, disciplinary, protective custody, etc.):	154
In housing units, does the facility maintain sight and sound separation between youthful inmates and adult inmates? (N/A if the facility never holds youthful inmates)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Does the facility have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Medical and Mental Health Services and Forensic Medical Exams		
Are medical services provided on-site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Are mental health services provided on-site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Where are sexual assault forensic medical exams provided? Select all that apply.	<input type="checkbox"/> On-site <input checked="" type="checkbox"/> Local hospital/clinic (Erie County Medical Center) <input type="checkbox"/> Rape Crisis Center <input type="checkbox"/> Other (please name or describe:	
Investigations		
Criminal Investigations		
Number of investigators employed by the agency and/or facility who are responsible for conducting CRIMINAL investigations into allegations of sexual abuse or sexual harassment:	31	
When the facility received allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), CRIMINAL INVESTIGATIONS are conducted by: Select all that apply.	<input checked="" type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity	
Select all external entities responsible for CRIMINAL INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for criminal investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: Click or tap here to enter text.) <input checked="" type="checkbox"/> N/A	
Administrative Investigations		
Number of investigators employed by the agency and/or facility who are responsible for conducting ADMINISTRATIVE investigations into allegations of sexual abuse or sexual harassment?	31	
When the facility receives allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply	<input checked="" type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity	
Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: Click or tap here to enter text.) <input checked="" type="checkbox"/> N/A	

Audit Findings

Audit Narrative

The auditor's description of the audit methodology should include a detailed description of the following processes during the pre-onsite audit, onsite audit, and post-audit phases: documents and files reviewed, discussions and types of interviews conducted, number of days spent on-site, observations made during the site-review, and a detailed description of any follow-up work conducted during the post-audit phase. The narrative should describe the techniques the auditor used to sample documentation and select interviewees, and the auditor's process for the site review.

The PREA Audit of the Attica Correctional Facility was conducted, February 4-6, 2020 by Michelle L. Burrows, Department of Justice (DOJ) certified PREA Auditor (team lead) and Sharon Shaver, (DOJ) Certified PREA Auditor (team member). Attica Correctional Facility had a prior PREA audit conducted February 15-17, 2017 which all standards were found compliant. There were no barriers to completing this audit. Attica CF is a maximum-security facility and no female inmates are housed at ACF.

Approximately four weeks prior to the audit the ADS/PREA Compliance Manager for the Attica Correctional Facility (ACF) mailed the lead Auditor a USB thumb drive. The thumb drive contained the facility PAQ and supplemental documentation. The documentation received was organized, highlighted and labeled appropriately. Several emails were exchanged between the lead auditor and the PREA Compliance Manager prior to the audit and following the audit, the lead auditor, the PREA Compliance Manager and the Superintendent were exchanging emails to obtain clarification. A folder for each PREA standard contained an outline of primary and secondary documentation relating to the specific provision of each standard.

The PAQ itself contained numerous files embedded/hyperlinked within it, which made the process for reviewing documentation much easier for the Auditor. Documentation contained on the thumb drive consisted of the Departmental Mission; aerial view and plot plan for the Attica Correctional Facility; and executive team chart with responsibilities of each deputy superintendent. PREA Audit - Pre-audit Questionnaire; documentation folders for each of the 43 PREA Standards; facility layout for ACF; DOCCS Web page home screen; DOH protocol; ACF FOM 3.501 - Coordinated response plan to an incident of inmate sexual abuse; ACF FOM 3.502 PREA Risk Screening. ACF Inmate Orientation Pamphlet; 115.15 Cross Gender Training; Several departmental directives pertaining to searches; ACA accreditation report for February 13-15, 2017 audit; training; and Directives 4027A and 4028A.

On January 2, 2020 the auditor sent an email to the PREA Compliance Manager requesting the following:

- 20-Random Employee background checks.
- 10-Contractor background checks.
- 20-Random Employee PREA training documentation.
- 10-Random Medical/Mental Health PREA specialized training documentation.
- 5-(Contractors) Medical/Mental Health PREA specialized training documentation.
- 20-Random Contractor/Volunteer PREA training documentation.
- Samples of written PREA Inmate education material, i.e. Inmate handbooks, posters, brochures.
- 20-Random Inmates that received PREA comprehensive education within 30 days of arrival.
- 20-Random Inmate Risk screenings for sexual victimization/abuse to include reassessment within 30 days of arrival.
- Completed sexual abuse & sexual harassment investigations; PAQ reported (during the past 12 months).

- Sample documentation for monitoring retaliation of sexual abuse & sexual harassment investigations over the past 12 months.
- All Sexual Assault Reviews during (from the past 12 month) for completed investigations of sexual abuse, excluding unfounded cases.

All documentation was obtained as requested. The background checks for employees and contractors are unable to be copied and retained by the auditor as they contain confidential information. However, the auditor did review the actual files and found them to be compliant with completing background checks.

The Auditors met with the facility staff on Tuesday, February 4, 2020 and discussed the PREA audit process and what could be expected during the on-site portion of the audit. The auditors divided the facility to conduct the tour as it was a large facility. The team member toured Visitation Area, A-Block, C-Block, Laundry, State Shop, Commissary, Dining Hall, Kitchen, SHU (Special Housing Unit), Draft Process/Intake, Regional Mental Health Unit Program Area, Hospital/Infirmary, ICP Program Area, Grievance Office, Mental Health Offices, Residential Crisis Treatment Program Area, Transitional Services and Storehouse. The lead auditor toured B-Block, Maintenance, Vocational II, Law Library, Gym, Industrial Metal Shop 1, Industrial Metal Shop 2, E-Block HU, D-Block HU, Vocational III, Chapel/Satellite Mess hall, Academic School, and General Library. The Auditors observed opposite gender staff announcing their presence upon entering inmate housing units and other areas that an inmate may be undressed, showering or using bathroom facilities.

The Audit Posting was sent to the facility via email by this auditor on December 30, 2019. The facility acknowledged receiving the audit posting and the postings were placed throughout the facility. This auditor requested a photograph of the postings with the date of posting and she observed the postings in all areas toured and they contained the information required by the DOJ. The dates of posting were January 6, 2020. Since this was only 5 weeks from the audit, I have requested the facility keep the postings up for another couple of weeks after the audit (DOCCS leaves them posted until completion of the report).

The Attica Correctional Facility is a multi-building complex. There are 8 single cell housing units and 1, five bed RCTP open bay/dorm housing unit. The standards require the auditors observe all areas of the audited facility paying attention to those areas of the facility that must be observed carefully in order to verify compliance with the standards. 1). Intake/reception/screening area. 2). All housing areas; 3). Health care area. 4). Recreation, cafeteria, and work areas, other programming areas (e.g., education or special education areas) 5). Areas that were renovated, modified, or expanded (if any). Attica Correctional Facility has not undergone any significant renovations or modifications during the past 12 months. Every area of the facility was observed as the standard requires, and the auditors observed inmates being supervised throughout the audit. Sight lines were closely examined as were the potential for blind spots.

The Auditors observed signage posted in languages both in English and other than English throughout the facility explaining inmate rights to be free from sexual abuse and how to report allegations of sexual abuse and harassment, to include in places where locked-down inmates could see them. The Auditors conducted formal and informal interviews with staff and inmates while touring; observed log-book entries for unannounced rounds being conducted by intermediate and higher-level facility staff; visually reviewed line of sight into bed areas and/or toilet and shower areas.

There are six (6) different PREA interview protocols consisting of the Agency Head, Facility Director, PREA Coordinator, Specialized Staff, Random Staff and inmates. These protocols are used by the auditor to interview staff and inmates as part of the audit. Answers from the interviews are part of the auditor's compliance assessment. On day one of the audit, Attica Correctional Facility reported a count of (1824) inmates. The Auditors conducted (22) random inmate interviews; (5) Limited English Proficient inmate interviews; (3) Transgender/Intersex inmate

interviews, (4) Gay/Bisexual inmate interviews; (7) Inmates who reported sexual abuse were interviewed; (6) inmates who reported sexual victimization during risk screening were interviewed; and (6) cognitive disability inmates. There were no inmates in segregation for involuntary placement at Attica CF. All inmates interviewed demonstrated knowledge of the agency's zero tolerance policy for sexual abuse, harassment & retaliation, and were able to identify how to report allegations of sexual abuse, harassment & retaliation.

On February 4-5, 2020 the Auditors were accompanied by Jason Effman, Associate Commissioner/Agency PREA Coordinator, and Dawn Butler Correctional Facility Operations Specialist. We discussed the activities and logistics for the audit being conducted at the Attica Correctional Facility.

Attica Correctional Institution employed (850) staff at the time of the on-site portion of the audit. The Auditors formally interviewed (24) random staff. It should be noted that the random sampling size of staff interviews comprised of Tours 1, 2 and 3 employees, civilian and non-civilian. The auditors also conducted specialized interviews with the following:

- (7) Medical/Mental Health staff;
- (1) Human resources staff;
- (2) Volunteer;
- (2) OSI Investigators;
- (5) Staff who perform screening for risk of victimization and abusiveness;
- (2) Staff members on the incident review team;
- (1) staff member in charge with monitoring retaliation;
- (5) staff first responders, both security and non-security staff interviewed;
- (1) Intake staff members
- (4) Intermediate/High Level Supervisors;
- (1) Segregation Supervisor
- (1) Superintendent;
- (1) PREA Compliance Manager;
- (1) PREA Point Person;
- (1) PREA Coordinator
- (2) Rape Crisis Center employees via phone.

All Specialized Staff interviews were conducted in accordance with the PREA Guidelines for Auditors: Specialized Staff Interviews.

The Suicide Prevention and Crisis Services, Inc. Case Manager was interviewed via telephone by the team member after the completion of the onsite audit. The Agency Head and PREA Coordinator interviews had previously been conducted by another DOJ certified PREA Auditor and was accepted by this Auditor.

During the past 12 months, the Attica Correctional Facility had (21) allegations of reported sexual abuse and sexual harassment. There were only 7 hotline calls made during the 12 months preceding the audit. All complaints were investigated by OSI or at the facility level at the direction of OSI. The Auditor conducted a formal interview with the Acting Asst. Deputy Chief of Investigations and a Senior-Investigator with the Office of Special Investigations (OSI) Sex Crimes Division on February 4, 2020 at Attica Correctional Facility. The Auditor determined PREA investigations are being completed per NYS DOCCS policy and procedures and are compliant with all applicable PREA standards. The investigators brought cases for my review in order to determine process of completion of investigations. As well as the lead auditor reviewed all investigations available at the facility which are maintained by the Deputy Superintendent of Security.

After the on-site audit was completed, the auditors conducted an exit-briefing with members of the Executive staff. The Auditors could not give an outcome of the audit. The Auditors thanked the facility staff and commended them on their hard work and commitment to the Prison Rape Elimination Act. During the report writing period the Auditor reviewed additional policies & procedures and supplementary documentation that was received during the audit and after the audit.

Facility Characteristics

The auditor's description of the audited facility should include details about the facility type, demographics and size of the inmate, resident or detainee population, numbers and type of staff positions, configuration and layout of the facility, numbers of housing units, description of housing units including any special housing units, a description of programs and services, including food service and recreation. The auditor should describe how these details are relevant to PREA implementation and compliance.

Attica Correctional Facility is located at 639 Exchange Street, Attica, New York. The town of Attica has a population of about 7,702 at the 2010 census and is in Western New York, 35 miles east of Buffalo. Attica is a class A-maximum security facility and houses maximum custody inmates exclusively. Attica is widely known as the scene of a deadly riot that occurred in September 1971, resulting in the death of 11 staff and 32 inmates.

Ground was broken for Attica in October 1929. The first prisoners arrived from Sing Sing prison in June 1931. The core of the facility is a rectangle of around eight grassy acres. Along each side of the rectangle is a three-tier cellblock (Blocks A-D). Cellblocks A-D house between 371-482 inmates each and are 600 feet long. Enclosed corridors connect the cellblocks at a point called "Times Square." Times Square is the symbolic center of the facility. Cellblock E is a two-tier unit that sits outside the inner quadrangle. E Block unit houses 199 inmates and was completed in 1966. Each of the housing units has a designated recreation yard. Ringed around the inner core of the facility are administrative, program, industry and support buildings. There are about 55 acres within the secure perimeter. The physical plant consists of 82 total buildings.

The facility has 2,133 individual cells. Since June 1995 several cells have been double bunked increasing the capacity to 2253. The double-bunking was achieved by double-bunking two of the cells at the front of most general confinement living units. With inmate population declining, the facility is now operating with single man cells. Permanent removal of double bunk cells was completed in October 2016.

Attica is surrounded by a massive concrete wall known as the "great gray wall." The wall is 30' tall and well over a mile long with tower posts and tapering spiral roofs situated at critical points along the wall's distance.

Since opening in 1931 there have been several buildings added to the original construction. As noted earlier, E Block housing unit was completed in 1966. This same year a one-story structure was placed next to the administration building. This structure houses the guidance office, chaplain's offices and visiting rooms. A new commissary was added in 1973. In 1974 a large gymnasium was added. In 1978 a two-story vocational building was added. A one-story "school annex" was added in 1984. In the late 1980s three "Family Reunion Program" modular homes were added. This program allowed inmates extended visits with family members. A modern 28 bed infirmary, located near the north wall, was opened in 1995.

Attica Correctional Facility offers a wide variety of rehabilitative and mental health programs. These include academic education, vocational training, industrial training, mental health counseling, Alcohol and Substance Abuse treatment (ASAT), Aggression Replacement Training (ART), AA, and volunteer services. Attica is classified as a Mental Health Services Level I facility. The facility operates an Intermediate Care Program (ICP), Transitional

Intermediate Care Program (TrICP), Group Therapy Program (GTP) and a Residential Crisis Treatment Program (RCTP).

Attica Correctional Facility is one of 52 facilities operated by the New York State Department of Corrections and Community Supervision (DOCCS). The mission of Attica Correctional Facility is “Enhance public safety by having incarcerated persons return home less likely to revert to criminal behavior.”

Summary of Audit Findings

The summary should include the number and list of standards exceeded, number of standards met, and number and list of standards not met.

Auditor Note: No standard should be found to be “Not Applicable” or “NA”. A compliance determination must be made for each standard.

Through interviews with a couple of LEP inmates, it was determined that when they were asked the risk screening questions, they did not totally understand the questions due to the language barrier. The facility was asked to re-assess all LEP inmates in their primary language to ensure they understand the questions by using an actual interpreter or the language line services. These documents are being sent to this auditor as they are completed and any new inmates that arrive with a language barrier are being asked the questions in their primary language.

Standards Exceeded

Number of Standards Exceeded: 8

List of Standards Exceeded: 115.11; 115.17; 115.18; 115.22; 115.34; 114.53; 115.67; 115.71

Standards Met

Number of Standards Met: 37 115.12; 115.13; 115.14; 115.15; 115.16; 115.21; 115.31; 115.32; 115.33; 115.35; 115.41; 115.42; 115.43; 115.51; 115.52; 115.54; 115.61; 115.62; 115.63; 115.64; 115.65; 115.66; 115.68; 115.72; 115.73; 115.76; 115.77; 115.78; 115.81; 115.82; 115.83; 116.86; 115.87; 115.88; 115.89; 115.401; 115.403

Standards Not Met

Number of Standards Not Met: 0

List of Standards Not Met: 0

PREVENTION PLANNING

Standard 115.11: Zero tolerance of sexual abuse and sexual harassment; PREA coordinator

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

115.11 (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

115.11 (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

115.11 (c)

- If this agency operates more than one facility, has each facility designated a PREA compliance manager? (N/A if agency operates only one facility.) ☒ Yes ☐ No ☐ NA
- Does the PREA compliance manager have sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards? (N/A if agency operates only one facility.)
☒ 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

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

New York State Department of Corrections and Community Supervision has two written policies mandating zero tolerance toward all forms of sexual abuse and sexual harassment (DIR4027A, Sexual Abuse Prevention & Intervention – Inmate on Inmates and DIR4028A, Sexual Abuse Prevention & Intervention – Staff on Inmate/Staff on Parolee). These two policies collectively outline the agency's approach to preventing, detecting, and responding to sexual abuse, sexual harassment, and sexual threats. Policies state sexual abuse and sexual harassment violate Department rules and threaten security and that all allegations of sexual abuse, sexual harassment, or retaliation for reporting such an incident of participating in an investigation will be thoroughly investigated. Policy states that perpetrators will be dealt with severely through discipline or prosecution to the fullest extent permitted by law. Policy provides definitions consistent with those found in Prison Rape Elimination Act of 2003, (PREA), 42 U.S.C. §15609. Under §130.05 of New York State Penal Law, it is a crime for staff to engage in a sexual act with an inmate or parolee. Strategies for prevention and response include training, a duty to report, requirements, and enforcement of discipline and prosecution for those who offend.

Jason Effman currently serves as Associate Commissioner/PREA Coordinator, as designated through memorandum dated April 23, 2013 from then Commissioner Brian Fischer. The PREA Coordinator is an upper level position in the agency hierarchy and reports directly to the Agency Head as indicated by New York State Department of Corrections and Community Supervision Central Office Organization Chart and interviews with PREA Coordinator and Agency Head. The Associate Commissioner/PREA Coordinator is a dedicated position and through interview with Associate Commissioner Effman, it was confirmed that his time is almost exclusively devoted to overseeing the agency's efforts to develop, implement and oversee agency efforts to comply with PREA standards in all his facilities and he has sufficient time and authority to do so. He further manages this through regular and direct coordination with sixteen (16) Assistant Deputy Superintendent/PREA Compliance Managers who are instrumental in PREA coordination and execution at the facility level. During his interview, Acting Commissioner Anthony J. Annucci articulated complete support of efforts by Associate Commissioner Effman, the Zero Tolerance mandate throughout the agency, and a continued commitment for agency compliance. Associate Commissioner Effman also communicated to the auditor his actual and implied authority and his ability to carry out duties without impediment and receiving support from the agency head.

The designated PREA Compliance Manager for Attica Correctional Facility is Tim Franclemont who also serves for Groveland, Wende, and Wyoming Correctional Facilities. He was promoted to this position effective January 18, 2018. The Assistant Deputy Superintendent/PREA Compliance Manager is an upper level position at the facility and reports to the facility Superintendent with joint reporting to Agency Associate Commissioner for PREA. Memorandum dated August 17, 2017, subject Facility PREA Point Person, from Deputy Commissioner for Correctional Facilities and Associate Commissioner for PREA designates the Assistant Deputy Superintendent as the facility compliance manager and directs each facility to identify and designate a PREA Point Person to assist the facility compliance manager in efforts to comply with PREA standards. Additionally, this directive outlines specific responsibilities of these local positions. These responsibilities include maintaining a direct and open line of communication with the ADS/PREA compliance manager, assisting with monitoring retaliation, ensuring

response to allegations, and serves as a member of the incident review team. The PREA Point Person for Attica Correctional Facility is Captain Robert Mitchell.

Based on auditor's analysis of related policy, review of executive memorandums, review of agency and facility organization charts, and formal staff interviews it is determined that Attica Correctional Facility satisfies all elements required of this standard. In addition, the designation of a PREA Point Person for every facility is above and beyond the minimum requirements, therefore, New York State Department of Corrections and Community Supervision and Attica is found to exceed this standard.

Standard 115.12: Contracting with other entities for the confinement of inmates

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

115.12 (a)

- If this agency is public and it contracts for the confinement of its inmates 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 inmates.) ☐ Yes ☐ No ☒ NA

115.12 (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 inmates.) ☐ 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

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

New York State Correction Law section 121 provides that the private operation or management of a correctional facility for housing state or local inmates or the private ownership or operation of a facility for the incarceration of other state's inmates is prohibited. Thus, no private prisons are operated on behalf of the Agency.

NYDOCCS has entered into agreements with private organizations for 14 Community Based Residential Programs to provide up to 4 months of housing and treatment for selected Parolees. These contracts were effective starting 5/1/17 (7 programs), 10/1/17 (6 programs) and July 23, 2018 (1 program). Each contract permits contract monitoring and requires the Program to achieve and maintain PREA Compliance, and to arrange for PREA Audits on a schedule set in consultation with the DOCCS Agency-Wide PREA Coordinator. This standard does not apply to Attica Correctional Facility as they do not contract directly with private agencies or other entities.

Standard 115.13: Supervision and monitoring

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

115.13 (a)

- Does the facility have a documented staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Generally accepted detention and correctional practices? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any judicial findings of inadequacy? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from Federal investigative agencies? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from internal or external oversight bodies? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated)? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The composition of the inmate population? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The number and placement of supervisory staff? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The institution programs occurring on a particular shift? ☒ Yes ☐ No ☐ NA

- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any applicable State or local laws, regulations, or standards? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The prevalence of substantiated and unsubstantiated incidents of sexual abuse? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any other relevant factors? ☒ Yes ☐ No

115.13 (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

115.13 (c)

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, 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, in consultation with the agency PREA Coordinator, 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, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The resources the facility has available to commit to ensure adherence to the staffing plan? ☒ Yes ☐ No

115.13 (d)

- Has the facility/agency implemented a policy and practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment? ☒ Yes ☐ No
- Is this policy and practice implemented for night shifts as well as day shifts? ☒ Yes ☐ No
- Does the facility/agency have a policy prohibiting staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the 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*)

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NYS DOCCS ensures that each facility has developed and documented a staffing plan that provides for adequate levels of staffing. A comprehensive and extensive staffing plan is developed and established through the New York State Department of Corrections and Community Supervision Security Information Staffing Unit. The staffing plan for Attica Correctional Facility is predicated on 2143 inmates. The average daily number of inmates since the last PREA audit is 1998 inmates. The current plan calls for 644 security positions, which includes the supervisory positions on each tour and two Captain positions. The plan takes into consideration staff utilization, post closures, additional services usage, preplanning practices, leave policies and schedules, local agreements, supervisory charts, and job descriptions in addition to each of the categories required by this standard to provide for adequate levels of staffing. Information obtained through personal review of documents noted, interview with the Superintendent, PREA Coordinator, Compliance Manager, and Deputy Superintendent. Attica Correctional Facility uses video monitoring throughout the facility.

Circumstances where the staffing plan (Plot Plan) is not complied with is documented directly into the database in the Post Closure Report using codes from the Post Closure Key. Any deviations from the staffing plan are documented and justified. Auditor's review of these reports and interviews with Superintendent and Assistant Deputy Supt. indicate deviations from staffing plan are consistently and thoroughly documented. The six most common reasons for deviating from the staffing plan were holidays, no inmates at WCCH, facility search, metal shop closed, facility training days and inclement weather.

The most recent staffing plan review was conducted by Superintendent Noeth and is dated October 15, 2019, as evidenced by memorandum reference subject Attica Correctional Facility Annual Supervision and Monitoring Plan Review. The review concluded that the facility's current staffing plan and monitoring infrastructure is adequate, and that the available staffing resources (644 security positions) are enough to meet the staffing plan. As indicated in the referenced memorandum, the review included generally accepted detention and correctional practices, any judicial finding of inadequacy (none), any findings of inadequacy from federal investigative agencies (none), findings of inadequacy from internal or external oversight bodies (none), all components of the physical plant, composition of inmate population, number and placement of supervisory staff, institution programs occurring on a particular shift, applicable State or local laws, regulations or standards, (Agency Directives & ACA), prevalence of substantiated and unsubstantiated incidents of sexual abuse. The annual review is a collaborative effort between the facility superintendent, compliance manager, and PREA Coordinator. Information verified through

personal observation, review of documents cited, interviews with Superintendent, PREA Coordinator, and Compliance Manager.

Standard 115.14: Youthful inmates

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

115.14 (a)

- Does the facility place all youthful inmates in housing units that separate them from sight, sound, and physical contact with any adult inmates through use of a shared dayroom or other common space, shower area, or sleeping quarters? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA

115.14 (b)

- In areas outside of housing units does the agency maintain sight and sound separation between youthful inmates and adult inmates? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA
- In areas outside of housing units does the agency provide direct staff supervision when youthful inmates and adult inmates have sight, sound, or physical contact? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA

115.14 (c)

- Does the agency make its best efforts to avoid placing youthful inmates in isolation to comply with this provision? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA
- Does the agency, while complying with this provision, allow youthful inmates daily large-muscle exercise and legally required special education services, except in exigent circumstances? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA
- Do youthful inmates have access to other programs and work opportunities to the extent possible? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ 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

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State of New York Executive Order No. 150 dated December 22, 2015 established separate correctional facilities within the New York State Department of Corrections and Community Supervision exclusively for youth. In 2018, the State of New York passed a "Raise the Age Law" which is being implemented in two phases starting in October 2018. Correction Law § 77, enacted effective April 10, 2017, required the state to establish one or more facilities to serve "adolescent offenders" sentenced to the Department of Corrections and Community Supervision. DIR0063 states the facility is used for general confinement of males 18 years of age or older. The daily population reports for past 12 months indicate no inmates under the age of 18 have been housed at Attica Correctional Facility. This fact was further confirmed during interviews with the Superintendent, PREA Coordinator, and Compliance Manager. This standard is not applicable to Attica Correctional Facility.

Standard 115.15: Limits to cross-gender viewing and searches

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

115.15 (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

115.15 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female inmates, except in exigent circumstances? (N/A if the facility does not have female inmates.)
☐ Yes ☐ No ☒ NA
- Does the facility always refrain from restricting female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision? (N/A if the facility does not have female inmates.) ☐ Yes ☐ No ☒ NA

115.15 (c)

- Does the facility document all cross-gender strip searches and cross-gender visual body cavity searches? ☒ Yes ☐ No
- Does the facility document all cross-gender pat-down searches of female inmates? (N/A if the facility does not have female inmates.) ☐ Yes ☐ No ☒ NA

115.15 (d)

- Does the facility have policies that enables inmates 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 have procedures that enables inmates 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 inmate housing unit? ☒ Yes ☐ No

115.15 (e)

- Does the facility always refrain from searching or physically examining transgender or intersex inmates for the sole purpose of determining the inmate's genital status? ☒ Yes ☐ No
- If an inmate's genital status is unknown, does the facility determine genital status during conversations with the inmate, 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

115.15 (f)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

DOCCS/Attica Correctional Facility policy prohibits cross-gender strip searches or cross gender visual body cavity searches. All strip searches are authorized by a supervisor and documented. The facility has implemented policies and procedures that enable inmates to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their buttocks, or genitalia, except when such viewing is incidental to routine checks. Staff is trained to conduct cross-gender pat-down searches, in case of an emergency, and searches of transgender and intersex inmates using the least intrusive method possible. Staff interviews showed a thorough understanding of the inmate search policy. All security staff receive annual training, shift briefing training in conjunction with the PREA video training, which covers policy and procedures concerning searches.

As observed by the auditors, staff are knowledgeable and professional in conducting searches. The PAQ showed that 100% of security staff received the appropriate training. During the tour of the facility the Auditors observed staff announcements made when entering areas where inmates were likely to be showering, performing bodily functions, or changing clothing. Attica CF does not search or physically examine inmates for the sole purpose of determining the inmate's genital status. If the inmate's genital status is unknown, it may be determined during conversations with the inmate, 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.

The Auditor received secondary documentation of staff training records submitted with the PAQ and reviewed additional training records and lesson plans on-site and saved copies to a flash drive. Through interviews with staff and inmates it was determined proper cross-gender pat-down searches, and searches of transgender and intersex inmates are conducted in accordance with policy & procedures.

Attica CF has not conducted any cross-gender strip searches or cross-gender visual body cavity searches in the past 12 months. Attica CF is an all-male facility, therefore 115.15 (b) and parts of (c) are N/A as there are no female inmates housed at ACF. This is outlined in NY DOCCS DIR 2230, Guidelines for Assignment of Male and Female Correctional Officers dated 02/21/2019; HSPM 1.37 Body Cavity Search 12/29/16 & DIR4001, Facility Administrative Coverage & Supervisory Rounds dated 4/25/19. Other directives and information relied upon to find compliance are: HSPM 1.19 Health Appraisal dated 6/11/19; and NYS DOCCS DIR 4910, Control and Search for Contraband dated 6/28/19 and memo update of DIR 4910 dated July 18, 2019.

Standard 115.16: Inmates with disabilities and inmates who are limited English proficient

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

115.16 (a)

- Does the agency take appropriate steps to ensure that inmates 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: inmates who are deaf or hard of hearing? ☒ Yes ☐ No

- Does the agency take appropriate steps to ensure that inmates 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: inmates who are blind or have low vision? ☒ Yes ☐ No
- Does the agency take appropriate steps to ensure that inmates 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: inmates who have intellectual disabilities? ☒ Yes ☐ No
- Does the agency take appropriate steps to ensure that inmates 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: inmates who have psychiatric disabilities? ☒ Yes ☐ No
- Does the agency take appropriate steps to ensure that inmates 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: inmates who have speech disabilities? ☒ Yes ☐ No
- Does the agency take appropriate steps to ensure that inmates 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 inmates who are deaf or hard of hearing? ☒ Yes ☐ No
- Do such steps include, when necessary, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary? ☒ Yes ☐ No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates 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 inmates with disabilities including inmates 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 inmates with disabilities including inmates who: Are blind or have low vision? ☒ Yes ☐ No

115.16 (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 inmates who are limited English proficient? ☒ Yes ☐ No

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

115.16 (c)

- Does the agency always refrain from relying on inmate interpreters, inmate readers, or other types of inmate assistance except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under §115.64, or the investigation of the inmate'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*)
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Attica Correctional Facility takes steps and has a policy which ensures inmates 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. Attica provides inmates with materials which are available in English and Spanish as well as several other languages (Chinese, Korean, Russian, etc.). They also have access to a translation hotline. PREA posters and educational materials are provided in English and Spanish. Inmates who are deaf are provided PREA information through written form, i.e. PREA guidelines, Education Brochures and Videos with subtitles. Inmates who are blind or sight impaired are provided an audio track in English, Spanish and six additional languages. PREA Videos are available with subtitles. Attica does not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise an inmate's safety, the performance of first-responder duties, or the investigation of an inmate's allegations.

The Auditors observed throughout the facility written materials, posters, pamphlets all in multiple languages advising inmates of their rights to be free from sexual abuse, sexual harassment and retaliation and how to report such. There were (11) inmates with limited English speaking and an interpreter was utilized to interview three of them.

The Auditors conducted random staff and inmate interviews and interviewed the (Intake) staff as well as reviewed the following policies/procedures and supporting documentation provided with the PAQ and on-site: NYDOCCS DIR2612, Inmates with Sensorial Disabilities dated 12/27/18; DOCCS DIR 4490, Cultural and Language Access Services dated 8/1/19; Associate Commissioner Memo – RE: “Ending Sexual Abuse Behind the Walls: An Orientation” DVD; and Brochures in English, Haitian Creole, Italian, Polish, Russian, Simplified Chinese, Spanish and Korean. Auditor’s analysis of documented interpretive services, contracts, interviews with staff and inmates conclude Attica Correctional Facility meets provisions of this standard.

Standard 115.17: Hiring and promotion decisions

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

115.17 (a)

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates 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 inmates 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 inmates 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 inmates 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 inmates 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 inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? ☒ Yes ☐ No

115.17 (b)

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

115.17 (c)

- Before hiring new employees, who may have contact with inmates, does the agency perform a criminal background records check? ☒ Yes ☐ No
- Before hiring new employees who may have contact with inmates, 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

115.17 (d)

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

115.17 (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 inmates or have in place a system for otherwise capturing such information for current employees? ☒ Yes ☐ No

115.17 (f)

- Does the agency ask all applicants and employees who may have contact with inmates 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 inmates 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

115.17 (g)

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

115.17 (h)

- 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

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NYDOCCS prohibits hiring and/or promoting anyone who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution. DOCCS completes criminal background checks on all new employees, contract staff and volunteers before they can have contact with inmates. DOCCS policy requires that all new employees be asked whether they have engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution; been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse or been civilly or administratively adjudicated to have engaged in the activity described above.

DOCCS has an agreement with the New York State Division of Criminal Justice Services to notify the agency of any arrest of an employee, contract staff or volunteer unless the Division is prohibited by State statute to do so. Additionally, policy requires staff to report any criminal charges immediately. Attica CF hired (11) new employees and had (127) transfers within the past 12 months. In the past 12 months, the number of contracts for services where criminal background record checks were conducted on all staff covered in the contract who might have contact with inmates, Attica CF had (14). It is evident Attica Correctional Facility does not hire, promote staff or contractors who have engaged in sexual abuse in Prisons, Jails, Lockups or other confinement facilities.

The auditor relied on random staff interviews, Human Resources Manager interview, Investigative Staff interview, Superintendent Interview and the following policies/procedures and supporting documentation: DOCCS DIR2216, Fingerprinting/Criminal History Inquiry New Employees and Contractors; NYS Department of Correctional Services Personal Procedure Manual 406A Recruitment Process; Directive 2112, Report of Criminal Charge; Directive 2012, Release of Employee Personnel and Payroll Information; Memo: from Darren Ayotte, Director of Personnel, RE: Personnel Procedure 407 – Civilian Promotions, Personnel Procedure Manual 407A – Security Promotions; RE: Prison Rape Elimination Act (PREA)-Background Checks Appendix A.

Interviews conducted with Acting Commissioner, Associate Commissioner/PREA Coordinator, Superintendent, Human Resources Manager combined with the body of documents reviewed validate the protocols identified in above narrative are followed at Attica Correctional Facility finding compliance with this standard. The auditor needs to note that evaluation of the protocols and procedures of the Agency's on-going, real-time system in place for notification of any criminal activity and that criminal background checks are run on all volunteers where it is not required by this standard, ACF exceeds this standard.

Standard 115.18: Upgrades to facilities and technologies

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

115.18 (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 inmates 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

115.18 (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 inmates 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*)
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Attica Correctional Facility has not acquired a new facility or made a substantial expansion to the facility since the last PREA audit. However, DIR3053, Alterations/ Construction Request establishes policy that requires consideration of the effect of the design, acquisition, or modification upon the agency's ability to protect inmates from sexual abuse when designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities. Form1612, Alterations/Construction Request, contains section for superintendent to indicate if alteration/modifications will enhance, have no impact, or have negative impact on the facility's ability to protect inmates from sexual abuse.

Attica Correctional Facility has updated/added to the current video monitoring system, electronic surveillance system, or other monitoring technology since their last PREA audit. Attica Correctional Facility underwent an extensive video camera monitoring project that was mostly completed in February 2017. By February of 2018, there were approximately 70 more cameras added throughout the facility, bringing the camera total upwards of 2500. The facility has exceptional coverage via video monitoring which makes it very difficult to commit any wrongdoing. These cameras are not constantly monitored; however, the Superintendent assigns different areas, weekly, to Executive Team members to check for any policy/procedure violations and if an allegation is made, the cameras will be immediately reviewed. The hard drives can maintain recordings for up to 30 days.

DIR3053, Alterations/Construction Request establishes policy that requires consideration of how such technology may enhance the agency's ability to protect inmates from sexual abuse when installing or updating electronic monitoring technology. Review of the Staffing Plan indicates use of electronic surveillance is a consideration when the annual reviews are conducted.

Compliance with this standard was determined based on policy review and interviews with Acting Commissioner, Superintendent and PREA Compliance Manager, review of Attica Correctional Facility's Annual PREA staffing plan; observational tour of the facility. Attica Correctional Facility meets provisions of this standard. With the amount of coverage of these cameras, Attica CF exceeds this standard.

RESPONSIVE PLANNING

Standard 115.21: Evidence protocol and forensic medical examinations

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

115.21 (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

115.21 (b)

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

115.21 (c)

- Does the agency offer all victims of 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

115.21 (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? (N/A if the agency *always* makes a victim advocate from a rape crisis center available to victims.) ☐ Yes ☐ No ☒ NA
- Has the agency documented its efforts to secure services from rape crisis centers? ☒ Yes ☐ No

115.21 (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

115.21 (f)

- If the agency itself is not responsible for investigating allegations of sexual abuse, has the agency requested that the investigating agency 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

115.21 (g)

- Auditor is not required to audit this provision.

115.21 (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? (N/A if agency *always* makes a victim advocate from a rape crisis center available to victims.) ☐ 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

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

NYDOCCS is responsible for criminal and administrative investigations. The Department's Office of Special Investigations Sex Crimes Division conducts the investigations. The Department works with the New York State Police Bureau of Criminal Investigation to investigate reports of Staff-on-Inmate and Inmate-on-Inmate sexual assault that may involve criminal charges. Directives for Sexual Abuse Reporting and Investigation and the Inmate on Inmate Sexual Abuse Dispatch and Operational Guidelines outline evidence protocols for administrative investigations and criminal prosecutions. NYDOCCS utilizes community hospitals that follow the National Protocol for Sexual Assault Medical Forensic Examinations for evidence protocols and forensic medical examinations.

Operational Guidelines-Office of Special Investigations (OSI) Immediate Dispatch, Inmate on Inmate/Staff on Inmate; outlines the agency's approach to the extent the agency is responsible for investigating allegations of sexual abuse, the agency follows a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. Interviews were conducted with investigators from the Office of Special Investigations on February 4, 2020.

Emergency health care as well as forensic examinations by SANE/SAFE staff are provided at an outside facility with no cost to the inmate. An advocate is provided to the inmate upon request to provide emotional support through the forensic medical examination and investigation interviews. There were no forensic medical exams performed in the last twelve months. SANE/SAFE exams are performed at Erie County Medical Center and can also be

performed at Wyoming County Community Hospital in Warsaw NY and Buffalo General Hospital in Buffalo. The Auditor finds compliance with this standard after interviews with medical staff, OSI investigators, PREA Compliance Manager and review of the following documentation: Directive 4027B – Sexual Abuse Reporting & Investigation Inmate – on – Inmate; HSPM 1.60 – Sexual Assault Operational Guidelines – Office of Special Investigations, Immediate Dispatch: Inmate – on – Inmate/Staff – on – Inmate; Department of Health Protocol for the Acute Care of Adult Patient Reporting Sexual Assault; New York State Police Superintendent Letter - RE: Implementation of the PREA Standards; and Power Point Presentation Excerpt: PREA Specialized Training: Investigations.

Standard 115.22: Policies to ensure referrals of allegations for investigations

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

115.22 (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

115.22 (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

115.22 (c)

- If a separate entity is responsible for conducting criminal investigations, does the policy describe the responsibilities of both the agency and the investigating entity? (N/A if the agency/facility is responsible for criminal investigations. See 115.21(a).) ☐ Yes ☐ No ☒ NA

115.22 (d)

- Auditor is not required to audit this provision.

115.22 (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

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NYDOCCS works with the New York State Police Bureau of Criminal Investigation to investigate reports of Staff – on-Inmate and Inmate-on-Inmate sexual assault that may involve criminal charges. All allegations are investigated and reported with findings as required by this standard. DOCCS Directives, Sexual Abuse Reporting and Investigations Inmate on Inmate, Sexual Abuse Reporting and Investigations Staff on Inmate and Office of Sexual Investigations Sex Crimes Unit, require that all allegations of sexual abuse and sexual harassment be referred for investigation. The Office of Special Investigations Sex Crimes Division conducts these investigations. The PAQ showed that an “external” entity conducts investigations; however, after discussion with the PREA Coordinator, the State Police assist with the investigations but OSI does not relinquish authority of the investigations. Therefore, all criminal and administrative investigations are conducted by DOCCS.

Documentation of the administrative investigation is maintained by the Office of Special Investigations Sex Crimes Division and outcomes are shared with the Superintendent. Interviews conducted with investigators from the Office of Special Investigations demonstrated a better understanding of their responsibilities in an investigation. The roles and responsibilities are clearly defined in policy. The agency’s policy is available on the agency’s website. Attica Correctional Facility had (21) reported cases of sexual abuse or harassment during the auditing period. Seventeen of the allegations were referred for criminal investigation and four resulted in an administrative investigation.

Interviews were conducted with investigators from the Office of Special Investigations on February 4, 2020. Interviews confirmed that PREA investigations are completed as outlined by the standards and both investigators were very knowledgeable of the investigation process, evidence collection protocols, and the use of the Sexual Abuse Checklist. Interviews confirmed that PREA investigations are completed as outlined by the standards. Both investigators were very knowledgeable of the investigation process. The investigators brought several investigations for my review. The investigations reviewed were thorough and complete. There were at least (6) investigations categorized at “unfounded” due to the fact, video monitoring was able to determine the allegation did not happen.

The auditor-based compliance on interviews with the Superintendent, OSI investigators, random staff, inmate interviews, PREA Compliance Manager/PREA Point Person, and reviewed the following policies/procedures: Directive 0700 – Office of Special Investigations; Directive 4027A – Sexual Abuse Prevention & Intervention Inmate – on – Inmate Directive 4027B – Sexual Abuse Reporting & Investigation Inmate – on – Inmate; Directive 4028A – Sexual Abuse Prevention & Intervention Staff-on-Inmate; Directive 4028B – Sexual Abuse Reporting & Investigation Staff-on-Inmate. The Acting Commissioner of DOCCS has delegated the authority to conduct administrative and criminal investigations to the Office of Special Investigations (OSI) in accordance with Correction Law 112 and Directive 0700, Office of Special Investigations.” OSI works cooperatively with the New York State Police (NYSP), Bureau of Criminal Investigation (BCI) in the investigation of reported incidents of staff on inmate and inmate-on-inmate sexual abuse that may involve criminal conduct.

TRAINING AND EDUCATION

Standard 115.31: Employee training

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

115.31 (a)

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates 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 inmates on inmates' right to be free from sexual abuse and sexual harassment ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on the right of inmates 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 inmates on the dynamics of sexual abuse and sexual harassment in confinement? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on the common reactions of sexual abuse and sexual harassment victims? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates 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 inmates on how to avoid inappropriate relationships with inmates? ☒ Yes ☐ No

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

115.31 (b)

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

115.31 (c)

- Have all current employees who may have contact with inmates 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

115.31 (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*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's

conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

Staff at Attica Correctional Facility, when interviewed, demonstrated knowledge and insight into PREA. Staff at the facility were asked specific, scripted questions from the random staff interview format, all of which were professionally and confidently answered. The questions were directed at specific training about the following: The agency zero-tolerance policy for sexual abuse and sexual harassment; How to fulfill their responsibilities concerning prevention, detection, reporting, and response concerning sexual abuse and sexual harassment; The inmates' rights to be free from sexual abuse and sexual harassment; Inmate and employee's rights to be free from retaliation for reporting sexual abuse and sexual harassment; The dynamics of sexual abuse and harassment in confinement; The common reaction of victims to sexual abuse and sexual harassment; How to detect signs of sexual abuse and sexual harassment; How to avoid inappropriate relationships; How to communicate effectively and professionally with inmates (LGBTI); and how to comply with relevant laws related to mandatory reporting.

Additional questions were also asked of staff concerning their training, their first responder duties, inmate reporting of sexual abuse and sexual harassment, inmate limited privacy issues (including "knock and announce") and the safety and security of staff and inmates at the facility. Staff responses to the questions were appropriate. The agency provides PREA refresher training every two years during in-service. Employees are kept updated on these policies through pre-shift briefings and annual in-service. Many materials the Auditor reviewed for evaluating this standard were dated within the past 12 months. DOCCS is running PREA refresher training for staff during the first quarter of 2020. This also includes: *Stereotype Threat* and *Ensuring Professional Interactions with LGBTIQ+*.

The auditor relied on random staff interviews, interview with PREA Compliance Manager and the following policies/procedures, manuals, documents, etc.: Training Manual Subject: 0.100 – Frequency Training Chart and Training Bulletins; Training Bulletin 7, PREA: Sexual Abuse Prevention and Response; Training Manual Subject: 7.100 – Employee Familiarization; Training Manual Subject: 7.000 – Initial Employee Training 40-hour Orientation; Acting Commissioner Memo – RE: Policies and Standards Generally Applicable to all Employees; Deputy and Associate Commissioner Memo – RE: Sexual Abuse Prevention and Response Training; Sexual Abuse Prevention and Response Lesson Plan and training documentation reviewed sent with the PAQ as well as provided during the on-site visit which meets the standard. During staff interviews, the Auditor was consistently impressed with the effectiveness of the training program since everyone—no matter what the question—immediately supplied an appropriate answer. ACF clearly places an emphasis on employee training, both security and non-security, as indicated by the excellent training curriculum used for employee training (initial and subsequent in the first year and later in-service/refresher training as specified by policy).

Standard 115.32: Volunteer and contractor training

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

115.32 (a)

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

115.32 (b)

- Have all volunteers and contractors who have contact with inmates 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 inmates)? ☒ Yes ☐ No

115.32 (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*)

Instructions for Overall Compliance Determination Narrative

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All contractors and volunteers (239) who have contact with inmates at the Attica CF receive PREA training prior to working in the facility. Orientation includes the agency's policy and procedures regarding sexual abuse and sexual harassment prevention, detection, reporting, and response including zero tolerance. Upon completion of orientation, the volunteer/contractor signs the Acknowledgment Form. Signed forms are maintained at the facility. Attica CF had two volunteers and a couple of contractors available during the on-site audit for interview and they were knowledgeable of their role and responsibilities. Acknowledgment forms were provided with the PAQ and onsite for review to ensure compliance to this standard is met.

The auditor relied on the interviews with the volunteers, volunteer coordinator, PREA Compliance Manager and the following documentation to determine compliance: Directive 4027A – Sexual Abuse Prevention & Intervention Inmate – on – Inmate; Directive 4028A – Sexual Abuse Prevention & Intervention Staff – on – Inmate; Directive 4071 – Guidelines for Construction Projects; Directive 4750 – Volunteer Services Program; Acting Commissioner Memo – RE: Policy on the Prevention of Sexual Abuse of Offenders to all Employees, Contractors, Volunteers and Interns; and review of the Volunteer and Contractor training and acknowledgment forms.

Standard 115.33: Inmate education

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

115.33 (a)

- During intake, do inmates receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment? ☒ Yes ☐ No
- During intake, do inmates receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment? ☒ Yes ☐ No

115.33 (b)

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Their rights to be free from sexual abuse and sexual harassment? ☒ Yes ☐ No
- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Their rights to be free from retaliation for reporting such incidents? ☒ Yes ☐ No
- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Agency policies and procedures for responding to such incidents? ☒ Yes ☐ No

115.33 (c)

- Have all inmates received the comprehensive education referenced in 115.33(b)? ☒ Yes ☐ No
- Do inmates receive education upon transfer to a different facility to the extent that the policies and procedures of the inmate's new facility differ from those of the previous facility? ☒ Yes ☐ No

115.33 (d)

- Does the agency provide inmate education in formats accessible to all inmates including those who are limited English proficient? ☒ Yes ☐ No
- Does the agency provide inmate education in formats accessible to all inmates including those who are deaf? ☒ Yes ☐ No
- Does the agency provide inmate education in formats accessible to all inmates including those who are visually impaired? ☒ Yes ☐ No
- Does the agency provide inmate education in formats accessible to all inmates including those who are otherwise disabled? ☒ Yes ☐ No

- Does the agency provide inmate education in formats accessible to all inmates including those who have limited reading skills? ☒ Yes ☐ No

115.33 (e)

- Does the agency maintain documentation of inmate participation in these education sessions? ☒ Yes ☐ No

115.33 (f)

- In addition to providing such education, does the agency ensure that key information is continuously and readily available or visible to inmates through posters, inmate 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*)

Instructions for Overall Compliance Determination Narrative

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NYDOCCS provides PREA education to all inmates beginning at intake into the agency. At reception, inmates are provided a PREA brochure and inmate handbook which explains the agency's zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents. When receiving inmates at the facility, the Draft Sgt. covers the PREA information with the inmate. The inmate also receives an Inmate Orientation Manual that includes PREA information and a pamphlet "The Prevention of Sexual Abuse in Prison." These materials cover the agency's zero tolerance policy and how to report incidents. Inmates also view the PREA video "Ending Sexual Abuse Behind the Walls: An Orientation."

Inmate education is documented for each inmate and maintained in the inmate's file. Random inmate interviews confirm they have received PREA information at intake and during orientation at the facility. All inmates transferred to Attica Correctional Facility receive a PREA brochure in preferred language upon arrival, explaining the agency's and facility's zero-tolerance policy regarding sexual abuse and sexual harassment and explaining how to report incidents or suspicions of sexual abuse or sexual harassment. The PREA brochure is offered during the

interview with the Draft Sgt. who covers the Zero Tolerance policy verbally and tells the inmate how to make a report. Attica CF intake was observed by the team member and the inmate received the information on the zero-tolerance policy and the facility rules against prison rape. The inmate was asked if it was ok for the auditor to sit in on his risk screening and he agreed it was fine. The documentation was reviewed prior to, during and after the audit to ensure the facility is compliant with this standard.

The auditors relied on information provided with the PAQ and random interviews with staff/inmates, Draft Sgt., Superintendent and the following documentation: Directive 4021 – Offender Reception/Classification; Directive 4027A – Sexual Abuse Prevention & Intervention Inmate – on – Inmate; Deputy Commissioner for Program Services Memo – RE: PREA: Inmate Orientation Film Implementation; Associate Commissioner Memo – RE: New and Updated PREA Material; Associate Commissioner Memo – RE: Sexual Abuse Prevention Inmate Orientation Outline; Attica Correctional Facility: Inmate Orientation Sign-in Sheets, PREA Posters and Pamphlets; and a review of Draft Receipts of randomly selected inmate records was conducted.

Standard 115.34: Specialized training: Investigations

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

115.34 (a)

- In addition to the general training provided to all employees pursuant to §115.31, does the agency ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators receive 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 115.21(a).) ☒ Yes ☐ No ☐ NA

115.34 (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 115.21(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 115.21(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 115.21(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 115.21(a).) ☒ Yes ☐ No ☐ NA

115.34 (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 115.21(a).)
☒ Yes ☐ No ☐ NA

115.34 (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*)

Instructions for Overall Compliance Determination Narrative

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NYDOCCS Office of Special Investigations (OSI) Policy Manual Chapter 5 (confidential) sets forth training requirements for Sex Crimes Investigations; ensures in addition to the general training provided to all employees pursuant to §115.31, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings. DOCCS has played a key role introducing legislation to make sexual conduct between an employee and an inmate under the Department's custody, a crime. Shortly after that law was enacted in 1996, the Department established a "Sex Crimes Unit" within the Office of Special Investigations, one of the first in the nation. These specialized investigators work closely with the New York State Police Bureau of Criminal Investigations.

The lead auditor interviewed two DOCCS Investigators from (OSI) Sex Crime Division on February 4, 2020; reviewed training records/logs for investigative staff and determined specialized training for sexual abuse investigations has been conducted for all DOCCS investigative staff. OSI investigators are sent to multiple trainings to stay up to date with any new evidence protocols and technology discoveries. During the interviews of the investigators, the Auditor discussed practices and reviewed sample investigations pertaining to Attica Correctional Facility. The agency meets this standard with just the basic training for the investigators. Based on analysis of information obtained from interviews, document review, investigator's training records and certifications, and policy review, Attica Correctional Facility meets requirements of this standard. In addition, auditor's analysis of the extensive training acquired by investigators assigned to this specialized unit as described in the paragraph above, the Agency and Attica Correctional Facility exceeds the requirements of this standard.

The Auditor reviewed training records/logs for investigative staff and determined specialized training for sexual abuse investigations has been conducted for all DOCCS investigative staff. National Institute of Corrections Training (Section Overview) PREA: Investigating Sexual abuse in Confinement Settings (DOCCS Course Code 17072); Chapter 5, Sex Crimes Division (confidential procedures); the agency specialized training includes techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. Report of Training Form for PREA Specialized Training-9/18/18 RE: Investigations; documents that the agency investigators have completed the required specialized training in conducting sexual abuse investigations. DOCCS currently has 31 investigators employed who have completed the required training.

Standard 115.35: Specialized training: Medical and mental health care

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

115.35 (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? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) ☒ Yes ☐ No ☐ NA
- 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? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) ☒ Yes ☐ No ☐ NA
- 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? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) ☒ Yes ☐ No ☐ NA
- 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? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) ☒ Yes ☐ No ☐ NA

115.35 (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 or the agency does not employ medical staff.) ☐ Yes ☐ No ☒ NA

115.35 (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? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) ☒ Yes ☐ No ☐ NA

115.35 (d)

Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.31? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners employed by the agency.) ☒ Yes ☐ No ☐ NA

- Do medical and mental health care practitioners contracted by or volunteering for the agency also receive training mandated for contractors and volunteers by §115.32? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners contracted by or volunteering for the agency.) ☒ 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

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

NYS DOCCS, Attica Correctional Facility has an MOU with the New York State Office of Mental Health. A review of the PAQ showed the facility had 100% of medical/mental health staff completing this training. Attica CF does not conduct forensic exams. If a forensic exam would be required, the inmate will be transported to a local hospital (Erie County Medical Center). Staff interviewed were very familiar with first responder duties and protocols when an inmate must go out for a forensic exam. When the inmate returns from the hospital, they are placed in the infirmary where they remain until seen by medical/mental health for follow-up care assessments.

NYS DOCCS Training Manual Subject 7.000; 40 hour Orientation/Initial Employee Training, Non-Peace Officer Employees at Facilities - 8/13/18 (Mandatory); Office Of Mental Health (OMH) Memorandum of Understanding- 9/14/16; Power Point Presentation: PREA: Medical and Mental Health Care HSPM 1.60 and PREA Standards; outlines how the agency shall 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; How to preserve physical evidence of sexual abuse; How to respond effectively and professionally to

victims of sexual abuse and sexual harassment; and How and to whom to report allegations or suspicions of sexual abuse and sexual harassment. The Auditors determined medical/mental health staff are very familiar with PREA and the process for detecting and assessing signs of sexual abuse and sexual harassment and how to preserve physical evidence of sexual abuse.

The agency shall maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere. The Auditor reviewed training documentation; Regional Training Forms, Specialized Training Medical/Mental Health Staff. The Auditor received completed staff training records and reviewed additional documentation while on-site and post audit.

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Standard 115.41: Screening for risk of victimization and abusiveness

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

115.41 (a)

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

115.41 (b)

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

115.41 (c)

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

115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate 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 inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate 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 inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes? ☒ Yes ☐ No

115.41 (e)

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

115.41 (f)

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

115.41 (g)

- Does the facility reassess an inmate's risk level when warranted due to a referral? ☒ Yes ☐ No
- Does the facility reassess an inmate's risk level when warranted due to a request? ☒ Yes ☐ No
- Does the facility reassess an inmate's risk level when warranted due to an incident of sexual abuse? ☒ Yes ☐ No
- Does the facility reassess an inmate's risk level when warranted due to receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness? ☒ Yes ☐ No

115.41 (h)

- Is it the case that inmates 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

115.41 (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 inmate's detriment by staff or other inmates? ☒ Yes ☐ No

Auditor Overall Compliance Determination

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Instructions for Overall Compliance Determination Narrative

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Attica CF screens all inmates for risk of victimization and abusiveness upon arrival. An initial screening is completed by the Draft (intake) Sgt. ordinarily within 24-hours of arrival at the facility. If circumstances prevent the Sergeant from completing the screening within 24 hours, the Watch Commander may approve reassignment of the screening to a Sergeant on a later shift provided, however, that the screening shall be completed within 48-hours after the inmates' arrival at the facility. The team member was present during a risk screening as the inmate agreed to her sitting in. Within 5 to 14 days of arrival, a reassessment is conducted by the Offender Rehabilitation Coordinator (ORC) for the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.

The screening instrument includes whether the inmate has a mental, physical, or developmental disability, the age and physical build of the inmate, previous incarceration history, whether the inmate's criminal history is exclusively nonviolent, prior convictions for sex offenses, whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming, past sexual victimization, self-perception of vulnerability and civil immigration status. Inmates are not disciplined for refusing to answer questions during the screening process. Information obtained during the initial assessment and reassessment is placed in the inmate's guidance file to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates. Only authorized staff has access to these files. A draft arrived during the audit; and the team member observed the risk screening process.

Risk screening documentation was reviewed before, during and after the audit to find compliance. Through interviews with a couple of LEP inmates, it was determined that when they were asked the risk screening questions, they did not totally understand the questions due to the language barrier. The facility was asked to re-assess all LEP inmates in their primary language to ensure they understand the questions by using an actual interpreter or the language line services. These documents are being sent to this auditor as they are completed and any new inmates that arrive with a language barrier are being asked the questions in their primary language.

The Auditor relied on interviews with random staff, Draft Sgt., ORC's, and random inmates as well as review of policies/procedures and any supporting documentation to determine compliance with this standard: Attica CF FOM 3.502 – PREA Risk Screening; Form 115.41M PREA Risk Screening Form -- Male Facility; Memo New/Revised Other Security Characteristics regarding Sexual Orientation and Gender Identity (SOGI); examples of Risk Screening Forms obtained prior, during and after the audit. Therefore, the auditor finds that ACF meets the requirements of this standard.

Standard 115.42: Use of screening information

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

115.42 (a)

- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates 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 § 115.41, with the goal of keeping separate those inmates 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 § 115.41, with the goal of keeping separate those inmates 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 § 115.41, with the goal of keeping separate those inmates 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 § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Program Assignments? ☒ Yes ☐ No

115.42 (b)

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

115.42 (c)

- When deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, does the **agency** consider, on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems (NOTE: if an agency by policy or practice assigns inmates 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 inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems? ☒ Yes ☐ No

115.42 (d)

- Are placement and programming assignments for each transgender or intersex inmate reassessed at least twice each year to review any threats to safety experienced by the inmate? ☒ Yes ☐ No

115.42 (e)

- Are each transgender or intersex inmate'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

115.42 (f)

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

115.42 (g)

- 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 inmates, does the agency always refrain from placing: lesbian, gay, and bisexual inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.)
☒ Yes ☐ No ☐ NA
- 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 inmates, does the agency always refrain from placing: transgender inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.)
☒ Yes ☐ No ☐ NA
- 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 inmates, does the agency always refrain from placing: intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.) ☒ Yes ☐ No ☐ NA

Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
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Instructions for Overall Compliance Determination Narrative

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NYDOCCS uses information from the risk assessment to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. Transgender or intersex (T/I) inmate's housing is considered on a case-by-case basis, placement considers the inmate's health and safety, and whether the placement would present management or security problems; placement is reassessed as needed; T/I inmates own view with respect to his or her own safety is given consideration; T/I inmates are given the opportunity to shower separately from other inmates. Attica CF makes individualized determinations about how to ensure the safety of each inmate. Attica CF does not place LGBTI inmates in a dedicated unit based solely on identification or status. The auditor determined compliance through review of Policy/Procedures, interviews with the PREA Compliance Manager and staff responsible for Risk Screening. ACF had (3) transgender/intersex inmates and all were interviewed and (21) gay/bisexual/gender non-conforming inmates (of which (4) were interviewed).

The Auditors relied upon interviews with random staff, random inmates, Draft Sgt., PREA Compliance Manager/PREA Point Person, and the following policies/procedures and documentation provided with the PAQ and onsite reviews of documentation: Deputy Commissioner Memo – RE: Prison Rape Elimination Act (PREA) Risk Screening; Associate Commissioner Memo – RE: New/Revised Other Security Characteristics Regarding Sexual Orientation and Gender Identity; Attica CF Report of Risk Screening Information and Attica CF FOM 3.502 -- PREA Risk Screening.

Standard 115.43: Protective Custody

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

115.43 (a)

- Does the facility always refrain from placing inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers? ☒ Yes ☐ No
- If a facility cannot conduct such an assessment immediately, does the facility hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment? ☒ Yes ☐ No

115.43 (b)

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible? ☒ Yes ☐ No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Privileges to the extent possible? ☒ Yes ☐ No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Education to the extent possible? ☒ Yes ☐ No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Work opportunities to the extent possible? ☒ Yes ☐ No

- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the opportunities that have been limited? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.) ☒ Yes ☐ No ☐ NA
- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the duration of the limitation? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.) ☒ Yes ☐ No ☐ NA
- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the reasons for such limitations? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.) ☒ Yes ☐ No ☐ NA

115.43 (c)

- Does the facility assign inmates at high risk of sexual victimization to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged? ☒ Yes ☐ No
- Does such an assignment not ordinarily exceed a period of 30 days? ☒ Yes ☐ No

115.43 (d)

- If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, does the facility clearly document the basis for the facility's concern for the inmate's safety? ☒ Yes ☐ No
- If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, does the facility clearly document the reason why no alternative means of separation can be arranged? ☒ Yes ☐ No

115.43 (e)

- In the case of each inmate who is placed in involuntary segregation because he/she is at high risk of sexual victimization, does the facility afford a review to determine whether there is a continuing need for separation from the general population EVERY 30 DAYS? ☒ Yes ☐ No

Auditor Overall Compliance Determination

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NYDOCCS and ACF sets out the basis for compliance with this standard in Directive 4948 Protective Custody. An inmate appropriate for Involuntary Protective Custody solely because of an assessment of being at high risk for victimization or following a report that the inmate was the victim of sexual abuse, may be put in Involuntary Protective Custody. However, that placement can occur only after all alternatives have been evaluated and a determination made that there are no alternatives available to provide the separation needed from likely abusers. If an assessment can't be made immediately, ACF can place the inmate in Involuntary Protective Custody for less than 24 hours while completing the assessment, using Form 2168A, "Sexual Victimization – Involuntary Protective Custody Recommendation." DOCCS has policies for documenting every step of the Involuntary Protective Custody assignments, from the reason for the placement to the limitations (if any) on the inmate's participation in programs, work assignments, etc. Form 2168A has a checklist of all the possible alternatives for involuntary protective custody and a place to explain the reasoning why the alternatives were rejected.

Under this standard, an involuntary placement in segregation based on the risk of victimization ordinarily must not last longer than 30 days, and there must be a review every 30 days. Under DOCCS policy, the length of the involuntary placement would not ordinarily exceed 30, in accordance with the standard. The auditor reviewed sample forms for the mandatory reviews and for the "Sexual Victimization Involuntary Protective Custody Restriction of Inmate's Program Participation," where the facility must document any program limitations and the reasons for the limitations.

It was confirmed through the PAQ and during interviews with the PREA Point Person, PREA Compliance Manager and the Superintendent that no inmates at high risk for sexual victimization had been placed in involuntary segregated housing during the 12 months prior to the audit. The PREA Compliance Manager and PREA Point Person also emphasized that ACF makes every possible effort to avoid an involuntary placement in segregation based on the risk of victimization.

REPORTING

Standard 115.51: Inmate reporting

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

115.51 (a)

- Does the agency provide multiple internal ways for inmates to privately report sexual abuse and sexual harassment? ☒ Yes ☐ No
- Does the agency provide multiple internal ways for inmates to privately report retaliation by other inmates or staff for reporting sexual abuse and sexual harassment? ☒ Yes ☐ No

- Does the agency provide multiple internal ways for inmates to privately report staff neglect or violation of responsibilities that may have contributed to such incidents? ☒ Yes ☐ No

115.51 (b)

- Does the agency also provide at least one way for inmates 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 inmate reports of sexual abuse and sexual harassment to agency officials? ☒ Yes ☐ No
- Does that private entity or office allow the inmate to remain anonymous upon request?
☒ Yes ☐ No
- Are inmates detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security? (N/A if the facility *never* houses inmates detained solely for civil immigration purposes)
☐ Yes ☐ No ☒ NA

115.51 (c)

- Does staff accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties? ☒ Yes ☐ No
- Does staff promptly document any verbal reports of sexual abuse and sexual harassment?
☒ Yes ☐ No

115.51 (d)

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

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meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

NYDOCCS has procedures allowing for multiple internal and external ways for inmates to report sexual abuse, sexual harassment, and retaliation. PREA reporting methods are shared with inmates at intake, during orientation, in the PREA brochure, and on posters throughout the facility. The PREA Brochure, The Prevention of Sexual Abuse in Prison What Inmates Need to Know, informs inmates they can report verbally and in writing to staff, the PREA Compliance Manager, write the PREA Point Person, write the Office of Special Investigations, and report to an outside agency to the New York State Commission of Correction. Inmates can write to the SCOC and ask to remain anonymous if they wish to report anonymously through an outside entity that is not a part of the agency. Inmates may also report allegations through a third party or send an anonymous report. Inmate interviews indicated they were comfortable reporting sexual abuse or sexual harassment and they knew the different methods available for reporting. Staff indicated through interviews they were aware of the methods available to them to report sexual abuse and sexual harassment of inmates. The staff's PREA Pocket Card also outline that staff can privately report by calling the Office of Special Investigations, Sex Crimes Division.

The Auditor determined compliance through random interviews with staff, inmates and the PREA Coordinator. The Auditors also made observations of signage posted throughout the facility for staff and inmates to privately report sexual abuse and sexual harassment. This auditors also relied on the following documentation sent prior to the audit and obtained during the audit: Employee Manual Section - 2.20 (Revised 2013); Directive 4027A, Sexual Abuse Prevention & Intervention - Inmate on Inmate; DIR 4028A Sexual Abuse Prevention & Intervention - Staff on Inmate; Sexual Abuse Prevention and Response (SAPR) Lesson Plan; Inmate education pamphlet, the "Prevention of Sexual Abuse in Prison, What Inmates need to know" outlines how the agency shall provide multiple internal ways for inmates to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.

Standard 115.52: Exhaustion of administrative remedies

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

115.52 (a)

- Is the agency exempt from this standard? NOTE: The agency is exempt ONLY if it does not have administrative procedures to address inmate grievances regarding sexual abuse. This does not mean the agency is exempt simply because an inmate 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

115.52 (b)

- Does the agency permit inmates 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 an inmate 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

115.52 (c)

- Does the agency ensure that: An inmate 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

115.52 (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 inmates in preparing any administrative appeal.) (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA
- If the agency claims the maximum allowable extension of time to respond of up to 70 days per 115.52(d)(3) when the normal time period for response is insufficient to make an appropriate decision, does the agency notify the inmate 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 inmate does not receive a response within the time allotted for reply, including any properly noticed extension, may an inmate 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

115.52 (e)

- Are third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, permitted to assist inmates 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 inmates? (If a third-party files such a request on behalf of an inmate, 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 inmate declines to have the request processed on his or her behalf, does the agency document the inmate's decision? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

115.52 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that an inmate 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 an inmate 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 inmate 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

115.52 (g)

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

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The agency shall be exempt from this standard if it does not have administrative procedures to address inmate grievances regarding sexual abuse. DOCCS is exempt from this Standard in accordance with Directive 4040 Inmate Grievance Program, Section 701.3, General Policies, dated 01/20/2016. The DOCCS is exempt in accordance with Directive 4040 Inmate Grievance Program and 702.2(it) Correction Law, Section 139.9, 9NYCRR Part 7695. A grievance filed is deemed exhausted upon filing with regards to the Prison Litigation Reform Act. The team member interviewed the grievance coordinator. She received a list of grievances filed regarding PREA (15) and the complaints were immediately sent to the Watch Commander for review and investigate. The grievance for PREA is then closed.

Inmates are not required to file grievances concerning alleged incidents of sexual abuse and sexual harassment. DOCCS not only addresses such in the above directive, but outlines in a summary memorandum concerning sexual abuse and sexual harassment complaints the following: "Any inmate grievance filed regarding a complaint of sexual abuse or sexual harassment shall immediately be reported by the IGP supervisor to the Watch Commander for further handling in accordance with departmental policies. The complaint shall be deemed exhausted upon filing for PLRA purposes. If the grievance does not set forth any additional matters that require a response, the grievance shall be closed." The facility is exempt from this standard making Standard 115.52 compliant (not applicable).

Standard 115.53: Inmate access to outside confidential support services

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

115.53 (a)

- Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates 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 provide persons detained solely for civil immigration purposes mailing addresses and telephone numbers, including toll-free hotline numbers where available of local, State, or national immigrant services agencies? (N/A if the facility *never* has persons detained solely for civil immigration purposes.) ☒ Yes ☐ No ☐ NA
- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible? ☒ Yes ☐ No

115.53 (b)

- Does the facility inform inmates, 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

115.53 (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 inmates 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

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At the completion of the onsite portion of the audit, the team member conducted a telephone interview with the program manager of the Rape Crisis Center associated with Attica Correctional Facility, RESTORE.

The individual stated they do have an MOU in place with DOCCS, through NYSCASA. According to DOCCS, RESTORE provides services under a contract with New York State Coalition Against Sexual Assault (NYSCASA) that is funded by the NYS Office of Victim Services. He stated the PREA Compliance Manager is their primary contact with these facilities and they would contact them with any issues. If services were to be provided over the phone, he stated they would contact the PREA Compliance Manager and the manager would set the inmate up with a legal call. He stated that every hospital has their own advocacy program for rape crisis, however, if anyone requests their services for support, they will accompany them to the hospital. He also stated they would accompany the inmate during a forensic medical exam, investigatory interviews/court proceedings if requested, emotional support services, crisis intervention, provide as much information as possible to the victim and make any relevant referrals. He stated they remain confidential unless they threaten to harm themselves or if they discuss anything that is mandated by law to report (juvenile abuse, etc.). He stated all services provided are available to all inmates regardless of whether they have reported sexual abuse or sexual harassment.

The auditor reviewed the MOU between RESTORE/NYSCASA signed during the audit period and continuing until 9/30/20 regarding an expanded PREA Hotline Project. The Hotline, which is statewide, offers rape crisis and victim support, and it also provides for interpretation services and deaf-relay services when needed. The contract period for RESTORE is April 1, 2019 thru March 31, 2020.

NYDOCCS has a confidential rape crisis hotline which also provides an additional avenue for inmates to report sexual abuse/harassment which is (777). A phone call was placed to the 777 number from A Block by the team member on day 3 of the audit. She spoke with a rape-crisis counselor and she explained her reason for the call, and they were very open to the questions and confirming the processes in place. Inmates are educated on their options to use (777). This number allows for crisis counseling, a referral for emotional support and advocacy services as well as taking reports of sexual abuse. Some inmates stated during interviews that they wouldn't call the 777 number as they must enter their Department Identification Number (DIN) and they didn't feel it was anonymous. After researching this issue, they can remain anonymous as their DIN is NOT visible to anyone monitoring calls. The system is set up to block monitoring of these phone calls.

NYSDOCCS meets the standard by providing services; however, they exceed the standard as New York has the most comprehensive victim support program available to survivors of sexual victimization in any state prison system in the nation. The 777 direct-dial number is available every day, in English, Spanish and other languages, at all 52 facilities operated by DOCCS. In addition to the state-wide 777 rape crisis hotline, every facility has an associated community-based rape crisis program designated as that facility's "PREA Center" for the provision of ongoing victim support and advocacy services. Services are provided via legal calls and/or legal visits.

The Auditor relied on interviews with the PREA Compliance Manager, Rape Crisis Program Manager, random staff/inmate interviews and the following documentation was reviewed as well as observations of memorandums and signage posted throughout the facility providing inmates access to outside victim advocates for emotional support services related to sexual abuse: Directive 4423 – Inmate Telephone Calls; Directive 4404 – Inmate Legal Visits; Directive 4421 – Privileged Correspondence; and Memo: from Jason D. Effman, Associate Commissioner to All Superintendents, 12/18/18, Implementation of PREA Statewide Rape Crisis Hotline.

Standard 115.54: Third-party reporting

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

115.54 (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 an inmate? ☒ 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*)

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NYDOCCS Web page for PREA reference outlines the method for third party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate. The Auditor reviewed the NYDOCCS Policy Web page dated 01/16/2020 to ensure compliance with 115.54(a). Also, random interviews with staff and inmates determined that they are aware of the third-party reporting process. DOCCS/ACF meets this standard.

OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

Standard 115.61: Staff and agency reporting duties

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

115.61 (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 inmates 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

115.61 (b)

- Apart from reporting to designated supervisors or officials, does 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

115.61 (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 inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services? ☒ Yes ☐ No

115.61 (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

115.61 (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*)

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DOCCS policy outlines that all staff are 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; retaliation against inmates or staff who reported such an incident; and any

staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Also, apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions.

According to facility policies, when a PREA allegation is made, ACF notifies OSI and it begins an investigation; staff can also make a report directly to OSI. Attica CF's confidential Sexual Abuse Response and Containment Checklist is for documenting the key elements of who reports what and when, along with the ensuing actions taken and notifications made once a report is received. Interviews with staff verified their knowledge of their duty to report and the process of making a report. The specified actions to take are listed on the PREA card issued to every staff member.

The Auditor was able to determine compliance through random staff interviews and the policy and procedure reviews: DOCCS Employee Manual Section - 2.20; DIR 4027A – Sexual Abuse Prevention & Intervention - Inmate on Inmate; and DIR 4028A - Sexual Abuse Prevention & Intervention – Staff on Inmate/Staff on Parolee-11/29/17.

Standard 115.62: Agency protection duties

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

115.62 (a)

- When the agency learns that an inmate is subject to a substantial risk of imminent sexual abuse, does it take immediate action to protect the inmate? ☒ 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

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DOCCS policy requires staff to take immediate action to protect any inmate subject to substantial risk of sexual abuse. Immediate steps to be taken to protect inmates with a substantial risk of sexual abuse are outlined in policies. Inmates are immediately removed from the area and placed in a safe location. All responses to interview questions showed the staff knew what needed to take place if an imminent risk situation arose.

Staff interviews gleaned a complete understanding of the steps needed to protect an inmate at risk of sexual abuse. Attica CF has not had any reports of an inmate who was at substantial risk of imminent sexual abuse during the 12 months prior to the audit. The auditor relied on random staff interviews, random inmate interviews, PREA Compliance Manager interview, Superintendent Interview, and review of Directive 4040 – Inmate Grievance Program and Directive 4948 – Protective Custody Status.

Standard 115.63: Reporting to other confinement facilities

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

115.63 (a)

- Upon receiving an allegation that an inmate 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

115.63 (b)

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

115.63 (c)

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

115.63 (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*)

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meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

NYDOCCS policy requires upon receiving an allegation that an inmate was sexually abused while confined at another facility, the Superintendent of the facility that received the allegation must notify the head of the facility where the sexual abuse is alleged to have occurred within 72 hours. The facility must also notify the Office of Special Investigations (OSI). ACF also maintains a statewide list of jail administrators for easy reference if the abuse occurred in a New York jail. Reports of abuse at other facilities are also entered Attica's Sexual Abuse/Threat Incident log.

During the past year, Attica Correctional Facility received (3) allegations of sexual abuse while confined at another facility; and in the last 12 months, ACF has received (5) allegations from other facilities regarding allegations of incidents of sexual abuse that occurred at Attica.

Auditor finds compliance based on review of the following: Memo from Jason Effman, Associate Commissioner, RE: Reporting to other Confinement Facilities (Revised) PREA Standard/263-Entire Form 115.63 Report of Sexual Abuse - 11/07/19 - Jail Administrators contact Information; "Sexual Abuse Threat Incident Log Books" – Covers Inmate on Inmate/Staff on Inmate; outlines how the facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards. Interviews were conducted with the Agency Head and Facility Superintendent who acknowledged notifications of abuse from one facility to another are investigated in accordance with standard 115.63 (d) and interview with PREA Compliance Manager.

Standard 115.64: Staff first responder duties

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

115.64 (a)

- Upon learning of an allegation that an inmate 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 an inmate 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 an inmate 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 an inmate 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

115.64 (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*)

Instructions for Overall Compliance Determination Narrative

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NYDOCCS provides training to all first responders which include the separation of the alleged victim and abuser; preservation and protection of the crime scene until appropriate steps can be taken to collect evidence; the collection of physical evidence, requesting that the alleged victim not take any actions that could destroy physical evidence, including, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. Staff (civilian and non-civilian) is knowledgeable of their responsibilities when responding to reports of sexual abuse. Staff also carry a PREA Pocket Card for ready access with step by step instructions to follow.

The auditors also reviewed, with random staff, scripted questions about first responder duties, including: "If you are the first person to be alerted that an inmate has allegedly been the victim of sexual abuse, what is your responsibility in that situation?" All interviews were positive and favorable, and it was clear that staff were knowledgeable about their duties and responsibilities as first responders.

To find compliance, the auditors relied on random staff interviews and a review of the following policies/procedures: Directive 4027A – Sexual Abuse Prevention & Intervention Inmate – on – Inmate; Directive 4028A – Sexual Abuse Prevention & Intervention Staff – on – Inmate; Attica CF FOM 3.501 – Coordinated Response Plan to an Incident of Inmate Sexual Abuse; Associate Commissioner Memo – RE: PREA Coordinated Response Plan; Sexual Abuse Response and Containment Checklist; Deputy Commissioner Memo – RE: PREA Coordinated Response Plan; and Sexual Abuse Prevention and Response (SAPR) Lesson Plan.

Standard 115.65: Coordinated response

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

115.65 (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*)

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Attica Correctional Facility's Coordinated Response Plan to an Incident of Inmate Sexual abuse was reviewed and the plan coordinates actions taken in response to an incident of sexual abuse among first responders, security, medical and mental health practitioners, Office of Special Investigations, facility administration, and victim advocates. A checklist is utilized to ensure all process steps are completed and notifications are made. The facility specific plan also addresses, SAFE/SANE hospitals, third-party and anonymous reports (documentation, and referral to the Office of Special Investigations), victim advocates, and notifications.

The auditor relied upon random staff interviews, Investigative interviews; and Medical staff interviews as well as the following documentation: Associate Commissioner Memo – RE: PREA Coordinated Response Plan and Sexual Abuse Response and Attica CF Coordinated Response Plan to an incident of Inmate Sexual Abuse FOM 3.501 dated 04/25/19. Attica CF is compliant with this standard.

Standard 115.66: Preservation of ability to protect inmates from contact with abusers

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

115.66 (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 inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted? ☒ Yes ☐ No

115.66 (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*)

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DOCCS Union Contracts allow the removal of alleged staff sexual abusers from contact with inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted. Also, a review of the collective bargaining agreements was conducted.

The Auditor determined compliance through policy and procedure review; State Union Contracts documentation; Interviews conducted with the Superintendent and Investigative Staff and the following relevant policies/procedures: A Review of DOCCS DIR2110, Employee Discipline-Suspension from Duty during the Continuation of Disciplinary Proceedings; DIR2114, Functions of the Bureau of Labor Relations; New York state Governor's Office of Employee Relations (GOER); Therefore, ACF is compliant with this standard.

Standard 115.67: Agency protection against retaliation

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

115.67 (a)

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

115.67 (b)

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

115.67 (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 inmates or staff who reported the sexual abuse to see if there are changes that may suggest possible retaliation by inmates 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 inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates 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 inmate 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 inmate 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 inmate 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

115.67 (d)

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

115.67 (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

115.67 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

- ☒ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
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DOCCS has policies and processes in place to protect inmates and staff that report sexual abuse and harassment. The PREA Compliance Manager is responsible for monitoring retaliation at Attica CF. In the past 12 months, there have been zero (0) number of incidents of retaliation. Those that report is monitored for at least (4) months. The ADS/PCM monitoring responsibilities includes any inmate disciplinary reports, housing, program changes, negative performance reviews, or reassignments of staff. DOCCS policy allows the monitoring period to be

continued as needed. Monitoring continues upon transfer to another facility. Retaliation is monitored at a minimum of (4) months and longer if necessary. A retaliation monitoring form details this 30-day intermittent review with a conclusion allowing for the completion of monitoring, the termination of monitoring or to continue monitoring. The agency/facility is required to act promptly to remedy any retaliation. The ADS/PREA Compliance Manager had begun monitoring 78 inmates during the previous 12-month period but at the time of the audit, the ADS/PREA Compliance Manager was monitoring 6 inmates for retaliation. Inmates either completed monitoring, transferred, released, case was classified as “unfounded”, etc.

The auditor relied upon interviews with the PREA Compliance Manager, Superintendent, staff interviews and the following policies/procedures and other supporting documentation: Employee Manual – 2.19; Associate Commissioner Memo – RE: Agency Protection against Retaliation, 115.67/267, and Retaliation Monitoring Form-115.67/115.67A; Retaliation Monitoring Form 115.67. Attica was monitoring 6 inmates at the time of the audit. Documentation was reviewed during the audit as well as attached to the PAQ. ACF is compliant with this standard; The auditor’s interview with the ADS/PREA verified that ACF takes retaliation monitoring very seriously; the ADS/PREA Compliance Manager expressed confidence that the staff is well aware of the statement in the Employees’ Manual, that allegations of retaliation—like those of sexual abuse and harassment—“will be thoroughly investigated.” The retaliation monitoring process is comprehensive and exceeds the requirement for this standard as they monitor for (4) months.

Standard 115.68: Post-allegation protective custody

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

115.68 (a)

- Is any and all use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse subject to the requirements of § 115.43? ☒ 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

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DOCCS Directive 4948/Protective Custody Status and Form 2168A/Sexual Victimization—Involuntary Protective Custody Recommendation lays out the process for protective custody status. Should the need arise for post-allegation protective custody, all available alternatives to involuntary protective custody are considered first. The PREA Compliance Manager accentuated during her interview that ACF consistently makes every effort to avoid using sexual victimization involuntary protective custody and uses it only after all other alternatives have been found unsuitable. If involuntary custody is unavoidable, there must be a review every 30 days to determine whether there is a need for continued involuntary protective custody. There were no inmates held involuntarily in segregated housing for protection during the audit period at Attica Correctional Facility.

INVESTIGATIONS

Standard 115.71: Criminal and administrative agency investigations

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

115.71 (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 115.21(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 115.21(a).] ☒ Yes ☐ No ☐ NA

115.71 (b)

- Where sexual abuse is alleged, does the agency use investigators who have received specialized training in sexual abuse investigations as required by 115.34? ☒ Yes ☐ No

115.71 (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

115.71 (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

115.71 (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 inmate or staff? ☒ Yes ☐ No
- Does the agency investigate allegations of sexual abuse without requiring an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding? ☒ Yes ☐ No

115.71 (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

115.71 (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

115.71 (h)

- Are all substantiated allegations of conduct that appears to be criminal referred for prosecution? ☒ Yes ☐ No

115.71 (i)

- Does the agency retain all written reports referenced in 115.71(f) and (g) for as long as the alleged abuser is incarcerated or employed by the agency, plus five years? ☒ Yes ☐ No

115.71 (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

115.71 (k)

- Auditor is not required to audit this provision.

115.71 (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 115.21(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*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

The Office of Special Investigations (OSI), Sex Crimes Division in the NYDOCCS conducts investigations as outlined in the PREA standards. The Investigators continually receive specialized training in sexual abuse investigations pursuant to standard 115.34. Interviews and documentation support that investigations into all allegations of sexual abuse, sexual harassment, and sexual misconduct are done promptly, thoroughly, and objectively to include third party and anonymous reports.

DOCCS policies and procedures outline how the agency shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator. When evidence appears to support criminal prosecution, the OSI conducts interviews only after consulting with prosecutors to ensure the interviews will not hinder subsequent criminal prosecution. By agency policy, every allegation of sexual abuse and sexual harassment is investigated, and the agency will validate the credibility of an alleged victim, suspect, or witness is assessed on an individual basis and shall not be determined by the person's status as inmate or staff.

DOCCS does not require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation. Investigations are not ended if the victim or the abuser is no longer under the custody of the agency. This would also be the case if the

alleged abuser was a staff member who resigned from the agency; the investigation would continue until its conclusion. The auditor was able to review some case files when she met with the investigators, and she found the files to represent a thorough investigatory approach with ample documentation, to include such materials as interviews, photographs, etc. The investigators indicated a good working relationship between their office and the New York State Police exists when necessary for them to work cooperatively on a case. Administrative investigations are very well written, and documentation of the process is very thorough. Reports are maintained for a minimum of 7 years. An electronic copy of the reports with the other critical documents (medical, depositions) are permanently maintained. Interviews with two OSI investigators took place on November 5, 2019 at Gowanda Correctional Facility and they were impressive. They were very knowledgeable about PREA and their responsibilities when they receive an allegation. The investigators stated that they collect the appropriate direct and circumstantial evidence, reviews available video evidence, interviews the reported victim, suspected perpetrators, and potential witnesses. They also review prior complaints and reports of sexual abuse involving the reported victim and suspected perpetrator. All investigations are documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. The Investigator also stated that the credibility of the victim, suspect, or witnesses are always assessed on an individual basis. Information regarding staff action or inaction that may have contributed to the alleged abuse is included in the investigative report.

The Auditor reviewed the following documentation to determine the findings: DOCCS DIR 0700 – Office of Special Investigations; Chapter 5, Sex Crimes Division (confidential procedures); Chapter 11 Case Tracking and Investigative Reports (Confidential); Attica Correctional facility had (14) reports of sexual abuse, sexual harassment or sexual misconduct in the past 12 months that were investigated by OSI and none were referred for prosecution. The Auditor determined compliance through review of all above mentioned documentation, policies and procedures, training logs, interviews with two OSI, Sex Crimes Investigators and reviews of investigative case files from Attica CF in this audit period. Review of the policies, agency manual, investigations and interviews with the investigations, the auditor concludes that investigations are addressed promptly, thoroughly, in a manner which will hold up in court, and with a review of incidents to address staff actions and assess credibility consistently, which shows this portion of the PREA standards is taken very seriously by NYSDOCCS and they exceed this standard.

Standard 115.72: Evidentiary standard for administrative investigations

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

115.72 (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*)

Instructions for Overall Compliance Determination Narrative

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OSI Manual, Chapter 5, Sex Crimes Division (confidential procedures); PowerPoint Presentation Excerpt: PREA Specialized Training Investigations – 8/15/19 outlines how the agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. Interviews with the investigators confirmed they have no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse/sexual harassment are substantiated. An allegation is determined to have occurred based upon the preponderance of the evidence when the weight of the evidence indicates that the allegation is more likely to be true than not true.

The Auditor determined compliance through review of policy and procedures; review of investigative case files; additional supporting documentation and training logs; Chapter 5, Sex Crimes Division (confidential procedures); Interview conducted with DOCCS OSI Investigators with the Sex Crimes Division at Gowanda CF on November 5, 2019. Attica CF has had (6) sexual abuse, harassment, misconduct cases in the last 12 months that were investigated by OSI.

Standard 115.73: Reporting to inmates

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

115.73 (a)

- Following an investigation into an inmate's allegation that he or she suffered sexual abuse in an agency facility, does the agency inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded? ☒ Yes ☐ No

115.73 (b)

- If the agency did not conduct the investigation into an inmate'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 inmate? (N/A if the agency/facility is responsible for conducting administrative and criminal investigations.) ☐ Yes ☐ No ☒ NA

115.73 (c)

- Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, unless the agency has determined that the allegation is unfounded, or unless the inmate has been released from custody, does the agency subsequently inform the inmate whenever: The staff member is no longer posted within the inmate's unit? ☒ Yes ☐ No
- Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, unless the agency has determined that the allegation is unfounded, or unless the inmate has been released from custody, does the agency subsequently inform the inmate whenever: The staff member is no longer employed at the facility? ☒ Yes ☐ No
- Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, unless the agency has determined that the allegation is unfounded, or unless the inmate has been released from custody, does the agency subsequently inform the inmate whenever: The agency learns that the staff member has been indicted on a charge related to sexual abuse in the facility? ☒ Yes ☐ No
- Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, unless the agency has determined that the allegation is unfounded, or unless the inmate has been released from custody, does the agency subsequently inform the inmate whenever: The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility? ☒ Yes ☐ No

115.73 (d)

- Following an inmate's allegation that he or she has been sexually abused by another inmate, 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 an inmate's allegation that he or she has been sexually abused by another inmate, 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

115.73 (e)

- Does the agency document all such notifications or attempted notifications? ☒ Yes ☐ No

115.73 (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*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

The Superintendent of the facility where the incident was reported to have occurred and the facility where the inmate is currently housed will be notified of the outcome of the OSI investigation via a "Notification of Investigative Determination" by OSI. The OSI Sex Crimes Division shall forward a completed copy of the Notification of Investigative Determination via electronic mail to the appropriate facility Superintendents, Assistant Deputy Superintendents (ADS) PREA Compliance Manager, or the facility's PREA Point Person.

In all cases, the Notification of Investigative Determination will be sent to the complainant via Privileged Mail. The complainant's signature in the Privileged Mail Log will serve as acknowledgment of receipt of the notification of the outcome of the investigation and a copy will be made part of the investigation. The Notification of Investigative Determination is not required to be sent to a complainant who has been released from custody, nor to a third-party complainant. If the inmate has been transferred, the facility which conducted the investigation shall ensure that the Notification of Investigative Determination is served on the complainant. During the (12) months prior to the audit, there were (7) notifications of sexual abuse outcomes and (8) total pursuant to the standard. All were documented.

Investigative policy requires the inmate to be informed as to whether the allegation of sexual abuse has been determined to be substantiated, unsubstantiated, or unfounded. If the allegation is against a staff member, the facility shall inform the inmate whenever the staff member is no longer posted within the inmate's unit, no longer employed at the institution, has been indicted on a charge related to sexual abuse within the institution, or has been convicted on a charge related to sexual abuse within the institution; if the inmate allegation is against an inmate notify whenever the alleged abuser has been indicted on a charge related to sexual abuse within the institution, or has been convicted on a charge related to sexual abuse within the institution; and that all notifications will be documented. The auditor was provided and reviewed the notifications during audit, and found all notifications were timely.

DISCIPLINE

Standard 115.76: Disciplinary sanctions for staff

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

115.76 (a)

- Are staff subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies? ☒ Yes ☐ No

115.76 (b)

- Is termination the presumptive disciplinary sanction for staff who have engaged in sexual abuse? ☒ Yes ☐ No

115.76 (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

115.76 (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*)

Instructions for Overall Compliance Determination Narrative

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DOCCS policy addresses disciplinary sanctions of employees up to removal for PREA related issues. The employee manual provided to all employees explains the disciplinary process to them. DOCCS policy states “All allegations of sexual abuse, sexual harassment, or retaliation against staff, an inmate, or a parolee for reporting such an incident or participating in an investigation will be thoroughly investigated. Furthermore, any perpetrator of a sexual abuse or sexual harassment incident will be dealt with severely through discipline or prosecution to the fullest extent permitted by law.” Attica CF has had no incidents of employee discipline or termination for issues of sexual abuse or sexual harassment in the past year. Staff interviews revealed an awareness of the departments zero tolerance policy as it pertains to sexual abuse and sexual harassment.

The auditor reviewed the following and conducted interviews with random staff, PREA Compliance Manager, and the OSI Investigators: Review of Chapter 32, Reporting of Misconduct to Outside Agencies (confidential procedures); Directive 4028A – Sexual Abuse Prevention & Intervention Staff – on – Inmate; Directive 2110 – Employee Discipline – Suspension from Duty During the Continuation of Disciplinary Proceedings; Directive 2111, Report of Employee Misconduct; and the Employee Manual.

Standard 115.77: Corrective action for contractors and volunteers

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

115.77 (a)

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with inmates? ☒ 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

115.77 (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 inmates? ☒ 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

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NYDOCCS has a zero-tolerance policy regarding sexual abuse and sexual harassment of inmates by volunteers and contractors. The policy outlines criminal actions taken if a volunteer/contractor sexually abuses or participates in sexual harassment of an inmate. Attica CF has had no incidents of a volunteer/contractor engaging in sexual abuse or harassment of an inmate in the past year.

The auditors relied on the following documentation to find compliance along with the interviews of volunteers and the volunteer coordinator, and the PREA Compliance Manager: Volunteer and Contractor Acknowledgments of Orientation or PREA; Directive 4750 – Volunteer Service Program; Directive 2605 – Sexual Harassment in the Workplace; OSI Chapter 32 - Reporting of Misconduct to Outside Agencies and Memo dated 09/04/18 reminding staff/contractors/volunteers of zero tolerance.

Standard 115.78: Disciplinary sanctions for inmates

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

115.78 (a)

- Following an administrative finding that an inmate engaged in inmate-on-inmate sexual abuse, or following a criminal finding of guilt for inmate-on-inmate sexual abuse, are inmates subject to disciplinary sanctions pursuant to a formal disciplinary process? ☒ Yes ☐ No

115.78 (b)

- Are sanctions commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories? ☒ Yes ☐ No

115.78 (c)

- When determining what types of sanction, if any, should be imposed, does the disciplinary process consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior? ☒ Yes ☐ No

115.78 (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 inmate to participate in such interventions as a condition of access to programming and other benefits? ☒ Yes ☐ No

115.78 (e)

- Does the agency discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact? ☒ Yes ☐ No

115.78 (f)

- For the purpose of disciplinary action does a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred NOT constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation? ☒ Yes ☐ No

115.78 (g)

- If the agency prohibits all sexual activity between inmates, does the agency always refrain from considering non-coercive sexual activity between inmates to be sexual abuse? (N/A if the agency does not prohibit all sexual activity between inmates.) ☒ 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*)

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DOCCS policy outlines that disciplinary sanctions may be imposed on inmates who engage in sexual abuse and harassment. Inmates can be subject to discipline internally for inmate on inmate sexual abuse. Sanctions are commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories. Inmates are not disciplined for sexual relations with staff unless it is determined it was without staff consent. Mental disabilities and/or mental illness are taken into consideration when determining disciplinary sanctions. There have been no administrative or criminal findings, inmate/inmate sexual abuse or staff/inmate sexual abuse at Attica CF. Attica

does offer therapy, counseling, and/or any other interventions as outlined in the Sex Offender Counseling and Treatment Program Guide. DOCCS prohibits all sexual activity between inmates and disciplines inmates for such activity.

The auditor determined compliance based on random staff and inmate interviews and review of the following documentation: Directive 4401 – Guidance and Counseling Services; Directive 4027A – Sexual Abuse Prevention & Intervention Inmate – on – Inmate; Directive 4028A – Sexual Abuse Prevention & Intervention Staff – on – Inmate; Directive 4932 – Standards Behavior & Allowances; Sex Offender Counseling and Treatment Program Guidelines and Hearing Officer Standards of Inmate Behavior and Confinement Sanctions Guidelines.

MEDICAL AND MENTAL CARE

Standard 115.81: Medical and mental health screenings; history of sexual abuse

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

115.81 (a)

- If the screening pursuant to § 115.41 indicates that a prison inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening? (N/A if the facility is not a prison.) ☒ Yes ☐ No ☐ NA

115.81 (b)

- If the screening pursuant to § 115.41 indicates that a prison inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening? (N/A if the facility is not a prison.) ☒ Yes ☐ No ☐ NA

115.81 (c)

- If the screening pursuant to § 115.41 indicates that a jail inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening? ☒ Yes ☐ No

115.81 (d)

- Is any information related to sexual victimization or abusiveness that occurred in an institutional setting strictly limited to medical and mental health practitioners and other staff as necessary to inform treatment plans and security management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law? ☒ Yes ☐ No

115.81 (e)

- Do medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18? ☒ 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

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According to DOCCS policy (Directive 4301), if the PREA risk screening indicates that an inmate has experienced prior sexual victimization or has perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening. All information related to sexual victimization or abusiveness that occurred in an institutional setting is strictly limited to medical/mental health practitioners and other staff as necessary to inform treatment plans and security management decisions, including housing, bed, work, education, and program assignments, or as otherwise required. This information is maintained in the inmates' "guidance" file, which is confidential. 100% of inmates who disclosed sexual victimization or had perpetrated sexual abuse were offered follow-up with medical and mental health.

The auditor relied on interviews with inmates, MH staff, Draft staff, PREA Compliance Manager, ORC's and review of HSPM Policy 1.44—Health Screening of Inmates; DIR4301—Mental Health Satellite Services and Commitments to CNYPC; HSPM Policy 1.12B—Inmate Bloodborne Pathogens Significant Exposure Protocol; and the OMH MOU to find compliance with this standard.

Standard 115.82: Access to emergency medical and mental health services

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

115.82 (a)

- Do inmate 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

115.82 (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 § 115.62? ☒ Yes ☐ No
- Do security staff first responders immediately notify the appropriate medical and mental health practitioners? ☒ Yes ☐ No

115.82 (c)

- Are inmate 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

115.82 (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*)

Instructions for Overall Compliance Determination Narrative

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Attica CF inmates receive timely, unimpeded access to emergency medical treatment and crisis intervention services. This includes inmate victims of sexual abuse. Inmates of sexual assault are provided treatment which includes outside hospital services without financial responsibility. The nature and scope of the services offered to

the inmate population are determined by the medical/mental health practitioners at Attica CF according to their professional judgment. SAFE/SANE hospitals are identified by the Health Services Policy Manual. Attica CF has a policy/protocol in place to transport a victim of sexual abuse to an outside SAFE/SANE hospital for medical examination (Erie County Medical Center, Buffalo General Hospital, or Millard Fillmore Suburban Hospital), if required. Attica CF has processes to provide emergency prophylactic medications if deemed appropriate.

Mental health coverage is provided by OMH staff who work out of Attica CF. A PREA allegation automatically initiates a MH referral; ADS/PREA CM checks during retaliation monitoring to see if anything relevant is gleaned from the mental health evaluation. Inmates will be seen as soon as possible after the evaluation.

The auditor was able to find compliance by conducting interviews with medical staff, PREA Compliance Manager, random staff interviews and the following documentation: Directive 4027B – Sexual Abuse Reporting & Investigation Inmate – on – Inmate; Directive 4028B – Sexual Abuse Reporting & Investigation Staff – on – Inmate; HSPM 1.60 - Sexual Assault – SAFE/SANE Hospitals; Attica CF FOM 3.501 – Coordinated Response Plan to an Incident of Inmate Sexual Abuse dated 04/25/19.

Standard 115.83: 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

115.83 (a)

- Does the facility offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility?
☒ Yes ☐ No

115.83 (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

115.83 (c)

- Does the facility provide such victims with medical and mental health services consistent with the community level of care? ☒ Yes ☐ No

115.83 (d)

- Are inmate victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests? (N/A if “all-male” facility. *Note: in “all-male” facilities, there may be inmates who identify as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.*) ☐ Yes ☐ No ☒ NA

115.83 (e)

- If pregnancy results from the conduct described in paragraph § 115.83(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. *Note: in “all-male” facilities, there may be inmates who identify as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.*) ☐ Yes ☐ No ☒ NA

115.83 (f)

- Are inmate victims of sexual abuse while incarcerated offered tests for sexually transmitted infections as medically appropriate? ☒ Yes ☐ No

115.83 (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

115.83 (h)

- If the facility is a prison, does it attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners? (NA if the facility is a jail.) ☒ 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

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

NYDOCCS has protocols in place to provide ongoing medical treatment of inmates who claim sexual abuse. Medical staff interviewed were knowledgeable in the emergency protocol to follow with sexual abuse victims. The agency/facility offers medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility. The Office of Mental Health, Memorandum of Understanding states that those identified as victims shall receive, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care, following the transfer to or placement in, other facilities, or their release from custody. Further, the facility shall provide victims with mental health services, consistent with the community level of care by scheduling appointments with OMH. Individual counseling is offered to inmates who request on-going treatment related to sexual abuse or being a perpetrator of sexual abuse.

Mental health coverage is provided by OMH staff who are stationed out of Attica CF. A PREA allegation automatically initiates a MH referral. The ADS/PREA CM checks during retaliation monitoring to see if anything relevant is gleaned from the mental health evaluation.

The auditors relied upon interviews with the Medical/Mental Health Staff, PREA Compliance Manager, Random Staff/Inmate Interviews and the following supporting documentation provided with the PAQ: HSPM 1.60 - Sexual Assault; HSPM 1.12B – Inmate Bloodborne Pathogens Significant Exposure; HSPM 1.44 – Health Screening of Inmates; and OMH MOU; Examples of progress notes and doctor's orders regarding an inmate being sent to the local hospital for a SAFE/SANE exam and the tests completed. Attica CF is compliant with this standard.

DATA COLLECTION AND REVIEW

Standard 115.86: Sexual abuse incident reviews

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

115.86 (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

115.86 (b)

- Does such review ordinarily occur within 30 days of the conclusion of the investigation? ☒ Yes ☐ No

115.86 (c)

- Does the review team include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners? ☒ Yes ☐ No

115.86 (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 §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager? ☒ Yes ☐ No

115.86 (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*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

DOCCS agency policy states the facility conducts a Sexual Abuse Incident Review at the conclusion of every criminal or administrative sexual abuse investigation unless the allegation has been determined to be unfounded. Further, it is directed that an incident review will take place within 30 days of the conclusion of the abuse investigation, and

that the Incident Review Team includes an upper-level management official and allowing input from line supervisors, investigators, and medical and mental health practitioners. The memorandum above also stipulates that the facility prepares a report of findings, recommendations for improvement and submits such a report to the PREA Compliance Manager. Attica Correctional Facility, in the past 12 months, held (4) incident reviews. The incident review team reviewed the circumstances of the incidents; the inmates and staff involved, whether actions taken were consistent with agency policies and procedures, if allegation or investigation indicates a need for policy changes and whether the incident or allegation were motivated by race, ethnicity, gender identity, lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status, gang affiliation. The report is completed and submitted to the Superintendent and Facility PREA Compliance Manager.

The auditor finds compliance based on interviews with the Superintendent, PREA Compliance Manager and PREA Point Person and the following documentation submitted with the PAQ: Incident review team meeting reports, a memorandum from the Agency Deputy Commissioner and the Associate Commissioner/Agency PREA Coordinator referencing PREA Procedural Enhancements outlines procedures for compliance with the standard on Sexual Abuse Incident Reviews.

Standard 115.87: Data collection

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

115.87 (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

115.87 (b)

- Does the agency aggregate the incident-based sexual abuse data at least annually? ☒ Yes ☐ No

115.87 (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

115.87 (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

115.87 (e)

- Does the agency also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates? (N/A if agency does not contract for the confinement of its inmates.) ☒ Yes ☐ No ☐ NA

115.87 (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*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

NYDOCCS Office of Program Planning Research and Evaluation Policy for PREA Data Collection, Review, Retention and Publication Manual outlines basic procedures for data collection of sexual abuse data. The data collected is based on the most recent version of the Survey of Sexual Violence conducted by the Dept. Of Justice. NYSDOCCS reviews and collects the data as needed from all available reports, investigations, and sexual abuse incident reviews. DOCCS provides all data from the previous calendar year to the DOJ upon request. The data for 2018 was submitted to the Bureau of Justice Statistics on November 26, 2019, prior to the deadline for the submission. This includes, but is not limited to Office of Special Investigations, Sex Crime Division (SCD) data, sexual abuse incident review information, unusual incidents, personnel records, confidential security information, inmate records, disciplinary data, and the inmate locator system.

After preliminary review and preparation of all Office of Special Investigations Sex Crimes Division allegations, sexual abuse data is extracted, coded, and prepared for a secondary review with a SCD investigator. A final review team consisting of the Associate Commissioner/PREA Coordinator, the Chief of the Office of Special Investigations, the Deputy Chief of Investigations of the Sex Crimes Division and the PREA Analyst meet annually to review substantiated PREA allegations prior to submission of data to the Bureau of Justice Statistics.

The auditor relied upon an interview with the PREA compliance manager and the following supplied documentation: DOJ Letter to Commissioner Annucci requesting the 2017 SSV; Office of Program Planning Research and Evaluation; PREA Data Collection, Review, Retention and Publication Manual; Directive 4027B – Sexual Abuse Reporting & Investigation Inmate – on – Inmate; Directive 4028B – Sexual Abuse Reporting & Investigation Staff – on – Inmate; and a confirmation that the data was sent to the DOJ.

Standard 115.88: Data review for corrective action

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

115.88 (a)

- Does the agency review data collected and aggregated pursuant to § 115.87 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 § 115.87 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 § 115.87 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

115.88 (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

115.88 (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

115.88 (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 narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

NYDOCCS prepares an annual report which includes identification of problem areas, corrective action for each facility, and the agency. The annual report includes a comparison of the current year's data and corrective actions with prior years and provides an assessment of progress in addressing sexual abuse. Before publishing the annual report, the agency removes all personal identifiers. The annual report is made available to the public through the agency's website. DOCCS Annual Report on Sexual Victimization is available for review on the agency's website. The latest annual report was published December 2018 for the period of 2013-2016.

The auditor reviewed the following documents: Office of Program Planning Research and Evaluation PREA Data Collection, Review, Retention and Publication Manual; NYDOCCS PREA Web Page, <https://doccs.ny.gov/prea>. Therefore, Attica CF/DOCCS is compliant with this standard.

Standard 115.89: Data storage, publication, and destruction

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

115.89 (a)

- Does the agency ensure that data collected pursuant to § 115.87 are securely retained?
☒ Yes ☐ No

115.89 (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

115.89 (c)

- Does the agency remove all personal identifiers before making aggregated sexual abuse data publicly available? ☒ Yes ☐ No

115.89 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.87 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*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

The DOCCS PREA Data Collection, Review, Retention, and Publication Manual (revised on 8/18/15) outlines basic procedures for data collection, review, storage and reporting of sexual abuse data and ensures that the incident based information and aggregate data is collected and securely retained for at least ten years after date of initial collection unless Federal, State or local law requires otherwise. The data is retained and secured by OSI and the PREA Analyst. The manual also outlines that the agency will prepare an annual report and that the report include: identification of problem areas, corrective actions for each facility and the agency, a comparison of the current year's data and corrective actions with those from prior years, and provides an assessment of progress in addressing sexual abuse.

Prior to publishing the annual report, the agency removes all personal identifiers. The annual report is made available to the public through the agency's website, <https://doccs.ny.gov/prea> which was reviewed as a part of the audit process.

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 prior three-year audit period, 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? (*Note: The response here is purely informational. A "no" response does not impact overall compliance with this standard.*) ☒ Yes ☐ No

115.401 (b)

- Is this the first year of the current audit cycle? (*Note: a "no" response does not impact overall compliance with this standard.*) ☐ Yes ☒ No
- If this is the second year of the current audit cycle, 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 during the first year of the current audit cycle? (N/A if this is **not** the *second* year of the current audit cycle.) ☐ Yes ☒ No ☐ NA
- If this is the third year of the current audit cycle, did the agency ensure that at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency, were audited during the first two years of the current audit cycle? (N/A if this is **not** the *third* year of the current audit cycle.) ☒ Yes ☐ No ☐ NA

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

Instructions for Overall Compliance Determination Narrative

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The Auditor reviewed the DOCCS web page at <https://doccs.ny.gov/prea> containing the 79 audit reports for PREA audits completed from November 6, 2015 through December 20, 2019 and (7) Community Based Residential Program audits with the most recent being dated December 8, 2019. The Agency began conducting its PREA audits in October 2015 with 12 facilities audited in the first cycle. Second cycle Final Reports include: 23 in year one, 19 in year two, and 18 in year three so far. Four additional Agency run facilities have been audited since the writing of the this report this year. The Auditor reviewed the schedule of audits and verified that the NYS DOCCS has, beginning in audit year 3 of cycle 1, ensured that at least one-third of each facility type operated by the Agency was and is scheduled to be audited. Interviews were conducted in a private area and no correspondence was received from any inmates. All areas of the facility were accessible by the auditors and copies of all relevant documents were received when requested.

NYS Correction Law section 121 provides that the private ownership or operation of a facility for housing state or local inmates or the private ownership or operation of a facility for the incarceration of other state's inmates is prohibited. Thus, no private prisons are operated on behalf of the Agency. However, New York State Department of Corrections and Community Supervision has entered into agreements with private organizations for 14 Community Based Residential Programs (CBRP) to provide up to 4 months of housing and treatment for selected Parolees. These contracts became effective according to the following schedule: Seven (7) programs on 5/1/17, six (6) programs on 10/01/17, and one (1) program on 7/23/18. In compliance with PREA requirements, these contracts permit monitoring and requires the program to achieve and maintain PREA Compliance and to arrange for PREA Audits on a schedule set in consultation with the New York State Department of Corrections and Community Supervision PREA Coordinator. The CBRP audits began in 2018, with four audits being completed as of date of this report. Information obtained through interview with Associate Commissioner/PREA Coordinator and a review of the NYDOCCS website.

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. The review period is for prior audits completed during the past three years PRECEDING THIS AUDIT. 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*)
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The Auditor reviewed the NYDOCCS web page at, <https://doccs.ny.gov/prea>, containing the 79 audit reports for PREA audits completed from November 6, 2015 through December 20, 2019 and (7) operated Community Based Residential Program (CBRP) on behalf of New York State Department of Corrections and Community Supervision, as of last update of December 8, 2019. New York State Department of Corrections and Community Supervision operates 52 State prisons. The Agency began conducting its PREA audits in October 2015. The CBRP audits began in 2018, with seven audits being completed as of date of this report. Final Reports are posted to the Agency website according to the timeline requirement. Therefore, the New York Department of Corrections and Community Supervision meets the mandate of this standard.

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 inmate or staff member, except where the names of administrative personnel are specifically requested in the report template.

Auditor Instructions:

Type your full name in the text box below for Auditor Signature. This will function as your official electronic signature. Auditors must deliver their final report to the PREA Resource Center as a searchable PDF format to ensure accessibility to people with disabilities. Save this report document into a PDF format prior to submission.¹ Auditors are not permitted to submit audit reports that have been scanned.² See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

Michelle L. Burrows

03/15/2020

Auditor Signature

Date

¹ See additional instructions here: <https://support.office.com/en-us/article/Save-or-convert-to-PDF-d85416c5-7d77-4fd6-a216-6f4bf7c7c110>.

² See *PREA Auditor Handbook*, Version 1.0, August 2017; Pages 68-69.