

Prison Rape Elimination Act (PREA) Audit Report

Adult Prisons & Jails

☐ Interim ☒ Final

Date of Interim Audit Report: ☒ N/A

If no Interim Audit Report, select N/A

Date of Final Audit Report: May 1, 2020

Auditor Information

Name: Valerie Wolfe Mahfood

Email: WolfeMahfood@aol.com

Company Name: American Correctional Association

Mailing Address: P.O. Box 414

City, State, Zip: Nederland, Texas, 77627

Telephone: (409) 363-3315

Date of Facility Visit: March 18 – 20, 2020

Agency Information

Name of Agency: New York State Department of Corrections and Community Supervision

Governing Authority or Parent Agency (If Applicable):

Physical Address: 1220 Washington Ave

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:

Anthony J. Annucci, Acting Commissioner

Number of Compliance Managers who report to the PREA Coordinator:

16

Facility Information			
Name of Facility: Bare Hill Correctional Facility			
Physical Address: 181 Brand Road		City, State, Zip: Malone, New York, 12953	
Mailing Address (if different from above):		City, State, Zip:	
The Facility Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
Facility Type:	<input checked="" type="checkbox"/> Prison	<input type="checkbox"/> Jail	
Facility Website with PREA Information: https://doccs.ny.gov/prea			
Has the facility been accredited within the past 3 years? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> 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):			
<input checked="" type="checkbox"/> ACA <input type="checkbox"/> NCCHC <input type="checkbox"/> CALEA <input type="checkbox"/> Other (please name or describe: <input type="checkbox"/> N/A			
If the facility has completed any internal or external audits other than those that resulted in accreditation, please describe:			
Warden/Jail Administrator/Sheriff/Director			
Name: Donita McIntosh, Superintendent			
Email: Donita.McIntosh@doccs.ny.gov		Telephone: 518-483-8411 ext.2000	
Facility PREA Compliance Manager			
Name: Denise Boyer, ADS/Laura Gokey, Captain/PREA Point Person			
Email: Denise.Boyer@doccs.ny.gov/Laura.Gokey@doccs.ny.gov		Telephone: 518-483-8411 ext. 2160/5550	
Facility Health Service Administrator <input type="checkbox"/> N/A			
Name: Brian Connolly, Clinical Physician 2			
Email: brian.connolly@doccs.ny.gov		Telephone: 518-483-8411 ext. 6000	
Facility Characteristics			
Designated Facility Capacity:		1,714	
Current Population of Facility:		1,085	

Average daily population for the past 12 months:	1,262	
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:	20 – 71 years	
Average length of stay or time under supervision:	13.4 months	
Facility security levels/inmate custody levels:	Medium Custody	
Number of inmates admitted to facility during the past 12 months:	1,480	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:	1,472	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:	1,376	
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 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: <input checked="" type="checkbox"/> N/A	
Number of staff currently employed by the facility who may have contact with inmates:	507	
Number of staff hired by the facility during the past 12 months who may have contact with inmates:	8	
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:	17	
Number of individual contractors who have contact with inmates, currently authorized to enter the facility:	45	

Number of volunteers who have contact with inmates, currently authorized to enter the facility:	51
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.	75
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.	14
Number of single cell housing units:	1
Number of multiple occupancy cell housing units:	0
Number of open bay/dorm housing units:	28
Number of segregation cells (for example, administrative, disciplinary, protective custody, etc.):	32
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 type="checkbox"/> Yes <input checked="" 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 <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 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: <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: <input checked="" type="checkbox"/> N/A	

Audit Findings

Audit Narrative (including Audit Methodology)

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 Prison Rape Elimination Act (PREA) Site Review of the Bare Hill Correctional Facility (BHCF), located in Malone, New York, was conducted March 18 – 20, 2020. This facility is a medium security, adult male prison operated under the authority of New York Department of Corrections and Community Supervision (DOCCS). The Bare Hill Correctional Facility was audited through a contractual agreement between the New York DOCCS and the American Correctional Association (ACA).

As such, the Bare Hill Correctional Facility PREA audit was initially contracted by the New York DOCCS through the ACA. As a function of that contractual agreement, approximately five weeks prior to the on-site audit, the ACA assigned one of its contract staff workers to perform the BHCF PREA audit. On February 12, 2020, the ACA also provided the BHCF with PREA Audit advisement notices to post throughout the facility for offender/staff review. The responsibility of Lead Auditor was assigned to Valerie Wolfe Mahfood, PhD. No support staff were assigned to this audit. As such, Dr. Mahfood was responsible for conducting the site review of the entire facility, as well as interviewing both staff and offenders. Dr. Mahfood was also responsible for all pre and post on-site audit obligations, reviewing facility documentation relative to the audit, completing the interim audit report if needed, and for ultimately producing the final audit report.

The current audit is a Department of Justice PREA Audit for the Bare Hill Correctional Facility, which received its last PREA audit on June 21, 2017. At that time, the Bare Hill Correctional Facility had exceeded 6 and met 34 of the 43 possible standards, with the remaining 3 standards being deemed not applicable to the facility. In the previous 2017 PREA audit, standards 115.12, 115.14, and 115.52 were found non-applicable to the facility. Specifically, the previous report notes that the Bare Hill Correctional Facility itself did not contract with other entities for the confinement of offenders (115.12). As well, the Bare Hill Correctional Facility did not house youthful offenders (115.14) nor did it process offender allegations of sexual abuse or sexual harassment via the Offender Grievance Program (115.52). In the current audit, however, it is recognized that while some provisions within a standard may not be applicable to a specific facility, having non-applicable provisions within a particular aspect of the standard still does not negate the overarching value of the entire standard. Hence, the current audit finds all 45 of the PREA standards to be applicable to the Bare Hill Correctional Facility.

To begin the present audit process, the auditor and the New York DOCCS Agency-Wide PREA Coordinator, Jason Effman, began communications approximately five weeks prior to the start of the on-site review. At that time, the auditor and PREA Coordinator discussed continuing communications, as well as the production of required audit components and/or documents; to include the completion of the Pre-Audit Questionnaire by the facility's PREA Compliance Manager.

Additionally, both the purpose of the PREA process as a practice-based audit, as well as the role of the PREA auditor within those functions, were discussed. The logistics relative to viewing the unit and to

interviewing targeted, as well as random staff, were planned. The goals of the on-site audit and the expectations in facilitating those goals; to include unfettered access to all areas of the facility, staff, and offenders, were discussed. Lastly, along with the possibility of corrective actions being needed, the avenues by which those actions could be addressed were also discussed. The use of a Process Map, which both parties already possessed, was agreed upon as a means to maintain deadline goals, encourage continued communications, and to ensure that all other necessary components of the audit process were satisfied. Hence, by way of the Process Map, clearly set timelines and expected milestone completion dates for the upcoming audit were established.

Approximately four weeks prior to the on-site facility review, communications began with the Regional PREA Compliance Manager, Denise Boyer, who served as the primary point of contact for the facility. Both the PREA Pre-Audit Questionnaire, which had been completed on February 4, 2020, and its supporting documentation were subsequently provided to the auditor via a secured flash drive approximately three weeks prior to the on-site audit; specifically, on February 26, 2020. Once the PREA Pre-Audit Questionnaire was received, the auditor immediately began to review its contents. In doing so, the auditor looked for both the material it contained, as well as for any omitted information. To assist with this process, the auditor utilized the PREA Compliance Audit Instrument and the Checklist of Policies/Procedures and Other Documents, which then helped to generate a chronological issue log sorted by ascending standards. As needed, the auditor submitted written requests to either the New York State DOCCS PREA Coordinator or the BHCF Regional PCM for additional documents and/or clarification of the documents already provided. Agency staff quickly responded to all auditor requests for information by providing comment and/or documentation usually within one business day of the request.

Along with the PREA Pre-Audit Questionnaire, the auditor was also provided a list of newly hired and promoted staff within the last 12 months, as well as lists of targeted offenders needed for interview purposes. The auditor was subsequently provided documented proof of the PREA Audit Notice being posted throughout the facility at least four weeks prior to the on-site audit, specifically on February 13, 2020. To allow offenders sufficient time to contact the auditor, either before or after the audit, the BHCF mandated the postings to remain displayed until at least May 3, 2020. Photos documenting the proliferation of these PREA Audit Notices were provided via e-mail. In this, the auditor was provided 2 photos of the PREA Audit Notices that were posted throughout the facility on brightly colored pink bond paper in areas of high offender traffic, such as offender dining rooms, offender housing areas, offender work areas, recreational areas, educational areas, and the Law Library. These notices, posted in both English and Spanish, contained large, bolded text that provided observers with notice of the audit, assurance and limitations of confidentiality regarding contact with the PREA auditor, as well as all necessary contact information for the PREA Auditor. The Regional PCM subsequently verified that the PREA notices were, in fact, posted on said date.

The auditor did not, however, receive any correspondence from either offenders or staff assigned to the BHCF. As well, the auditor did not receive any correspondence from non-incarcerated persons acting on behalf of any offender or agency associated with correctional custody.

Prior to the on-site audit, to understand the limits of confidentiality in accordance to the mandatory reporting laws for the State of New York, a review of state laws was conducted. In 1996, New York passed legislation declaring all incarcerated persons to be legally incapable of consensual sexual relations with any correctional employee. Hence, all correctional staff have a duty to report any knowledge of this felony offense.

Prior to the on-site audit, the definition of a youthful offender, also known as an adolescent offender in the State of New York, was also obtained. In December of 2015, the Governor of the State of New York issued an Executive Order separating 16 and 17-year old youth from adult offenders. In April of 2017, the State of New York enacted the Raise the Age (RTA) Legislation to adopt new procedures for criminal proceedings against youth. As such, in accordance to statutory law, offenders under the age of 18 years cannot be assigned to adult facilities. Hence, the BHCF does not house any offender who is not at least 18 years of age.

As well, prior to the on-site audit, Just Detention International, along with New York Department of Health Sexual Violence Prevention Program, and the Franklin County Crisis Center; namely, the Planned Parenthood of the North County New York, were contacted via e-mail. It should be noted that the latter agency is a rape advocacy center specifically serving incarcerated individuals at the Bare Hill Correctional Facility. Additionally, following the on-site audit, Crime Victims Treatment Center, a second rape advocacy center serving offenders at the BHCF was contacted. All four agencies were asked if they had received any correspondence or other communication specific to allegations of sexual abuse and/or sexual harassment occurring at the BHCF. In response, Just Detention International stated that it had not received any information regarding the BHCF within the last 12 months. The Crime Victims Treatment Center stated that it works regularly with person incarcerated within the BHCF and has not experienced any problems relative to its agents' abilities to communicate with offenders in a reasonably confidential manner. Neither the Health Sexual Violence Prevention Program nor the Franklin County Crisis Center responded to the inquiry.

The New York State DOCCS publishes its PREA policy and other relevant information on its website: <https://doccs.ny.gov/prea>

This site contains a plethora of information related to the agency's PREA program; including details on the PREA complaint process associated with the New York State DOCCS' Office of Special Investigations (OSI). Specifically, the NYS DOCCS agency website (2020) notes that the OSI "conducts investigations and operations to prevent, detect, identify, expose and eliminate criminal activity, misconduct, fraud, waste, abuse, corruption, and other improper behavior within the Department, as well as apprehend and transport absconders, escapees and fugitives." Hence, the OSI conducts investigations into allegations of sexual assault, sexual abuse, and sexual harassment within the agency. Users are further informed that "if the investigation establishes evidence of criminal conduct, OSI will refer the case for criminal prosecution."

The agency website provides users with at least four methods of filing complaints of sexual abuse and/or sexual harassment directly with the OSI. Users are provided the phone number to call into the OSI Office, as well as the OSI email and physical addresses to submit written comments or concerns. Additionally, the agency website contains an online OSI Complaint Form that allows users to submit reports of sexual abuse and sexual harassment directly to the Office of Special Investigations. For persons not proficient in the English language, the website provides information regarding a Language Access Plan. As a function of the audit, the online OSI Complaint Form submission process was successfully tested.

The agency website also provides information regarding the New York State DOCCS' zero tolerance policy for sexual abuse, the DOCCS's history of combating sexual abuse, and PREA educational videos. The DOCCS web site provides contact information for third-party reporting of sexual abuse and harassment allegations. It contains links to the DOCCS's PREA Directives and other informational

pamphlets. Furthermore, the web site contains links to the PREA Standards, PREA Resource Center, National Institute of Corrections, U.S. Department of Justice, Office of Justice Programs, Just Detention International, the Moss Group, Inc., Community Based Residential Programs (CBRP) PREA Audit Reports, and all current DOCCS facility specific PREA Audit Reports. Lastly, aggregated PREA statistics are available for public viewing. Three weeks prior to the audit, a systematic review of all links contained on the agency's PREA web site was engaged. At that time, all links were functioning properly.

Prior to the on-site portion of the audit, a general Internet search of both the DOCCS and Bare Hill Correctional Facility was conducted. In this, the auditor searched for any information specific to sexual abuse and sexual harassment occurring within the DOCCS, but more precisely, within the BHCF. The auditor conducted a search of the Lexis Nexis database system for litigation or other judicial rulings regarding sexual abuse and sexual harassment specific to the BHCF. The auditor searched the Bureau of Justice Statistics database for academic publications regarding sexual abuse and sexual harassment within a confinement setting specific to the DOCCS, and more precisely, to the BHCF. The auditor searched professional publications, such as *Corrections One*, for information regarding sexual abuse and sexual harassment specific to the DOCCS, and more precisely, to the BHCF. The auditor conducted a general search for information specific to the BHCF in the *New York Times*, the *Malone Telegram*, and *NYupstate.com*. Additionally, the auditor reviewed the most recent American Correctional Association (ACA) audit report for the BHCF, the BHCF's previous PREA report, as well as the DOCCS's 2013-2016 Annual Report on Sexual Victimization. While this research did find claims of sexual assault and sexual misconduct allegedly occurring in other prisons operated by the DOCCS, no claims or allegations were found to suggest any such incidents had occurred at the BHCF within the current audit cycle.

On March 15, 2020, a final pre-audit conference was held between the auditor and BHCF Regional PCM, BHCF PREA Point Person Captain Laura Gokey, BHCF Superintendent Donita McIntosh, and other BHCF administrative staff, as well as administrative staff from the neighboring DOCCS Franklin Correctional Facility. This last conference presented an opportunity for quick in-person introductions and relevant communications prior to the on-site audit. Of particular interest, in addition to the lists of targeted offenders previously provided to the auditor, the BHCF Regional PCM was asked to prepare a current list of all offenders assigned to the BHCF, as well as current lists of offenders who identify as being/having: disabilities, limited English proficiency, LBGTI, assigned to isolated or segregated housing due to their high risk of sexual victimization, reported sexual abuse at any time, and/or having reported sexual victimization during the risk screening process. Additionally, the BHCF Regional PCM was asked to prepare a current list of all staff assigned to the BHCF, to include subgroups of specialized staff, contractors, and volunteers. The auditor also asked that lists be provided for all grievances, incident reports, allegations of sexual abuse and sexual harassment reported for investigation, and hotline calls made within the past 12 months. It was explained to agency staff that the auditor would use these lists to select both targeted and random offenders, as well as staff for interview purposes. It was further explained that random correctional staff would be selected for interviews based on daily work rosters. As such, daily rosters, sorted by shift, would be necessary.

On March 18, 2020, at 12:00 PM, an entrance briefing for the PREA audit was conducted. In attendance were the BHCF Regional PCM, the BHCF PREA Point Person, the BHCF Superintendent, as well as other BHCF administrative staff. Within this meeting, the auditor provided a general overview of the auditing process, as well as the necessary actions required during the on-site portion of the PREA audit. It was further explained that a final PREA audit report would not be provided at the close of the on-site review; rather, due to the need to adequately exam and synthesize all the information gathered during the on-site

portion of the audit, the final report would be issued no later than 45 days following the last day of the on-site audit.

Following this meeting, the facility site review began at approximately 12:15 PM. The site review began in the Administration Building and moved into the Mailroom, Visit/Package Building, Academic/Vocational Education Building, and then the Horticulture Building. Afterward, the Food Service Department, Store House, Laundry, State Shop, and Commissary areas were inspected. The Activities Building, which contains a Barber Shop, General Library, Chapel, Law Library, and Mosque were inspected. The Annex Gym, Inmate Grievance Resolution Office, T.V. Room, Main Yard, Phone Bank, Main Gym, Recycling Center, and Special Housing Unit was inspected. The Maintenance Building, Hospital, and Draft/ID areas were also observed before inspecting the Main Compound General Population Offender Housing areas of: A, B, C, D, E, F, and G Dorms. Moving into the Annex Compound, the Annex School Building and the Transitional Services Building were inspected. The Annex Yard, along with its accompanying Phone Bank Area, were inspected. Finally, the Annex General Population Offender Housing areas of: H, M, and N Dorms were inspected before completing the facility tour at the Visitor Hospitality Center. In total, the auditor viewed all areas of the facility where offenders were allowed to enter, either with or without a security escort.

During the facility site review, all areas within the unit were observed for concerns of sexual safety, to include the presence of video cameras, security mirrors, blind spots, or areas of unsecured impeded access, as well as the strategic placement of PREA information posters and audit notices. The bathrooms, along with other isolated places within offender work, education, and program areas, were observed. Any secluded areas within the health services department, such as examination rooms, as well as any other communal area where offenders could be isolated were scrutinized. In this, the auditor looked for areas that, either by their design or by intentional alterations, might provide others with the opportunity to isolate an offender from the general population and/or staff monitoring systems.

Additionally, any areas where offenders might be required to routinely engage in strip searches were examined to ensure that offenders are provided with all modesty measures as mandated under the PREA Standards. During the site inspection, the auditor informally spoke with approximately 9 offenders and 26 staff members. The site review of the physical plant was completed at approximately 5:30 PM. Afterward, the auditor began staff and offender interviews until leaving the facility at approximately 6:30 PM.

The external perimeter of the facility is monitored by closed circuit cameras. Internally, there are two other video monitoring systems within the Visitation Room and Commissary areas. In this, both the placement of the cameras, as well as the video feed, were inspected. Of which, it was subsequently noted that appropriate restrictions are in place to prevent the cross-gender viewing of inmates if in any state of undress.

While inspecting the offender housing units, it was noted that of the total fourteen housing units available, only ten open bay/dorm housing buildings were being utilized for that purpose within the BHCF. Each one of those buildings has two distinct housing areas. These housing units were extremely similar to one another, with each one containing designated restroom areas where offenders may utilize the toilet, as well as shower. The single-use toilets have partitions between the commodes, as well as modesty screens in front of the commodes. The multi-person shower area accommodates up to seven offenders at a time. These showers use stylish saloon type doors at the entrance of the shower room to

provide for coverage of offender genital areas from members of the opposite sex while still allowing for the upper and lower extremities of offenders to be seen for security reasons.

There is one 32 bed, single-cell Special Housing Unit (SHU). The single-person cells within this housing unit contain both a toilet and sink within each cell. Offenders must, however, utilize the shower area outside of their cell. Similar to the housing unit doors, these single-use shower cells are secured by a solid metal door with a small window area used to view into the cell. These window areas are covered with open double mesh wiring which limits staffs' view into the cell from any peripheral angle. Rather, observing offenders within either housing or shower cell areas can only occur when standing directly in front of the cell during routine cell checks.

It should further be noted that offenders assigned to SHU are afforded telephone access in a designated SHU recreation room, as well as on the movable phone system that can be placed directly outside of individual SHU cells. During the on-site review, the auditor observed that the PREA information and victim service posters were available for offender review within the SHU recreation room. Additionally, along with cell-side delivery services of PREA informational resources from the facility's Law Library, offenders are also provided two hours of direct access to such information via their daily use, when available, of electronic tablets.

The BHCF Infirmary contains two isolation rooms for offenders in need of such accommodations. These rooms each have a toilet and shower, however, these areas cannot be seen from outside of the cell. When entering into the room, each toilet/shower area has a PREA privacy curtain to provide offenders with required modesty measures. The infirmary itself contains two examination rooms where, if medically necessary, offenders may be in a state of undress. The Emergency Room door, when shut, allows only a small window view into the room. This window is located toward the top of the door to obstruct external viewing into the room, which subsequently limits the view of its occupants to only their upper extremities. The MD Examination Room also has a solid door. However, the window associated with this door is lowered. To obstruct external views of occupants, the practitioner utilizes a PREA privacy screen whenever it is medically necessary for offenders to be in a state of undress. All areas of the infirmary are monitored by staff using direct supervision, as well as security mirrors.

Within offender housing areas, as well as prominently displayed throughout the entire facility, there were advisement notices on how to report allegations of sexual assault and sexual harassment. These notices were posted in both English and Spanish, which are the two most commonly spoken languages on the facility. The reporting mechanisms for allegations of sexual abuse and sexual harassment allow for both internal and external reports to be made either in writing or verbally. Written reports can be mailed to an external reporting agency. Verbal reports can be made either in person or via the offender phone system, which allows offenders confidential access to a rape crisis support hotline. While the PREA Statewide Rape Crisis Hotline is designed to provide offenders with access to support services related to the trauma of sexual abuse, offenders nonetheless use this system as an external reporting hotline for said abuse. The phone number for this rape crisis support hotline was posted in or around all offender phones within each housing unit, as well as the outside recreation yards.

It should be noted that the Statewide PREA Statewide Rape Crisis Hotline was affirmatively tested during the on-site audit. Confidential access to this toll-free hotline is granted to all offenders from any inmate phone during operational hours, which is 8:00 AM – 11:00 PM.

In addition to the PREA Statewide Rape Crisis Hotline, numerous alternative methods to report sexual abuse/harassment were seen as readily available for offender access. Specifically, along with the proliferation of Zero Tolerance postings throughout the facility that provide contact information for external reporting mechanisms, each offender is also issued an individual copy of the BHCF Handbook upon receipt into the facility. This booklet provides the detailed instructions of specific, as well as general facility and/or agency-based staff members to contact, either verbally or in writing, in the event offenders wish to make a report of sexual abuse/harassment. Additionally, the physical address to the agency's Office of Special Investigations, as well as to an outside reporting agency; namely, the New York State Commission of Correction, was provided for offender use.

Along with the BHCF Inmate Orientation Handbook provided to offenders at Draft, offenders are also provided a BHCF Inmate Orientation Information Packet from Transitional Services during facility orientation, which occurs within a week of being received onto the facility. This packet provides offenders with the phone number to the PREA Statewide Rape Crisis Hotline, the physical address for the Governor of the State of New York, as well as the address to the Commissioner for New York's Corrections and Community Supervision. Offenders are also provided the address to New York State Coalition Against Sexual Assault, Crisis Services, Inc., Crime Victims Treatment Center, RESTORE Sexual Assault Services, Safe Harbors of the Finger Lakes, Sexual Assault and Crime Victims Assistance Program at Samaritan Hospital, and Victims Assistance Services. Transitional Services also maintains a PREA Resource Binder that contains the Just Detention International Resource Guide with additional points of contact for other agencies or services. Transitional Services also contains a plethora of other relevant information specific to dealing with sexual abuse and trauma, to include a wealth of information on coping with trauma and suicide risk prevention. Additionally, while at facility orientation, all offenders are shown the agency's PREA informational video, which explains in great depth the importance of the PREA and provides additional information regarding such.

During the site review, the auditor observed the offender intake process, known as Draft, as well as a PREA intake screening with an offender. This screening was performed in a private interview room separate from all other offenders and staff. The offender was asked a series of standardized PREA questions to determine if he presented a likely risk of being sexually abused by other offenders or being sexually abusive to other offenders. The questions were presented in a non-threatening manner without any implied bias against affirmative answers to questions acknowledging alternative sexual orientations or gender identities. The offender was also asked to present his own views regarding his perceived level of safety. Following this screening, the offender was issued a brochure detailing the institution's zero tolerance policy, reporting procedures, investigatory processes, and offender rights as related to allegations of sexual abuse and sexual harassment. The offender subsequently signed for receipt of said brochure. Following the PREA intake screening, the documentation was affirmatively reviewed to ensure its accuracy and completeness.

During the facility site review, the auditor made note of offender mail and grievance collection boxes. These boxes are secured, located throughout the facility in all offender housing areas, and allow for offenders to have unimpeded access to them during the normal course of daily activities. The collection of offender mail and grievances is restricted to designated staff only. It should also be noted that during the initial site review, Mailroom staff were interviewed regarding the processing of PREA related correspondence. The auditor was then informed that any such mail, both incoming and outgoing, was confidential in nature. Outgoing mail could be sealed by the offender and was not subject to staff review. Incoming mail was opened in the presence of the offender, searched for physical contraband only, and immediately provided to the offender without further review.

During the site review, staff were routinely observed making cross-gender announcements when persons of the opposite gender entered offender housing areas. As well, supervisory staff were observed conducting their routine security checks within offender housing areas. Cross-gender announcements and supervisory rounds, both unannounced rounds and scheduled rounds, were subsequently documented on the buildings' chronological housing logs. In conducting their routine security checks, supervisory staff were often observed speaking with both offenders and staff.

During the site review, the auditor also observed that supervisory staff used both direct and indirect supervisory practices to monitor correctional employees. Supervisory staff were observed making routine and frequent rounds throughout the facility. During these supervisory rounds, ranking officials were routinely observed reviewing required documentation completed by line staff as a function of their duty posts. All offender housing areas contain at least one security staff post that is continuously monitored by staff. As well, all areas with significant concentrations of offenders are required to maintain a security staff posts within that area during operational hours. For example, offender recreation yards/gyms are required, and did contain, the presence of a correctional employee while offenders were present in the area.

During the site review, the auditor observed two areas of concern; specifically, the toilet areas within the BHCF Main Gym and the BHCF Annex Gym. These areas each contained four toilet stalls that had modesty walls installed between each toilet, but did not contain any modesty screens to the front of the toilets. These concerns were addressed by installing modesty doors onto each stall. These modifications were done and the auditor was provided documentation verifying corrective action was, in fact, taken prior to completing the on-site portion of the tour. As such, no further action is needed regarding these observations.

The BHCF has a total of 507 full-time staff positions assigned to the facility, with approximately 73% being security staff. Approximately 10% of security staff hold supervisory positions. In total, 34 BHCF and agency staff were formally interviewed. These interviews consisted of 13 random staff from all three shifts. Random staff were selected from daily shift rosters dependent on that day's assigned duty post. Specifically, in interviewing line-class staff, the auditors randomly selected staff members who were currently assigned to specific housing units, programmatic activities, or those having roving assignments. Additionally, the specific duty assignments polled were varied with each of the three shift rosters. This selection process was devised so as to encourage interviews with staff possessing cumulative experience in various functional areas throughout the facility.

Twenty-one specialized staff were also interviewed. Their designated protocols were responsive to the roles these staff members serve within the agency. Hence, their interview selection was targeted. In several instances these staff members served in more than one PREA specific capacity. For example, the facility PREA Point Person was also tasked as the designated facility staff member responsible for monitoring retaliation. So again, their selection was deliberate, allowing some staff members to provide responses to more than one interview protocol. However, in instances where several staff members performed the same job function, such as correctional officers, it was possible to design a stratified sampling scheme based solely on daily work or shift rosters.

This understood, those 21 specialized and 13 random staff were able to provide responses to 40 interview protocols for the following audited areas: 1 Agency Head, 1 Superintendent, 1 PREA Coordinator, 1 Regional PREA Compliance Manager, 1 Facility PREA Compliance Manager, 1 Agency

Contract Administrator, 5 Intermediate or Higher-Level Supervisors, 1 Medical Staff, 1 Human Resources Staff, 1 SAFE/SANE Nurse, 1 Contractor, 2 Investigative Staff at the Agency/Facility Level, 2 Staff who Perform Screening for Risk of Victimization and Abusiveness, 1 Staff who Supervise Inmates in Segregated Housing, 2 Staff on the Sexual Abuse Incident Review Team, 1 Designated Staff Member Charged with Monitoring Retaliation, 1 Security Staff First Responders, and 3 Intake Staff Member, 13 Random Staff.

Note: During the BHCF on-site review, due to the prevalence of the Coronavirus within the state, the Governor of New York issued emergency orders that all non-essential staff assigned to state operated prisons, to include the BHCF, were to be relieved of their duties and exit their respective facilities. Said staff were then ordered to stay at home until further notice in an effort to reduce the pandemic spread of the Coronavirus. As such, despite BHCF having a total of 51 active volunteers and 45 individual contractors currently authorized to enter the facility, no volunteers and only one contractor was present at the facility during the on-site review. Said building contractor was interviewed. Also, as there haven't been any non-medical staff involved in cross-gender strip or visual searches of offenders, as well as any non-security staff who have acted as a first responder available for interviews, those corresponding interview protocols were not completed.

All efforts were made to interview staff in areas convenient for them, as well as to provide them with privacy in speaking. If staff were assigned private offices, whenever possible, they would be interviewed in their offices. When it was not possible, staff would be interviewed in conference areas or other offices central to their duty station and in areas that provided privacy to their speech.

On the first day of the site review, the BHCF maintained 1,085 offenders on its facility roster. Given the overall population of the facility (1,001 – 2,500), the auditor was required to conduct at least 40 offender interviews. Of these, the auditor was required to conduct at least 20 random offender interviews and at least 20 targeted offender interviews. Additionally, the auditor was encouraged to interview at least one offender from each housing unit, as well as subsets of offenders within the targeted groups of offenders. Given these considerations, a simple random sampling of the population would not have produced the most effective sampling field. As such, a complex sampling scheme using stratification was designed to ensure the most inclusive, evenly distributed sampling field available while still adhering to the requirements of targeted offenders.

To do this, auditor was provided several lists of offenders. These lists were generated on the first day of the site review to ensure that the offenders selected would be present on the facility. There was an overall master list that included all offenders assigned to the facility. This list was organized by housing assignments. There were also several rosters that contained the names of offenders belonging to targeted subgroups.

The names of 22 targeted offenders were selected first. These offenders were discovered based on the lists provided by the facility and were then randomly selected based on their housing assignments, to ensure that whenever possible, in total, at least one person from any of the targeted subgroups was selected from each of the housing assignments. The auditor found one barrier to speaking with offenders within each of the targeted subclassifications; specifically, offenders assigned to the BHCF did not identify within all of the targeted subgroups. At the time of the audit, there were no transgender offenders assigned to the BHCF. Since the BHCF either did not have all possible targeted classifications of offenders, or did not have sufficient numbers of targeted offenders within a classified group, the total

required number of targeted offender interviews was obtained by over sampling from more populated targeted groups.

Twenty-five random offenders were also selected based on their length of incarceration, race, religion, work assignments, and housing assignments, with at least one offender being selected from each of the housing units. The interview selection process was designed in this fashion so that upon completion of the interview process, at least two offenders from each housing assignment would be selected for interview. More specifically, these interviews were intended to be more representative of not only the average offender, but also of offenders having unique needs as addressed across the entire prison complex.

25 Random offenders were interviewed.

22 Targeted offenders were interviewed.

In this, a total of 47 offenders were given the opportunity to formally interview during the on-site visit. Of these, there weren't any offenders who refused to be interviewed. The 47 offenders who were interviewed consisted of offenders randomly selected from facility rosters based on each of the housing units, as well as targeted offenders pulled from facility rosters based on PREA classification requirements. All offenders interviewed were questioned using the Random Sample of Inmates Survey. Targeted offenders were also questioned using the survey sample appropriate for their targeted group. It should also be noted that if, during the interview process, it became apparent that any person belonged to any other subset of targeted offenders, then additional targeted protocols were administered as appropriate.

All offenders were asked the random protocol questions. Additionally, the following 24 targeted interview protocols were also administered: 4 interview protocols for offenders with physical disabilities, 2 interview protocols for offenders with limited English speaking skills, 2 interview protocols for offenders with cognitive disabilities, 6 interview protocols for offenders who identified as gay or bisexual, 1 interview protocol for offenders placed in segregated housing units for risk of sexual victimization, 4 interview protocols for offenders who reported sexual abuse, and 5 interview protocols for offenders who disclosed prior sexual victimization during risk screening.

It should be noted that during the reporting time period, despite one offender claiming such placement, BHCF did not place any offenders into Involuntary or Voluntary Protective Custody solely due to being a high risk for sexual victimization. While this offender may or may not have been placed in protective custody, BHCF did not do so based on concerns of this offender being a high risk for sexual victimization. Nonetheless, since this offender was adamant about such placement, to air on the side of caution, he was provided the relevant survey.

All offender interviews were conducted in private settings to ensure offenders felt at liberty to express any concerns they may have had with the facility's PREA compliance efforts or with their own personal safety. These interviews were primarily conducted within the Education Building.

While the auditor speaks limited Spanish, a certified staff translator was still used to interview two Spanish speaking offenders with limited English-speaking skills. This was done to test the quality of translator services available to offenders via facility-based translators. It should be noted that the interpreter provided exceptionally accurate and effective translation services between the PREA auditor and the offender. Additionally, in speaking with agency staff, it was discovered that when staff

translators are not available, the Language Line system is then used to facilitate quality communications between agency staff and offenders regarding sensitive materials. In advancing the most effective use of the Language Line system, BHCF staff are also provided pocket size cards containing the system phone number and brief instructions on how to facilitate the conversation.

The facility primarily utilizes Champlain Valley Physicians Hospital (CVPH) and Alice Hyde Medical Center for forensic examines. There are generally SAFE/SANE nursing staff available to conduct forensic exams. However, in speaking with hospital staff, it was discovered that SAFE/SANE nurses are not staffed on a continuous basis. As such, in the event any persons, to include incarcerated offenders, arrive at the hospital for forensic exams when a qualified nurse is not physically present at the facility, the hospital ensures that there is always a SAFE/SANE nurse on-call who will immediately report to the hospital to conduct a qualified exam. Hence, the facility does have continuous access to qualified professionals should the need for a sexual assault forensic exam occur. The hospital also ensures that certified victims' advocates are available during the forensic exam if requested.

Over the past twelve months, BHCF has received one report of offender-on-offender sexual abuse within the evidence collection time frame that necessitated the offender receive a sexual assault forensic exam. As such, the offender was transported to one of BHCF's named medical centers for a forensic exam. However, said offender declined the exam at the point of service. There was one disciplinary report issued to an offender for Inmate on Inmate Sexual Abuse. As such, there was one referral made to the Sex Offender Counseling and Treatment Program (SOCTP) available for review. Over the past twelve months, BHCF did not receive any reports where an offender was at substantial risk of imminent sexual abuse. Thus, there was no record of protective measures being implemented.

The BHCF received eight sexual abuse and sexual harassment allegations within the last twelve months. Of those, six were referred for criminal investigations and two were referred for administrative investigations. All eight investigatory files were reviewed to ensure the allegations as presented were investigated and subsequently addressed. Additionally, the auditor verified that the reporting time frames, required notifications, and prosecutor referrals, if appropriate, were made. Of the six sexual abuse allegations made, five alleged staff-on-offender sexual abuse and one alleged offender-on-offender sexual abuse. Following extensive investigations, the five alleged staff-on-offender sexual abuse allegations were found to be unsubstantiated. The one alleged offender-on-offender sexual abuse allegation was substantiated.

Offender records for retaliation monitoring following complaints of sexual abuse were reviewed to ensure routine monitoring occurred as required. (Note: There were no retaliation monitoring documents for staff within the past 12 months.) As well, initial reports of sexual abuse/harassment, via the PREA Hotline, were reviewed to ensure reporting time frames, required notifications, and any required precautionary measures were maintained. Additionally, referrals for allegations of sexual abuse from the BHCF to other facilities were reviewed, as well as referrals from other facilities into the BHCF were reviewed, to ensure a timely notification of allegations was afforded the receiving facility.

During the site review, the offender grievance coordinator was available for interview. Of which, the auditor was informed that there are designated collection boxes for offender grievances located on each housing unit. All offender grievances are initially received and reviewed by the facility grievance coordinator for allegations of sexual abuse/harassment. If any allegations of sexual abuse/harassment are found, those allegations are immediately forwarded to the watch commander for handling in accordance with agency policies. This includes making appropriate notifications and referrals for investigation

purposes. If, however, there are also claims within the grievance that require agency action after the allegations of sexual abuse/harassment are removed, then only that portion of the grievance remains with the facility grievance coordinator for processing by the Inmate Grievance Resolution Committee. If offenders submit grievances alleging sexual abuse or harassment, and those claims are subsequently forwarded to the facility Watch Commander for review, then the offenders are notified of these actions at the initial referral point.

In other words, only complaints that do not contain any allegations of sexual abuse/harassment are investigated and addressed by the Inmate Grievance Program mechanism. If grievances contain allegations of sexual abuse/harassment, they are immediately referred to the Watch Commander for processing as PREA related concerns. Offenders are immediately notified of these referrals and are further informed that their grievances are being administratively closed, the grievance process has been exhausted, and their complaints are now being processed as PREA concerns. If a complaint contains both allegations of sexual abuse/harassment, as well as other staff or policy complaints, then the single complaint is separated into two different complaints. The claims of sexual abuse/harassment are referred to the Watch Commander for processing as PREA related concerns. The offender is then informed that this portion of the grievances has been administratively closed, the grievance process as it relates to his allegations of sexual abuse/harassment is exhausted, and that aspect of his complaint is now being processed at a PREA concern. The offender is also informed that his claims of other staff misconduct or policy violations have been assigned a grievance number and will be processed by the Inmate Grievance Resolution Committee accordingly.

To examine this process, the past three consecutive monthly Grievance Referral Logs for sexual abuse and sexual harassment concerns were reviewed to ensure all referrals were made by the required time, which is the close of business of the same day received. Documentation indicated that of the grievances received during that time frame, none of the grievances involved allegations of sexual abuse or sexual harassment.

On March 20, 2020, upon concluding the on-site portion of the PREA audit, the auditor met with the BHCF Regional PCM, the BHCF Superintendent, the BHCF PREA Compliance Manager, as well as other members of the BHCF Executive Team. Agency staff were provided some preliminary observations; however, said staff were advised that a final audit outcome could not be reached at this time. Rather, a final determination would be rendered upon the completed review and consideration of all facility documentation in conjunction with the on-site observations.

In this, it should be noted that during all phases of the auditing process; the pre-onsite audit, on-site audit, and post-onsite audit reviews, the auditor did not experience any barriers to completing the audit as required. Agency and facility staff were forthcoming with all information and document requests. The auditor was allowed unfettered access to all areas of the facility. All staff willingly engaged in the interview process, as well as patiently explained their roles within the facility's PREA-based Standard Operating Procedures.

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.

The physical location of the Bare Hill Correctional Facility (BHCF) is 181 Brand Road, Malone, New York, 12953. Malone, New York, is located about 55 miles from Plattsburgh, New York, and 60 miles from Montreal, Quebec, Canada. The facility is operated by the New York State Department of Corrections and Community Supervision (DOCCS).

The Bare Hill Correctional Facility is adjacent to Franklin and Upstate Correctional Facilities. The BHCF was originally built in 1988 as a medium-security facility with seven housing units. It was then rated with an operational capacity of 750 offenders. In 1991, an Annex Compound was constructed to increase the facility's capacity by seven additional housing units. In total, BHCF sits on 205 acres of land, with 115 of those acres being secured within the facility's perimeter fencing. The total complex contains 75 buildings, with fourteen of those buildings being designated as open bay/dormitory housing units. There is also one Special Housing Unit with 32 restrictive housing cells.

The BHCF is operational 24 hours per day. The facility utilizes direct supervision to monitor offender activities. In certain locations, video monitoring is used to supplement direct supervision of assigned offenders and staff in those areas. Within the compound, there are facility services, such as medical, food, and hygiene services, such as laundry and barber services. There are religious and recreational services, such as the Chapel and Mosque, the Main and Annex Gyms, the Main and Annex Outside Yards, as well as board games and movie programs. There are educational services, such as the Academic and Vocational Departments. There are also institutional services, such as the Activities Building, Plant Operations, and Commissary/State Shops.

Currently, the BHCF is authorized to house male offenders 18 years of age or older, with the average age range of offenders being between 20-71 years. While it has a designed capacity for 1,714 Medium Custody offenders, the average daily population for the past twelve months has been 1,262 offenders. At the start of the on-site audit, the BHCF housed a total of 1,085 offenders. Offenders assigned to BHCF stay an average length of 13.4 months. At no time within the past twelve months has BHCF exceeded its maximum capacity range. As well, the BHCF is not currently under any court or other statutory orders.

The total number of facility staff, contractors, and volunteers currently authorized to enter the BHCF is 603 persons. Of those, the facility has 507 full time staff positions, with approximately 73% being security staff. Approximately 10% of those security staff hold supervisory positions. Security staff are generally assigned to work one of three shifts, with each shift covering approximately eight hours. Whereas, administrative staff are generally assigned to work normal business hours and days.

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.

A review of all available documentation reflects that the New York State Department of Corrections and Community Services (DOCCS) has developed agency wide policies in compliance with both the spirit and letter of the Prison Rape Elimination Act (PREA) standards. The Bare Hill Correctional Facility

(BHCF) has incorporated these policies into its unit-based practices, programs, and services. While conducting a site review the complex, the auditor observed routine adherence to PREA standards by both staff and offenders. As well, offender reactions to staff adherence of said standards reflected the institutionalization of common practice. Lastly, interviews with both staff and offenders generally reflected that Bare Hill Correctional Facility employees adhered not only to the defined PREA standards, but also to the overarching principles under which they reside.

Standards Exceeded

Number of Standards Exceeded: 11

List of Standards Exceeded: 115.11, 115.14, 115.16, 115.31, 115.32, 115.33, 115.34, 115.42, 115.53, 115.401, 115.403

Standards Met

Number of Standards Met: 34

Standards Not Met

Number of Standards Not Met: 0

List of Standards Not Met: NA

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.

Documents:

- DIR #4027A, Sexual Abuse Prevention & Intervention, Inmate-on-Inmate (Rev. 11/29/17)
- DIR #4028A, Sexual Abuse Prevention & Intervention, Staff-on-Inmate/Staff-on-Parolee (Rev. 11/29/17)
- Duties Description Associate Commissioner (PREA) Item #00901
- Agency e-mail announcement designating Associate Commissioner Jason Effman as agency-wide PREA Coordinator (4/23/13)
- Agency memorandum designating Jason Effman as acting agency-wide PREA Coordinator (3/14/2012)
- Memorandum: Facility Prison Rape Elimination Act (PREA) Point Person – Revised (8/17/17)
- Duties Description Assistant Deputy Superintendent/SG-25 (PREA)
- NYS Department of Corrections and Community Supervision Central Office Organization
- BHCF Security Organizational Chart (2017)
- BHCF Executive Organizational Chart (2017)
- PREA Point Person – BHCF Captain Gokey
- BHCF FOM #8.06, Coordinated Response Plan to an Incident of Inmate Sexual Abuse (2/5/19)

Interviews:

- Agency Head
- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager
- Facility Warden/Superintendent
- Intermediate or Higher-Level Facility Staff
- Random Staff

Site Review Observations:

- Regional ADS PREA Compliance Manager Denise Boyer oversees the Bare Hill Correctional Facility.
- BHCF PREA Point Person, Captain Laura Gokey, is physically assigned to the BHCF and maintains a permanent office, with routine activities, within said institution as a function of her assignment

Standard Subsections:

- (a) Policy DIR# 4027A, Sexual Abuse Prevention & Intervention, Inmate-on-Inmate, and DIR# 4027B, Sexual Abuse Prevention & Intervention, Staff-on-Inmate/Staff-on-Parolee, and the BHCF FOM #8.06 Coordinated Response Plan to an Incident of Inmate Sexual Abuse (2/5/19), provide written direction of mandating a zero-tolerance policy toward all forms of sexual abuse

and sexual harassment. It also outlines the both the agency's and the facility's approach to preventing, detecting, and responding to such conduct.

- (b) The agency has employed an agency-wide PREA Coordinator, Associate Commissioner Jason Effman. Mr. Effman's position is within the upper hierarchy of organizational authority within the New York Department of Corrections and Community Supervision (DOCCS). Mr. Effman's sole purpose within the agency is to facilitate institutional needs specific to the implementation and advancement of the PREA standards. Mr. Effman is charged with the supervision of 16 Assistant Deputy Superintendents (ADS), who serve as Regional PREA Compliance Managers (PCM) throughout the State of New York. Mr. Effman, in coordination with the Regional PCMs and facility Superintendents, oversees the implementation of PREA standards at the facility level.
- (c) The State of New York operates 52 penal institutions. Each Superintendent within said institution has been charged with designating a PREA Point Person who holds the supervisory rank of Captain. BHCF Superintendent McIntosh affirms her designation of Captain Gokey to serve in this capacity. Captain Gokey confirms that she possesses both sufficient time and authority to coordinate the facility's efforts in complying with the PREA standards.

Reasoning & Findings Statement:

This standard works to ensure the agency as a whole operates with a zero-tolerance acceptance level of sexual abuse and sexual harassment of incarcerated offenders. As well, the standard requires that individual facilities operate with respect to the agency's zero-tolerance expectation. In this regard, the agency has implemented policies designed to prevent, detect, and respond to sexual abuse and sexual harassment. Though the standard requires the minimum staffing of one agency-wide PREA Coordinator and then individual PREA Compliance Managers assigned to each facility, the State of New York has vastly exceeded this requirement through the additional employment of 16 Regional ADS PCMs. The sole function of these positions is to better coordinate and advance the implementation of the PREA standards and policies so as to significantly increase the sexual safety of all offenders incarcerated within the New York State Department of Corrections and Community Supervision (DOCCS). Each of the 16 Regional ADS PCMs then work with the PREA Point Person assigned to each facility within their region. By creating an extra level of supervision, the State of New York has better ensured that each person in their respective capacities has significant time to dedicate themselves to the agency's zero-tolerance mission. As such, the agency, and by extension the facility, has clearly exceeded the basic requirements of 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.

Documents:

- Contract #C000784 – Catholic Family Center
- Contract #DOC01-C00006GG-3250226 – Fitzgerald House Inc
- Contract #C000769 – Society of St. Vincent De Paul
- Contract #DOC01-C00010GG-3250226 – Bridges of Greater NY Inc
- Contract #DOC01-C00014GG-3250226 – Catholic Charities of Chemung Schuyler
- Contract #DOC01-C00012GG-3250226 – Hope of Buffalo Inc
- Contract #DOC01-C00009GG-3250226 – Saving Grace Ministries Inc
- Contract #DOC01-C00011GG-3250226 – Volunteers of America of Western New York Inc
- Contract #DOC01-C00013GG-3250226 – Bridges of Greater New York Inc
- Contract #DOC01-C00019GG-3250226 – Community Missions of Niagara Frontier Inc.
- Contract #DOC01-C00018GG-3250226 – Pathways Renewed Inc
- Contract #DOC01-C00015GG-3250226 - Rescue Mission of Utica
- Contract #DOC01-C00017GG-3250226 – Saving Grace Ministries of Rochester Inc
- Contract #DOC01-C00016GG-3250226 – Westhab Inc
- New York Consolidated Laws Service, Correction Law, Article 6, Section 121, Prohibiting the private ownership or operation of correctional facilities

- Statement of Compliance with NYS Correction Law, Section 121 (11/1/18)
- NY DOCCS Request for Application (August 2016)
- Community Based Residential Programs PREA Audit Schedule (1/24/20)

Interviews:

- Agency Contract Administrator
- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)

Site Review Observations:

- The BHCF is a publicly operated correctional facility through the New York State DOCCS.

Standard Subsections:

- (a) The DOCCS does not contract for the confinement of its inmates with private agencies. Rather, NYS Correction Law, Section 121, expressly forbids the use of said contracts.
- (b) In accordance to the DOCCS Agency Contract Administrator, the DOCCS does, however, contract for the management of 15 different Community Based Residential (CBRP) Programs for parolee management services. A review of all contracts in place with CBRP programs does ensure that the contractor adopts and complies with the PREA standards for Community Confinement Facilities. As evidenced by the Community Based Residential Programs PREA Audit Schedule, all CBRP programs are routinely audited for their compliance with the PREA standards.

Reasoning & Findings Statement:

This standard ensures that all CBRP entities contractually bound to the parent agency; namely, the New York State DOCCS, comply with the PREA standards. While the DOCCS does not contract for the supervision of its incarcerated persons, the agency does contract for up to 4 months of housing and treatment for selected Parolees. In this, the agency ensures upon the applicant's original CBRP submission, the applicant understands its absolute responsibility to comply with PREA regulations. Furthermore, if contracted with the DOCCS, the applicant understands its continuing duty to remain in compliance with all PREA standards. Lastly, all CBRP programs are routinely audited on a rotating basis to encourage said compliance. As such, the agency meets the established requirements under this standard.

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*)

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.

Documents:

- New York DOCCS Employees' Manual (2019)
- DIR #4001, Facility Administrative Coverage & Supervisory Rounds (4/25/19)
- Form 4001A, Weekly Administrative Activity Report
- Form 4001B, Daily Security Supervisor Report

- BHCF Chart and Staffing Review (6/2/17)
- BHCF Closed Posts (December 19, 2019 – January 1, 2020)
- BHCF Closed Posts (December 5, 2019 – December 18, 2019)
- DOCCS Post Closure Key
- Memorandum BHCF Annual Supervision and Monitoring Plan Review (01/13/20)
- BHCF Weekly Administrative Activity Report (06/13/19)
- BHCF Daily Security Supervisor Report (6/7/19, Tour 1; 6/8/19, Tour 2)
- BHCF Building Logs (6-7-19, Tour 1; 6/8/19, Tour 2; 6/10/19, Tour 2)
- BHCF Building Logs (6-7-19, Tour 1; 6/8/19, Tour 2; 6/10/19, Tour 2; 3/7/20, Tour 1; 3/13/20, Tour 2; 3/13/20, Tour 3; 3/16/20, Tour 2; 3/17/20, Tour 1)
- BHCF Building Logs (3/11/20, Tour 1; 3/16/20, Tour 2; 3/17/20, Tour 3)

Interviews:

- Facility Warden/Superintendent
- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager
- Intermediate or Higher-Level Facility Staff
- Random Staff

Site Review Observations:

- All offender housing areas contain at least one security staff post that is continuously monitored by staff. All areas of high offender traffic are assigned permanent staffing positions.
- During the site review, supervisory staff were observed making routine and frequent rounds throughout the facility. All 13 of the random staff interviewed did indicate that supervisory staff were available to them as needed and did routinely conduct unannounced rounds within the facility.
- During supervisory rounds, ranking officials were routinely observed reviewing required documentation completed by line staff as a function of their duty posts.
- During the on-site portion of the audit, seventeen Chronological Housing/Building Logs were reviewed to ensure supervisory staff are conducting, and properly documenting, their unannounced rounds.
- Chronological Housing/Building Logs were also reviewed to ensure that opposite gender advisements on all three facility shifts, where appropriate, were being made and properly documented.

Standard Subsections:

- (a) The New York Department of Corrections and Community Supervision (DOCCS), Bare Hill Correctional Facility (BHCF) has developed and documented a staffing plan. Facility administrators make their best efforts to comply with said plan on a regular basis in order to provide for adequate levels of staffing, and, where applicable, video monitoring to protect inmates against abuse (Dir. #4001). As explicitly noted within the Staffing Plan Annual Review template, the staffing plan takes into consideration generally accepted correctional practices when

determining staffing needs and the need for video monitoring. If present, the staffing plan considers any judicial, federal investigative agencies, internal, and external oversight bodies' findings of inadequacy. The Staffing Plan Annual Review template requires that the unit considers components of the facility's physical plant, composition of the inmate population, number and placement of supervisory staff, institutional programming needs, applicable state and local laws, the prevalence of substantiated and unsubstantiated incidents of sexual abuse, as well as any other relevant factors when determining staffing needs and the need for video monitoring. When asked, facility staff consistently remarked that unit administration does consider the nature of the offender population and current issues/trends within the offender population when determining staffing levels. The DOCCS, BHCF staffing plan was predicated consistent with average daily number of inmates assigned to the BHCF.

- (b) The DOCCS and the BHCF both have policies governing the minimum use of employee staffing (Dir. #4001, BHCF Chart and Staffing Review, 6/2/17). If unit staffing levels are below these minimum requirements, BHCF policy further requires shift administrators to properly document each occurrence. Within the past twelve months, the staffing levels of BHCF have not fallen below the required levels. The most six most common reasons that BHCF has deviated from the Staffing Plan over the last twelve months has been: area closed, holiday schedule, program closed, emergency trip, facility disturbance, and inclement weather. Sample documentation reflecting this shortage was examined to ensure adequate and timely notification of the closure was recorded.
- (c) The facility conducts an annual review of the staffing plan, with the last review being finalized as of January 13, 2020. As evidenced via e-mail communications, in completing the facility staffing plan review, the facility did coordinate with the agency PREA Coordinator, as well as the Regional and facility PREA Compliance Managers, to develop the facility staffing plan in accordance to the aforementioned 115.13(a). As well, PREA staffing members were consulted regarding the use of resources necessary to commit to the staffing plan and the use of video monitoring technologies within the facility.
- (d) The agency does have a policy in place to mandate unannounced rounds conducted by intermediate-level or higher-level supervisors (Dir. #4001). This policy does require that staff document those rounds. The policy requires unannounced rounds to be made on all shifts, both day and night hours. The agency also prohibits staff from alerting others that said rounds are being conducted. The timing of the site reviewed allowed the auditor to observe the facility while employees from all three shifts were on duty. The auditor did observe line and supervisory staff document said rounds as appropriate. While conducting the site review, the auditor also reviewed seventeen Chronological Housing/Building Logs throughout the facility. Said documentation did reflect that not only were supervisory staff conducting unannounced rounds, but these rounds were also clearly documented using red ink. When interviewed, supervisory staff stated that they performed unannounced rounds at various times, as well as walked varying paces and routes when conducting unannounced rounds in an attempt to make their presence less predictable. When interviewing random staff, all persons stated that supervisors routinely conduct unannounced rounds. Staff also noted that it was a violation of policy for supervisors to announce their rounds or for other staff to call ahead and warn their co-workers that a supervisor was conducting security rounds. When interviewing random offenders, most offenders stated that they have routinely witnessed supervisory staff conducting rounds throughout the facility. During the site review, it was further noted that offenders seemed comfortable with the presence of

supervisory staff within their housing areas; thus, further supporting that said staff are routinely present in offender housing areas.

Reasoning & Findings Statement:

This standard requires the facility to ensure adequate staffing levels to promote the safety of not only all offenders assigned, but also the safety of all correctional employees, volunteers, and contractors within the institution. In the event the staffing plan is not followed, documentary evidence reflects staff adhere to policy in both noting the occurrence and justifying its reasoning. To ensure that the sexual safety of offenders assigned to the BHCF is given sufficient weight in determining facility staffing needs, the BHCF staffing plan is reviewed annually in coordination with all BHCF PREA staffing components. Lastly, to ensure meaningful and effective correctional supervision, BHCF supervisors routinely conduct and document unannounced rounds. As such, the BHCF facility meets the required standard.

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

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.

Documents:

- DIR #0089 Bare Hill Correctional Facility (8/01/19)
- New York Consolidated Laws Service, Correction Law, Article 4, Section 77, Adolescent Offender Facilities

Interviews:

- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Random Offenders

Site Review Observations:

- While conducting the on-site review, I did not observe any offenders who appeared excessively youthful.
- In reviewing offender documents, I did not observe any offender birthdays to be less than 18 years younger than the date of the on-site review.
- All 47 offenders interviewed stated that they were at least 18 years of age and did not have any knowledge of any offenders assigned to the BHCF who were not at least 18 years of age.

Standard Subsections:

- (a) The State of New York has passed legislation prohibiting the placement of any offender less than 18 years of age in an adult court system, and by extension, in adult correctional institutions. The BHCF is an adult prison.
- (b) As BHCF does not house any offenders less than the age of 18 years, the facility most certainly has maintained an absolute sight and sound separation between youthful offenders and adult offenders.
- (c) As BHCF does not house any offender less than 18 years of age, unit administration has absolutely avoided placing any adolescent offender in isolation in order prevent said offender from living within sight and sound of adult offenders. Hence, the BHCF has not denied any adolescent offender the ability to engage in daily large-muscle exercise or to participate in other program or work opportunities.

Reasoning & Findings Statement:

This standard requires that the agency ensure sight and sound separation between adolescent offenders and adult offenders. Alternatively, the standard requires that there is direct staff supervision when adolescent offenders and adult offenders have sight, sound, or physical contact. The State of New York has passed legislation prohibiting the assignment of adolescent offenders to adult prisons. Hence, BHCF is statutorily prohibited from receiving and subsequently housing adolescent offenders. As such, the facility maintains an absolute and constant sight and sound barrier between adolescent offenders and adult offenders.

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

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.

Documents:

- DIR #2230, Guidelines for Assignment for Male and Female Correction Officers
- DIR #4001, Facility Administrative Coverage & Supervisory Rounds
- DIR #4910, Control Of and Search For Contraband
- Form 1140, Report of Strip Search or Strip Frisk
- HSPM #1.37, Body Cavity Search
- HSPM #1.19, Health Appraisal
- Memorandum DIR #4910, Control Of and Search For Contraband Revisions – Updated
- BHCF Training Roster (March 30, 2017 – December 30, 2019) Preventing Sexual Abuse – Civilians
- BHCF Training Roster (March 30, 2017 – December 30, 2019) Preventing Sexual Abuse – Correction Officers
- BHCF Training Roster (March 30, 2017 – December 30, 2019) Contraband and Frisk – Civilians
- BHCF Training Roster (March 30, 2017 – December 30, 2019) Contraband and Frisk – Correction Officers
- BHCF FOM #11.21, Housing Unit Procedures (1/28/20)

Interviews:

- Facility Warden/Superintendent
- Facility PREA Compliance Manager/PREA Point Person
- Intermediate or Higher-Level Facility Staff
- Random Staff
- Offenders Who Identify as Lesbian, Gay, Bisexual, Transgender, or Intersex
- Random Offenders

Site Review Observations:

- During the site review, staff were routinely observed making cross-gender announcements when persons of the opposite gender entered offender housing areas.
- Supervisory staff were observed conducting their routine security checks within offender housing areas. Cross-gender announcements and supervisory rounds, both unannounced rounds and scheduled rounds, were subsequently documented on the buildings' chronological housing logs.
- BHCF documentation reflects that during the past twelve months, the facility has not had any cross-gender visual or body cavity searches of offenders.
- Privacy screens were noted in all shower areas and in most toilet areas.
- Observed routine pat frisks of random offenders.

Standard Subsections:

- (a) Policy (DIR #4910) prohibits cross-gender strip or visual body cavity search of offenders except in exigent circumstances or by medical practitioners. Random staff interviews confirm that staff do not engage in such activities. Furthermore, all 47 offenders interviewed noted that they had not, nor had witnessed any other offender, being stripped or body cavity searched by a security staff member of the opposite gender.
- (b) The BHCF is a male facility. As there are no female offenders incarcerated at this facility, security staff always refrain from conducting cross-gender pat-down searches of female inmates even in exigent circumstances. As well, the facility has never denied any female offender access to a regularly available program or out of cell activity. The BHCF does not have any transgender offenders currently assigned to the facility.
- (c) The agency does have policies requiring that all cross-gender strip and visual body cavity searches are documented (DIR #4910, DIR #2230, HSPM 1.37, HSPM 1.19). The facility has not engaged in any cross-gender strip searches or cross-gender body cavity searches of its male prisoners within the audit period. However, under exigent circumstances, should the need arise, all 13 of the random staff interviewed understood that such action, while extremely unlikely, would require extensive justification. As the BHCF does not have female offenders assigned, no such offender has ever been subject to a cross-gender search.
- (d) The BHCF does have policies (DIR #2230, DIR #4001, DIR #4910) in place that allow 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. The facility does have policies (DIR #2230, DIR #4001, DIR #4910) that require staff of the opposite gender to announce their presence when entering an inmate housing unit. In speaking with agency staff, all staff members were aware of the agency's prohibition against cross-gender strip and visual body cavity searches. DIR #4001, Facility Administrative Coverage & Supervisory Rounds, requires all persons of the opposite gender to announce their presence upon entering an opposed gender housing assignment. All female staff interviewed did confirm their adherence to said policy. As well, the majority of offenders interviewed confirmed this statement. To ensure offenders are afforded sufficient modesty measures while in various stages of undress, privacy screens were generally observed in the shower and toilet areas. There were two areas within the facility, the Main and Annex Gyms,

were privacy screens were not in place inside the offender restrooms. While the toilets had privacy walls on either side of them, there weren't any privacy screens in the front of the toilets. To correct for this, swinging privacy doors were installed. These doors now allow for the viewing of offender feet and heads, but conceal the mid-torso and genital areas.

- (e) The DOCCS has policies (DIR #2230, DIR #4910, HSPM 1.37, HSPM 1.19) prohibiting the search of transgender offenders designed solely to determine offender genital status. In interviewing staff, it was clearly expressed that if the gender of an offender is unknown, conducting a strip search of the offender would be inappropriate. It was generally expressed that to determine gender, staff would contact the medical department, their supervisor, or simply ask the offender.
- (f) Records reflect that 100% of BHCF security staff have been trained on proper policy specific to conducting cross-gender offender frisk searches and transgender offender frisk searches in a professional and least intrusive manner as possible consistent with security needs. All 13 random staff interviewed did affirm their understanding of agency policy prohibiting the search of any transgender or intersex offenders for the sole purpose of determining the inmate's genital status. DOCCS Health Services Policy 1.19 (6/11/19) specifies that "a facility shall not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. If the inmate's genital status is unknown, it may be determined during the conversations with the inmate or by reviewing medical records. A medical practitioner may conduct a full physical examination of an inmate, including a transgender inmate, when relevant to the treatment of the patient. Such an exam is to be conducted in private and with the patient's consent" (p. 1). Policy (DIR #4910) provides clear instructions on how staff will perform searches of transgender offenders assigned to male correctional facilities. Random security staff interviewed confirmed their understanding of how to conduct a proper search of transgender/intersex offenders assigned to the BHCF. As well, facility training rosters reflect that all correctional staff assigned to the BHCF have been trained on how to conduct searches in a professional and least intrusive manner as possible. During the site review, security staff were observed conducting pat frisks on a random basis in both a professional manner and in the least obtrusive manner possible consistent with security needs.

Reasoning & Findings Statement:

This standard requires that the agency place limits on cross-gender strip or cavity searches. The DOCCS has enacted policies prohibiting said searches in the absence of exigent circumstances. In the event exigent circumstances require cross-gender strip or cavity searches, policy subsequently requires this search to be properly documented. Agency security staff are trained on the proper procedures to conduct frisk searches on transgender or intersex offenders, which requires said searches to be performed in a professional and least intrusive manner as possible. As well, the agency requires opposite gender staff to announce their presence upon entering offender housing areas where persons may be in a state of undress. The BHCF is in compliance with all agency policies. As such, the BHCF has met the standard as required.

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*)
- ☐ **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.

Documents:

- DIR #2612, Inmates with Sensorial Disabilities (12/27/18)
- DIR #4490, Cultural and Language Access Service (8/1/19)
- Contract #PS65924, Language Line Services, Inc
- Agency memorandum: Ending Sexual Abuse Behind the Walls: An Orientation (10/26/15)
- Form #4021-A, Draft Receipt (12/12/16)

- Agency memorandum: New and Update PREA Manuals (12/28/15)
- DOCCS Inmate Education & Orientation Film Facilitator Guide
- DOCCS Inmate Orientation Films Facilitator Training (5/15)
- The Prevention of Sexual Abuse in Prison, What Inmates Need to Know, Male Version, English (8/2015)
- The Prevention of Sexual Abuse in Prison, What Inmates Need to Know, Male Version, Spanish (8/2015)
- The Prevention of Sexual Abuse in Prison, What Inmates Need to Know, Male Version, Mandarin Chinese (8/2015)
- The Prevention of Sexual Abuse in Prison, What Inmates Need to Know, Male Version, Haitian Creole (8/2015)
- The Prevention of Sexual Abuse in Prison, What Inmates Need to Know, Male Version, Italian (8/2015)
- The Prevention of Sexual Abuse in Prison, What Inmates Need to Know, Male Version, Korean (8/2015)
- The Prevention of Sexual Abuse in Prison, What Inmates Need to Know, Male Version, Polish (8/2015)
- The Prevention of Sexual Abuse in Prison, What Inmates Need to Know, Male Version, Russian (8/2015)
- The Prevention of Sexual Abuse in Prison, What Inmates Need to Know, Male Version, Bengali (1/2019)
- Language Access Plan for LEP Individuals (4/1/15)
- BHCF Form 4021-A, Draft Receipt, Offender Receipt of Spanish PREA Brochure (12/19/19)
- BHCF Language Line Services informational pocket card for staff

Interviews:

- Agency Head
- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Intermediate or Higher-Level Facility Staff
- Random Staff
- Offenders with Disabilities
- Offenders with Limited English Proficiency

Site Review Observations:

- Correctional staff assigned to housing areas entered each area within the building to loudly announce offender information, to include when female staffed entered the housing area.
- Handicap accommodations were easily recognizable and accessible throughout the facility.
- PREA Notices, as well as other advisement notices, were posted in languages spoken by significant portions of the offender population.
- PREA informational pamphlets were available to offenders in nine different languages: English, Spanish, Mandarin Chinese, Haitian Creole, Italian, Korean, Russian, Bengali, and Polish

- Language Assistance Lines are available for staff to communicate with offenders who do not speak English.
- Staff translators were readily available as needed.

Standard Subsections:

- (a) The DOCCS has developed agency-wide policies (DIR #2612, DIR #4490) to enhance communication efforts with disabled offenders; such as those with hearing, vision, speech, or other physical disabilities; psychiatric or other intellectual disabilities, or those with limited English proficiency; so as to provide said offenders with 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 (DIR #4027B, DIR#4028B). PREA educational information is provided in writing, verbally, as well as presented in video format. The BHCF also maintains a list of employees who are fluent in languages other than English. However, if offenders do not speak a language common to any BHCF staff, the Language Assistance Line is used to translate PREA, as well other vital information.

When interviewing staff, employees were aware of the need to obtain staff interpreters for sensitive security matters, such as PREA related investigations. In the event that staff translators were not available, most staff were cognizant of the Language Assistance Line. In fact, many staff had in their possession a Language Line instructional card to assist them in the use of the Language Line system, if needed. All staff were aware that other offenders could not be used to translate for any offender during a sexual abuse/harassment investigation or incident. During the offender interview process, a staff translator was effectively used to translate for two Spanish-speaking offenders with Limited English Proficiency (LEP). When speaking with offenders who have LEP, these offenders stated that their inability to speak English has not prevented them from participating in any facility-based services, to include the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Additionally, offenders with physical and/or intellectual disabilities were interviewed. These offenders all stated that either DOCCS has made accommodations for their disabilities or that their disabilities did not prevent them from participating in any facility-based services, to include the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

- (b) The PREA informational brochure is printed in nine different languages: English, Haitian Creole, Italian, Korean, Mandarin Chinese, Russian, Spanish, Polish, and Bengali. The Bengali language brochure was added in January of 2019 and, as of that date, future materials will no longer be translated into Italian and Polish consistent with State language access policies. As well, per the PREA Coordinator, the PREA Informational video can be seen by offenders in these languages, along with being illustrated via closed captioning in any of those same languages. The Language Assistance Line can translate in these languages, as well as in other, less spoken languages.
- (c) The DOCCS has developed agency-wide policies that prohibit the use of offender interpreters or other types of offender-based assistance in the transmission or subsequent investigation of security sensitive information, such as PREA related matters (DIR #4027B, DIR #4028B). The agency has also developed agency-wide policies to enhance communication efforts with disabled offenders; such as those with hearing, vision, speech, or other physical disabilities; psychiatric or other intellectual disabilities (DIR #2612), or those with limited English proficiency (DIR #4490);

so as to provide said offenders with an equal opportunity to directly participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment without the use of offender interpreters or other types of offender-based assistance. BHCF staff are aware of these agency policies and do not utilize offender interpreters for security sensitive matters.

Reasoning & Findings Statement:

This standard seeks to empower all offenders with the right to be free from sexual abuse and sexual harassment. An essential component to that requirement is the ability to access PREA information, services, and support services. Offenders with disabilities; either cognitive, physical, or cultural, may require additional assistance in achieving said access. Hence, it is necessary for the agency to provide additional measures to ensure said offenders have equal access. The DOCCS recognizes that need and has gone above and beyond that standards by providing informational brochures in not only the most common spoken offender languages, but also in lesser common languages. The BHCF maintains sufficient stocks of PREA informational brochures in all printed languages to ensure their availability should it be required. Additionally, the BHCF routinely stocks PREA informational brochures, as well as broadcasts PREA informational videos, in Spanish, the most commonly spoken language inside of BHCF outside of English. Staff have been trained, and are provided continuous refresher training, in the management of offenders with sensorial disabilities, as well as in cultural awareness. Lastly, it should be noted that at no time during the past 12 months, has BHCF used offender interpreters to help agency staff communicate with another offender regarding security sensitive information. For these reasons, it is more than evident that the BHCF exceeds in providing inmates with disabilities, as well as those with limited English proficiency, equal access to PREA related rights and support services.

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

- ☐ **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.

Documents:

- DIR #2216, Fingerprinting/Criminal History Inquiry – New Employees and Contractors (11/1/18)
- DIR #2216, Attachment A, Fingerprint Processing Chart (11/1/18)
- DOCCS Personnel Manual #406A, Recruitment Process (4/8/16)
- DOCCS Recruitment Process Checklist
- DOCCS Employment Telephone Verification (4/16)
- Agency memorandum, Personnel Procedure #407, Civilian Promotions (4/30/14)
- Agency memorandum, Employee Background Checks (8/18/15)
- DIR #2112, Report of Criminal Charges (4/10/18)

- Fair Chance Application Revisions (7/15/15)
- Form 1253, Personal History and Interview Record (4/13)
- Employment availability canvass, Lieutenant (4/9/12)
- Employment availability canvass, Sergeant (4/23/14)
- Employee Investigation Unit, Personal History Questionnaire (6/15)
- DIR #2012, Release of Employee Personal and Payroll Information (10/7/19)
- BHCF Personal History and Interview Record (10/18/19)
- BHCF Employee Files – 4 Complete Uniform Staff Files Reviewed on Site
- BHCF Employee Files – 3 Complete Civilian Files Reviewed on Site

Interviews:

- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Administrative (Human Resources) Staff

Site Review Observations:

- Review of employee files
- Review of BHCF employee PREA training tracking spreadsheet

Standard Subsections:

- (a) The DOCCS has developed agency-wide policies (DIR #2216, DIR #2112, DIR #2012, Personnel Manual #406A, Personnel Procedure #407) that prohibit the hiring or promotion of employees and contracted workers, as well as the use of volunteers, who have engaged in sexual abuse, been convicted of engaging or attempting to engage in a sexual activity with offenders, or been civilly or administratively adjudicated to have engaged in a sexual activity with offenders while in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution. The agency also has policies that stipulate prior to all hiring and promotional decisions of employees and contract workers, any incidents of sexual harassment will be considered. Prior to hiring any new employee or contract worker at the facility level, BHCF Human Resource staff ensure that criminal background checks have been conducted on the prospective employee. As well, as required by policy, Human Resource staff ensure that all previous institutions of employment are contacted in order to determine if candidates have any previously substantiated claims of sexual abuse or resigned during a pending investigation of such claims. Conversely, policy also requires that the BHCF cooperate with other correctional and law enforcement agencies to ensure that accurate information regarding PREA related employment laws are effectively shared between agencies.
- (b) DOCCS policy (Personnel Procedure #407) requires the facility to consider any incidents of sexual harassment in determining whether to hire/promote anyone who may have contact with inmates. Likewise, in speaking with the BHCF Human Resource representative, agency policy requires Human Resource staff to also verify contractor employment history.

- (c) Before hiring new employees, policy (DIR #2216) requires the agency to perform a criminal background records check. Policy (Personnel Procedure Manual #406A) also requires the agency to conduct checks with previous employers for any applicant previously employed by a correctional facility. In the past 12 months, the BHCF has received a total of 26 newly hired employees. Of those, 8 were hired at BHCF, and thus the BHCF was responsible for, and did perform, criminal background checks on all eight of those prospective employees. The remaining 18 employees were hired at the agency level. During the on-site audit, BHCF Human Resources staff provided evidence of criminal background checks being performed for two randomly selected, newly hired correctional staff.
- (d) Agency policy requires that prior to enlisting the services of any contractor who may have contact with offenders, the agency performs a criminal background records check on said contractor. In the past 12 months, the BHCF has received a total of 17 newly hired contractors. As such, the BHCF was responsible for, and did perform, a criminal background check on these prospective contractors. During the on-site audit, BHCF Human Resources staff provided evidence of criminal background checks being performed for two randomly selected, newly hired contractors
- (e) Once employed or otherwise contracted to work with the DOCCS, agency policy requires that criminal background checks are conducted every five years to ensure that said persons have not been found to have engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution. As well, employees have an affirmative duty to report any contact they may have had with other law enforcement agencies and to report any sexual misconduct they may have been found guilty of at any other institution. Furthermore, employees are made aware that failing to provide this information, or providing false information regarding sexual misconduct, is grounds for employee discipline, to include termination of employment.
- (f) All applicants, as well as current employees, are required to submit a Personal History Questionnaire form. The document directly asks employees who may have contact with inmates to disclose any previous sexual misconduct that may have occurred in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution. Additionally, the DOCCS does impose a continuing affirmative duty on all employees to disclose any misconduct found within Section A of this standard.
- (g) Agency policy expressly advises employees that material omissions or providing false information regarding the aforementioned misconduct is grounds for termination.
- (h) Agency policy, as a function of state law (Personal Privacy Protection Law), does not allow the DOCCS to release information concerning any employment record to private employers without the employee's written consent. This information may, however, be provided to State agencies without the former employee's authorization.

Reasoning & Findings Statement:

This standard requires the agency to consider the sexual safety of offenders in all hiring and promotion decisions within the agency. The agency has numerous policies in place to ensure that end. Review of employee and contractor files reflect that the BHCF Human Resource Department is in strict compliance with agency policy. As such, the BHCF clearly meets the requirements of 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*)
- ☒ **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.

Documents:

- DIR #3053, Alterations/Construction Request (6/25/18)
- Form #1612, Alterations/Construction Request (4/15)
- BHCF Form #1612, Alterations/Construction Request (2/9/18))
- BHCF Executive Team Meeting Minutes (12/11/19)
- BHCF Executive Team Meeting Minutes (12/5/19)
- BHCF Form #1612, Alterations/Construction Request (3/17/17)

Interviews:

- Agency Head
- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility Warden/Superintendent
- Facility PREA Compliance Manager/PREA Point Person

Site Review Observations:

- Observed video monitoring technologies present within the facility.
- Observed completed construction project; namely, saloon doors installed in all shower entry areas of the housing units.

Standard Subsections:

- (a) The BHCF was approved and implemented saloon doors installed on all shower entry areas in the housing units/dorms. The impact of this modification enhanced the facilities ability to ensure privacy and protect inmates form sexual abuse.
- (b) The BHCF has not installed or updated the video monitoring system or other monitoring technology since the last PREA audit.

Reasoning & Findings Statement:

Within the audit time frame, BHCF has, in accordance to policy (DIR #3053), considered the impact that installing modesty screens within all housing shower areas would have on the sexual safety of offenders assigned to those dorms. In speaking with the BHCF Superintendent, the importance of modesty measures in promoting an environment of sexual safety is of critical importance. As well, it was also noted that in considering the annual staffing review, the use of video monitoring and other electronic surveillance means are continuously examined in light of how such technologies would affect the sexual safety of offenders assigned to the BHCF.

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 evidentiary 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.

Documents:

- DIR #4027B, Sexual Abuse Reporting & Investigation, Inmate-on-Inmate (11/29/17)
- DIR #4028B, Sexual Abuse Reporting & Investigation, Staff-on-Inmate/Staff-on-Parolee (11/29/17)
- DIR #0700, Office of Special Investigations (11/28/18)
- Statement of Compliance, Evidence protocol and forensic medical examinations (3/21/19)
- A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents, U.S. Department of Justice, Office on Violence Against Women (4/13)
- Health Service Policy Manual #1.60, Sexual Assault (10/25/17)
- Statement of Compliance, Evidence protocol and forensic medical examinations (9/10/18)
- New York State Police MOU, Implementation of the PREA Standards (5/2/14)
- Confidential Office of Special Investigations Policy & Procedure Manual, Chapter 5, Sex Crimes Division (8/15/19)
- Public Health Law, Section 2807-c, General Hospital Inpatient Reimbursement (4/1/14)
- BHCF FOM #8.06, Coordinated Response Plan to an Incident of Inmate Sexual Abuse (2/5/19)

Interviews:

- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Investigative Staff
- Random Staff
- Medical Staff
- SAFE and/or SANE Staff
- Offenders Who Reported Sexual Abuse

Site Review Observations:

- Discussed protocol with agency staff.
- Discussed protocol with facility staff.
- Discussed protocol with SAFE/SANE staff.
- Reviewed One BHCF Offender Medical File On-Site

Standard Subsections:

- (a) Agency policy (DIR #4027B, DIR #4028B, DIR #0700, BHCF FOM #8.06), requires that the Office of Special Investigations follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceeds and criminal prosecutions. If needed, the New York State Police, Bureau of Criminal Investigations may also assist in criminal investigations as necessary.

- (b) As the BHCF does not house youth, it is not necessary to utilize a developmentally appropriate youth protocol. BHCF OSI investigators and SAFE/SANE examiners in New York State hospitals do, however, utilize the U.S. Department of Justice's Office on Violence Against Women publications; namely, *A National Protocol for Sexual Assault Medical Forensic Examination, Adults/Adolescents* as the evidence collection protocol manual.
- (c) In accordance with agency protocol, the BHCF does ensure that all offenders are given access to forensic medical examinations without cost. These exams are performed at an outside facility by qualified SAFE/SANE nursing staff. As SAFE/SANE staff are either on duty or on call 24 hours a day, seven days a week, the examination will always be performed by a qualified medical practitioner. The facility utilizes Champlain Valley Physicians Hospital and Alice Hyde Medical Center for forensic examines. In the past 12 months, the BHCF has facilitated one forensic medical examination.
- (d) The agency does attempt to make a victim's advocate available for offender support. Specifically, once BHCF notifies the outside hospital that an offender is in route for a forensic exam, that medical center then contacts a victim advocate for support services as needed.
- (e) In accordance to policy, and as requested by the victim, the advocate may remain with the offender through the forensic medical examination process and investigatory interviews. As requested, this person may provide emotional support, crisis intervention, information, and referrals.
- (f) The agency is responsible for investigating allegations of sexual abuse.
- (g) The auditor is not required to audit this provision.
- (h) A qualified staff member may be used as a victim's advocate in the event that no other rape crisis center advocate can be located. In this event, only a qualified agency member, who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general, may service in this capacity.

Reasoning & Findings Statement:

This standard concerns evidence protocol and forensic medical examinations. During the past 12 months, the BHCF has initiated the evidence protocol and forensic medical examination process; however, the offender declined said services prior to receipt. Nonetheless, the facility is still very much aware of the policies and has practices in place should the need arise at some future point. As such, the BHCF has met the needs of the provisions as established within the standard.

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

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.

Documents:

- DIR #4027A, Sexual Abuse Prevention & Intervention, Inmate-on-Inmate (11/29/17)
- DIR #4028A, Sexual Abuse Prevention & Intervention, Staff-on-Inmate/Staff-on-Parolee (11/29/17)
- DIR #4027B, Sexual Abuse Reporting & Investigation, Inmate-on-Inmate (11/29/17)
- DIR #4028B, Sexual Abuse Reporting & Investigation, Staff-on-Inmate/Staff-on-Parolee (11/29/17)
- DIR #0700, Office of Special Investigations (11/28/18)
- Statement of Compliance, Evidence protocol and forensic examinations (12/22/17)
- BHCF FOM #8.06, Coordinated Response Plan to an Incident of Inmate Sexual Abuse (2/5/19)
- BHCF Monthly Sexual Abuse/Threat Incident - Summary, Inmate-on-Inmate (12/19)
- BHCF Monthly Sexual Abuse/Threat Incident - Summary, Staff-on-Inmate (12/19)

Interviews:

- Agency Head
- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Investigative Staff
- Medical Staff

Site Review Observations:

- Discussed protocol with facility staff.
- Reviewed documentary files with facility staff.
- Discussed protocol with OSI staff.
- Reviewed documentary files with OSI staff.

Standard Subsections:

- (a) Policy (DIR #4027A, DIR #4027B, DIR #4028A, DIR #4028B, DIR #700, BHCF FOM #8.06) requires that administrative or criminal investigations are completed for all allegations of sexual abuse and sexual harassment. Within the last 12 months, the BHCF has received a total of 8 sexual abuse or sexual harassment referrals. Of those, 6 were criminal and 2 were administrative in nature. At the time of the audit, 1 of those cases had been completed.
- (b) The DOCCS Sex Crimes Division, Office of Special Investigations (OSI), is an internal law enforcement agency with legal authority to conduct criminal investigations. The DOCCS has, in fact, published this policy, as well as the criminal investigation process, on the agency website. All referrals to the OSI are documented by the agency.

- (c) In accordance with Directive #0700, Office of Special Investigations (OSI), and the DOCCS PREA Coordinator “Statement of Compliance” (12/22/17), “the Acting Commissioner of the New York State Department of Corrections and Community Supervision (DOCCS) has delegated the authority to conduct administrative and criminal investigations to the Office of Special Investigations (OSI) in accordance with Corrections Law § 112 and Directive #0700 Office of Special Investigations (OSI).” OSI works cooperatively with New York State Police (NYSP), Bureau of Criminal Investigations (BCI) in the investigations of reported incidents of staff-on-inmate and inmate-on-inmate sexual abuse that may involve criminal conduct. DOCCS has not relinquished this authority to any separate activity.”
- (d) The auditor is not required to audit this provision.
- (e) The auditor is not required to audit this provision.

Reasoning & Findings Statement:

This standard ensures proper referrals of allegations are made for further investigations. The DOCCS does have appropriate policies in place mandating referrals in specific instances. In interviewing BHCF staff, along with OSI investigators, it is clear that BHCF staff refer all required investigations to OSI for further processing in accordance to policy. Additionally, both BHCF and the OSI staff have provided sufficient documentation to evidence the facility’s adherence to agency protocol. As such, the BHCF complies in all material ways with the standard for the relevant review period.

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.

Documents:

- Employee Training Manual, Subject: 0.100, Frequency Training Chart and Training Bulletins, (12/3/18)
- Course Catalog, Correction Officer Recruit Training Program (7/10/17)
- Annual Training Bulletins (1/8/19)
- Employee Training Manual, Subject 7:100, Employee Familiarization (7/10/17)
- Employee Training Manual, Subject 7:000, 40 Hour Orientation/Initial Employee Training (8/13/18)
- Agency memorandum, Policies and standards generally applicable to all employees (7/11/18)
- Agency announcement of mandatory training sexual abuse prevention and response training
- Report of Training Form, Sexual Abuse Prevention and Response (11/16)
- Albany Training Academy, Sexual Abuse Prevention and Response Training Materials/Slides (8/15)
- Sexual Abuse Prevention and Response Video Refresher, Male (1/5/18)
- Sexual Abuse Prevention and Response Video Refresher, PowerPoint, Male (1/5/18)
- Report of Training Form: Sexual Abuse and Prevention and Response (7/17)
- DOCCS PREA Pocket Card, DC159L (09/15)
- DOCCS PREA: An Overview and Quick Response Reference Guide (2016)
- BHCF RTF: Sexual Abuse Prevention and Response (6/29/19)
- BHCF RTF: Sexual Abuse Prevention and Response (9/17/19)
- BHCF Training Roster, March 30, 2017 – December 31, 2019, Preventing Sexual Abuse – Civilians
- BHCF Training Roster, March 30, 2017 – December 31, 2019, Preventing Sexual Abuse – Correction Officers
- BHCF Training Roster, January 1, 2018 – January 30, 2020, PREA Refresher - Correction Officers

Interviews:

- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Administrative (Human Resources Staff)
- Medical Staff
- Contractors Who May Have Contact With Offenders

Site Review Observations:

- The auditor was provided with training lists of all contract workers, volunteers, and staff, to include newly hired staff. The auditor then randomly selected one-two names from every other page of the list and requested to review the PREA training records specific to said files. Among the files reviewed were: two mandated PREA disclosure notices on employee applications and the related criminal background checks for one newly hired staff, four PREA refresher training records for more tenured staff, three PREA training records for contract employees, and four PREA training records for volunteers were reviewed. Two required supplemental training records for specialized staff were also reviewed.

Standard Subsections:

- (a) Policy (DIR #4027A, DIR #4028A) requires all employees to be fully trained on the agency's zero-tolerance policy for sexual abuse and sexual harassment. As verified by Human Resource staff, such training is initially performed as a function of the hiring process. This Sexual Abuse Prevention and Response training is a comprehensive analysis of state laws and PREA standards. A review of training curriculum for this class reflects the agency's zero-tolerance policy for sexual abuse and sexual harassment, and discussion on how employees may fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures. Employees are also informed that offenders have a right to be free from sexual abuse and sexual harassment, to be free from retaliation for reporting said abuse and harassment, the dynamics of sexual abuse/harassment, reactions to sexual abuse/harassment, how to detect and respond to signs of threatened and actual sexual abuse, how to avoid inappropriate relationships with offenders, how to comply with relevant mandatory reporting laws specific to reporting abuse to outside authorities, and how to communicate effectively and professionally with inmates; including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates.
- (b) Training curriculum reviews demonstrate that the material is appropriate for the gender of inmates at the employees' facility. As well, agency policy (Employee Training Manual, Subject 7:100, Employee Familiarization) requires that "All transferees shall receive familiarization on compliance with PREA and the Department's Sexual Abuse Prevention and Response procedures. Such familiarization training shall be tailored to the gender of the inmates at the facility, including addressing gender dynamics for staff who are transferring from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa." A review of the BHCF PREA Training Spreadsheet indicates receipt and subsequent gender-based training of all transferred staff from opposite gender units.

- (c) A review of BHCF employee training rosters reflects that all actively employed staff have received their initial PREA training, as well as continued training as appropriate based on agency policy (Employee Training Manual, Subject: 0.100, Frequency Training Chart and Training Bulletins). Following this initial training, subsequent refresher trainings are provided to staff at mandatory time intervals, such as the annual viewing of the agency's Maintaining Professional Boundaries Video, as well as the Sexual Abuse Prevention and Response Refresher training conducted every two years. A review of the BHCF PREA Training Spreadsheet reflects initial training and subsequent training due dates schedules have all been maintained.
- (d) All training is documented via the BHCF Report of Training Form, which is specifically tailored to the training curriculum being provided.

Reasoning & Findings Statement:

This standard relates to employee training. The agency has clearly established training expectations and well-developed training curriculums. BHCF maintains compliance with those imperatives. All training is properly documented within employee files. During staff interviews, all employees affirmed their having received significant amounts of training as related to the PREA standards. When asked the series of questions noted within Subsection A of this standard, all staff knew and understood their responsibilities within the agency's zero-tolerance policy. Many staff readily produced their personal PREA information cards that were carried on their person as a function of their uniforms. As such, it is absolutely obvious that the BHCF places a premium on employee training. Unquestionably, the BHCF has exceeded the requirements of this standard.

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

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.

Documents:

- DIR #4027A, Sexual Abuse Prevention & Intervention, Inmate-on-Inmate (11/29/17)
- DIR #4028A, Sexual Abuse Prevention & Intervention, Staff-on-Inmate/Staff-on-Parolee (11/29/17)
- DIR #4071, Guidelines for Construction Projects (10/2/18)
- Form #4071A, Guidelines for Construction Projects (9/18)
- BHCF Form #MFVS3087, Acknowledgement of "Standards of Conduct for Volunteers" and All Applicable Policies (8/12/19)
- DIR #4750, Volunteer Services Program (1/14/19)
- Form #4750C, Standards of Conduct for Volunteers within the New York State Department of Corrections and Community Supervision
- Policy on the Prevention of Sexual Abuse of Offenders, Revised
- BHCF Form #4071A, Contractor Acknowledgement of Guidelines for Construction Projects (9/18)

Interviews:

- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Administrative (Human Resources Staff)
- Medical Staff
- Contractors Who May Have Contact With Offenders

Site Review Observations:

- Review of volunteer and contractor worker standard of conduct training forms.
- Review of BHCF PREA Training Spreadsheet for Volunteer and Contract Workers

Standard Subsections:

- (a) Policy (DIR #4027A, DIR #4028A) requires that “contractors and contract employees, volunteers, and interns receive orientation and periodic in-service training consistent with their level of inmate contact relating to the prevention, detection, and response to inmate-on-inmate sexual abuse and sexual harassment.” Additionally, agency policy (DIR # 4750) states that “All applicants must acknowledge that they understand the zero-tolerance policy regarding sexual abuse and sexual harassment and how to report such incidents under DOCCS’ sexual abuse and sexual harassment prevention, detection, and response policies and procedures.” At the time of the audit, the BHCF had 45 contract workers who would have contact with offenders. 100% of those persons have received appropriate PREA training dependent on their level of contact with offenders within the facility.
- (b) During the on-site audit, which occurred in light of the 2020 Coronavirus pandemic, nonessential persons were not present on the facility. As such, there were no volunteers available for interview. As well, there was only one contract worker available for interview. When interviewed, the contract worker stated that he had been made aware of the agency’s zero-tolerance policy regarding sexual abuse and sexual harassment. He further stated that if the need arose, he could report an incident of sexual abuse or sexual harassment to his supervisor or a security staff member.
- (c) Volunteers and contractors are required to receive PREA training prior to their being able to work/volunteer within the facility. After receipt of training, contractors and volunteers sign an acknowledgement form indicating the date and that they understood the training that they had received. The BHCF then maintains a copy of all training files belonging to both volunteers and contractors. Several such files were randomly reviewed as part of the auditing process and found to be within compliance. As well, the BHCF maintains a PREA Training Spreadsheet for Volunteer and Contract Workers as a quick reference in order to promote scheduled and regular refresher trainings as required.

Reasoning & Findings Statement:

The agency requires all volunteers and contractors to receive formal training on the agency’s zero-tolerance policy for sexual abuse and sexual harassment. In this, volunteers and contractors must be provided sufficient notice of the agency’s zero-tolerance policy of sexual abuse and sexual harassment. As well, said persons must be informed of how to report any knowledge they may have regarding such abuse. Lastly, the standard requires that the agency maintain appropriate training records to verify that volunteers and contractors understood the training that they had received. As with employee training, the BHCF has done an excellent job of ensuring volunteers and contractors conducting business on the facility have received and subsequently documented their PREA trainings. In speaking with the contractor present during the audit, it was clear this person understood the professional boundaries between himself and the offenders assigned to the institution. When interviewed, he was also able to discuss the agency’s PREA expectations as they relate to his individual job capacity within the facility, as well as discuss the value of the reporting process in an intelligible manner.

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

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.

Documents:

- Form 115.33, Report of Inmate Training Participation, PREA (5/15)
- Form 4021-A, Draft Receipt of PREA Brochure (12/12/16)
- DIR #4021, Inmate Reception/Classification (1/23/19)
- DIR #4027A, Sexual Abuse Prevention & Intervention, Inmate-on-Inmate (11/29/17)
- Form 115.33, Report of Inmate Training Participation, PREA (5/15)
- Form 115.33L, Report of Inmate Training Participation, PREA (5/15)
- Agency Memorandum, PREA Inmate Orientation Film Implementation (6/18/15)
- Agency Memorandum, Revised Transitional Services Phase I (3/25/16)
- Transitional Services, Phase I Program Manual, Male Facility (2016)
- Prevention of Sexual Abuse in Prison, What Inmates Need to Know Available Brochure Language Guide (1/16)
 - (Bengali [1/19], Chinese, Haitian-Creole, Italian, Korean, Polish, Russian, English, & Spanish)
- Agency Memorandum, New and Updated PREA Materials (12/28/15)
- The Prevention of Sexual Abuse in Prison, What Inmates Need to Know, Male, English (8/15)

- The Prevention of Sexual Abuse in Prison, What Inmates Need to Know, Male, Spanish (8/15)
- Agency Memorandum, Reasonable Accommodations PREA Information (10/27/14)
- PREA – Sexual Abuse Prevention Inmate Orientation Outline (6/28/19)
- Agency Memorandum, Ending Sexual Abuse Behind the Walls: An Orientation (10/26/15)
- BHCF Report of Inmate Training Participation, Prevention of Sexual Abuse PREA, Individual Acknowledgement Form (8/1/19)
- Form 115.331, Report of Inmate Training Participation, Catch Up Schedule (7/15/15)
- Offender Draft Receipt, PREA Brochure (12/12/16)
- BHCF Offender Draft Receipt, PREA Brochure (12/19/19)
- BHCF three offender Guidance Folders reviewed in full during onsite audit

Interviews:

- Facility PREA Compliance Manager/PREA Point Person
- Intake Staff
- Staff Who Perform Screening for Risk of Victimization and Abusiveness
- Random Offenders

Site Review Observations:

- Observed the offender reception process, formerly known as Draft
- Observed the PREA Risk Screening Process
- Observed PREA informational postings in Offender Housing, Education, Library, Law Library, and other areas of high traffic
- Observed a vary of PREA related materials and information available for offender use within the Library and Law Library areas
- Observed PREA Resource Manual available within Transitional Services
- Observed additional informational booklet and flyers specific to addressing sexual abuse and other traumatic events

Standard Subsections:

- (a) Policy (DIR #4021, DIR #4027A, DIR #4021) requires that upon receipt into the facility, offenders shall receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment. Offenders will also be informed of reporting mechanisms to expose incidents or suspicions of sexual abuse and harassment. They will then be provided with, and must sign to receive, as copy of the Facility Inmate Orientation and a gender specific PREA Sexual Abuse Brochure. The PREA Brochure is available in nine different languages: Bengali, Chinese, English, Korean, Haitian-Creole, Italian, Polish, Russian, and Spanish. New York State DOCCS no longer translates new publications into Italian or Polish, but the PREA Brochure is still available in these additional languages. Within the past 12 months, the BHCF has received 1,480 offenders during the Intake process. Of those offenders, 100% were provided the initial PREA screening, informational brochures, and general overview of the law. Of those 1,480 offenders, 1,472 remaindered at the facility for over 30 days. Of which, 100% received a more in-depth, comprehensive PREA training during the Offender Orientation Process, which is conducted weekly.

- (b) As noted by the Intake (Draft) Sergeant, offenders are immediately provided a brief summary of the PREA standards upon their initial arrival to the facility. Offenders are then provided a comprehensive seminar detailing key points of the process generally within one week of intake, but no more than two weeks. Every offender transferring into BHCF will participate in facility orientation, including a comprehensive component on sexual abuse and sexual harassment prevention and response. If this is the offender's first general confinement facility following admission to New York State DOCCS, he will also participate in the Transitional Services Phase 1 Program that includes an extensive module on PREA and sexual safety. The information is given as both a video presentation and as an interactive session. As a function of this training, offenders are informed of their rights to be free from sexual abuse and sexual harassment, to be free of retaliation for reporting such actions, as well as the agency's responsibilities and procedures upon receiving notification of such allegations (DIR #4027-A). The Transitional Services Phase 1 module spends more time exploring these topics. The session is conducted by trained Inmate Program Associates (peer educators) in conjunction with a staff facilitator. The class uses the orientation film, a series of scenarios, and a guided discussion with the stated objectives to gain awareness and understanding of sexual abuse and sexual harassment, to understand the dynamics and prevalence of sexual abuse, and to learn key facts about sexual abuse and sexual harassment.
- (c) Per Mr. Effman, and as documented by agency memorandum (Inmate Orientation Film Implementation), beginning July 20, 2015, all offenders incarcerated within the DOCCS were required to watch the newly released PREA training video entitled *Ending Sexual Abuse Behind the Walls: An Orientation (2015)*. This training was required to be completed by August 14, 2015. All offenders subsequently received into the DOCCS have been required to watch that same film during reception. Upon any transfer to another facility with the DOCCS, offenders are required to again watch the 2015 Orientation video as part of a facility orientation program. The New York State DOCCS, despite having largely consistent policies across the system, requires that facility orientation, including comprehension PREA education, must be provided following each transfer. According to Mr. Effman, this ensures that each facility can reinforce its role in supporting the Agency's zero tolerance policy toward all forms of sexual victimization. The facility also provides local information including identifying its ADS PCM and PREA Point Person, providing updated information on the Rape Crisis Hotline, and the designated local partner rape crisis program for emotional support and victim advocacy services. In this manner, all offenders currently incarcerated within the DOCCS, and certainly within the BHCF, have been afforded the opportunity for a comprehensive PREA education.
- (d) Similar to the PREA Brochures, the above referenced film is available in eight different languages (Chinese, English, Korean, Haitian-Creole, Italian, Polish, Russian, and Spanish), as well as with closed captioning in any of these languages. PREA informational posters are available in large print for the visually impaired. Translation services are available for offenders who don't speak any of the above languages. As well, per policy (DIR #2612), the agency will provide reasonable accommodations to all offenders in need of ADA accommodations, both physical and cognitive, so as to ensure said offenders have equal opportunity to benefit from the PREA standards.

- (e) In accordance to policy (DIR #4021), at Intake, offenders are provided with the PREA Brochure entitled: *The Prevention of Sexual Abuse in a Prison*. After discussing key points within the brochure, offenders are required to document their receipt of such via the #4021A Draft Receipt form. At Orientation, offenders are then required to participate in an orientation class that includes guided discussions concerning the DOCCS zero tolerance policy concerning sexual abuse and sexual harassment and uses the film entitled: *Ending Sexual Abuse Behind the Walls: An Orientation (2015)* to help facilitate the training. This discussion is typically led by the Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM) or, if said staff member is unavailable, by a Transitional Services Orientation Rehabilitation Coordinator (ORC). Along with providing relatable offender testimonies validating the use of the PREA reporting system, this video also explains how to use the PREA hotline for emotional support services. Participation in this orientation program is subsequently documented on Form #115.33, Report of Inmate Training Participation. It should further be noted that this video, tailored for either male or female offenders, is prominently available for public viewing on the New York State DOCCS web site.
- (f) While offenders are provided personal copies of the DOCCS Inmate Orientation Handbook (also available in English and Spanish) and the PREA Brochure, both of which contain a wealth of information related to rape counseling support services and the PREA standards, additional information regarding such is also available. Upon receipt into the BHCF, offenders are provided a facility based orientation handbook. Throughout the facility, as well as adjacent to all offender phones, PREA informational posters are posted (in both English and Spanish). There are also posters providing the names and contact information for Rape Crisis Centers that provide recovery support services to incarcerated offenders. Within the General Library and the Law Library, there are additional PREA related resources available.

Reasoning & Findings Statement:

This standard works to ensure that offenders are cognizant of the agency's zero-tolerance policy toward sexual abuse and sexual harassment, as well as have subsequent access to, and can effectively utilize, the PREA reporting mechanism. In speaking with offenders assigned to the BHCF, every single offender stated that he was aware of PREA and its purpose within the facility. While offenders were collectively aware of the policy and their rights to varying degrees, all offenders interviewed were aware of at least one, but generally more, methods by which they could report allegations of sexual abuse or sexual harassment.

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

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.

Documents:

- Statement of Compliance, PREA Specialize Training, Investigations (11/20/18)
- DOCCS, OSI Training, 24 Employee Training Records
- Listing of all OSI Trained Evidence Technicians
- OSI, Sex Crimes Division, Investigations Training PowerPoint (8/18/18)
- Investigating Physical and Sexual Abuse in Institutional Settings Syllabus (11/14/16)
- Report of Training Form, Investigating Physical and Sexual Abuse (11/14/16)
- NIC Investigating Sexual Abuse in a Confinement Setting Course Overview
- OSI Report of Training Form Roster (6/19/14)
- Report of Training Form, Preventing Sexual Abuse (6/19/14)
- OSI Roster of Certified Training, Police Crime Scene and Evidence Specialist (10/23/17)
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (3/21/15)
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (4/2/15)
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (4/3/15)
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (4/7/15)
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (4/8/15)
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (6/17/16)
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (12/19/16))
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (1/4/17)
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (9/1/17)
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (9/7/17)
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (9/11/17)
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (9/20/17)
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (9/22/17)
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (9/27/17)
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (9/28/17)

- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (9/29/17)
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (10/1/17)
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (10/10/17)
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (10/24/17)
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (10/30/17)
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (10/23/17)
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (12/18/17)
- RTF Communicating Effectively and Professionally with LGBTI Offenders and/or PREA Investigating Sexual Abuse in a Confinement Setting Rosters (3/2/18)
- NIC Certificate of Completion, PREA Investigating Sexual Abuse in a Confinement Setting, OSI Training, 26 Employee Training Certificates (2015-2018)
- NIC Certificate of Completion, PREA Investigating Sexual Abuse in a Confinement Setting, OSI Training, 24 Employee Training Certificates (2017-2018)

Interviews:

- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Administrative (Human Resources Staff)
- Investigative Staff

Site Review Observations:

- Interviewed OSI staff regarding training
- Reviewed OSI training certifications
- Reviewed agency training records documenting OSI training curriculums

Standard Subsections:

- (a) Per policy (DIR #0700, OSI Policy Manual Chapter 5), all Office of Special Investigations (OSI) investigators have received specialized training in excess of the generalized sexual abuse and sexual harassment training provided to other staff. Among other classes, OSI investigators participate in the National Institute of Corrections PREA Investigating Sexual Abuse in a Confinement Setting course and Forensic Experiential Trauma Interview training. In interviewing OSI investigators, said staff confirmed participation in numerous related courses while attending the Office of Special Investigations Investigator School, as well as classes subsequent said school. Additionally, training curriculums, employee training certifications, as

well as completed training rosters, provided additional documentation to support facility compliance.

- (b) The training curriculums associated with additional OSI investigator classes provided at the Office of Special Investigations Investigator School reflect that OSI investigators also receive training on proper interview techniques for speaking with sexual abuse victims, the proper use of Miranda and Garrity warnings, sexual abuse evidence collection within a confinement setting, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. In August of 2019, OSI staff completed training in Introduction to the Forensic Experiential Trauma Interview, an interview methodology driven by the neurobiology of trauma and memory that provides interviewers with a framework to maximize the opportunities for information collection about an individual's high stress or traumatic experiences in a neutral, equitable, and fair manner. In speaking with OSI staff, said staff confirmed their attendance of such trainings. As well, training certifications and completed training rosters further verify that OSI staff participate in these trainings.
- (c) The agency maintains documentation that agency investigators have completed the required specialized training related to sexual abuse investigations. A review of training certifications and completed training rosters confirms that such documentation is maintained within agency files for all 31 investigators currently employed by the agency.
- (d) The auditor is not required to audit this provision.

Reasoning & Findings Statement:

This standard works to ensure that persons investigating allegations of sexual abuse and sexual harassment have been sufficiently trained in related procedural and due process requirements necessary for both administrative prison hearings and for federal or state judiciary proceedings. The New York DOCCS has a training schedule in effect to ensure OSI investigators receive all required trainings in a timely manner. The Office of Special Investigations Investigator School has developed a meaningful curriculum to facilitate course materials. OSI staff are required to attend both general PREA training, as well as PREA trainings specific to conducting investigations of sexual victimization in a confinement setting. In addition, DOCCS has exceeded the requirements of this standard by having multiples of their investigators certified as *Police Crime Scene and Evidence Specialists*, able to photograph and process a crime scene for forensic evidence. Also, DOCCS recently launched a new OSI training protocol that includes compassion for, and understanding of, victim trauma as it relates to forensic interviewing processes. OSI staff affirmed that they had received sufficient training to confidently conduct sexual abuse investigations in a confinement setting. Agency documentation verified that OSI staff do receive specialized training in excess of the generalized training provided to all staff, as well as additional training to promote empathy and understanding. As such, the BHCF exceeds the basic requirements of this standard.

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.

Documents:

- Employee Training Manual, Subject 7.000, 40 Hour Orientation/Initial Employee Training (8/13/18)
- MOU between NY State Office of Mental Health and DOCCS (9/14/16)
- Health Services Policy #1.60, Sexual Assault
- Form #3150, DOCCS Mental Health Referral (7/16)
- Report of Training Form, PREA Training for Medical and Mental Health Providers
- Inmate Sexual Assault Post Exposure Protocol/PREA, Training PowerPoint (8/9/16)
- SOAP Notes for Nurses
- BHCF Training Roster, January 1, 2015 – December 31, 2019, PREA Training for Medical and Mental Care Providers – Civilians
- BHCF RTF Training Roster, PREA Training for Medical and Mental Care Providers (6/15/16)
- BHCF RTF Training Roster, PREA Training for Medical and Mental Care Providers (6/17/19)

Interviews:

- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Administrative (Human Resources Staff)
- Medical Staff
- SANE/SAFE Staff

Site Review Observations:

- Review of facility training records
- Review of BHCF PREA Training Spreadsheet for Medical Staff

Standard Subsections:

- (a) The New York DOCCS works corporately with the New York State Office of Mental Health (OMH) to provide mental health services to incarcerated persons within the BHCF. Per a Memoranda of Understanding between the two agencies, all employees of the OMH who work inside correctional institutions must receive specialized training on how to detect and assess signs of sexual abuse and sexual harassment. In addition to the general training provided to all staff, DOCCS medical service employees also receive specialized training on how to detect and assess signs of sexual abuse and sexual harassment. Policy further requires that all full and part-time medical and mental health care practitioners receive training on how to preserve physical evidence of sexual abuse, how to respond effectively and professionally to victims of sexual abuse and sexual harassment, as well as how and to whom to report allegations or suspicions of sexual abuse and sexual harassment. Interviews with Human Resource staff, the BHCF Nurse Administrator, and the contracted SAFE/SANE Nurse Coordinator assigned to coordinate forensic medical services with the BHCF, confirm that staff have received trainings as required. A review of agency training records documents staff participation in initial and/or continuing training requirements.
- (b) In accordance to the BHCF Nurse Administrator, medical staff at BHCF do not conduct forensic medical examinations. Rather, as confirmed by the contacted SAFE/SANE Nurse Coordinator, offenders are transported to a nearby public medical facility for such services.
- (c) A review of training records reflects that of the 19 current Medical and Mental Health employees assigned to the BHCF, 100% have received specialized training appropriate for their professional roles.
- (d) As well, dependent on their professional role, a review of training records reflects that medical and mental health practitioners have also received the generalize PREA training provided to all other staff, volunteers, and contractors working within a correctional setting.

Reasoning & Findings Statement:

This standard works to ensure that medical and mental health staff have received specialized training in medical and mental health services provided to victims of sexual abuse and sexual harassment. The New York DOCCS has policies in place to ensure all contracted OMH staff, as well as all medical staff, are furnished this training. The BHCF Nurse Administrator confirmed that staff have received all required and continuing education classes specific to their professional role as it applies to medical and mental health services administered when assisting victims of sexual abuse and sexual harassment. The contracted SAFE/SANE Nurse Coordinator confirmed that all persons conducting forensic medical exams are properly certified to perform said exams. Documentation of agency training verified that said staff do receive specialized training in excess of the generalized training provided to all staff. As such, the BHCF meets the basic requirements of this standard.

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

- ☐ **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.

Documents:

- Form 115.41M, PREA Risk Screening Form, Male Facility (5/19)
- Form 115.41GI, Gender Identify Interview (5/19)
- Form 4021-A, Draft Receipt (12/12/16)
- DIR #4027A, Sexual Abuse Prevention & Intervention, Inmate-on-Inmate (11/29/17)
- Form 4021, Security Screen Form (7/26/16)
- PREA Risk Screening Policy FOM Template
- DIR #4021, Inmate Reception/Classification (1/23/19)
- BHCF FOM #8.07, PREA Risk Screening (2/7/19)
- BHCF Form 4021-A, Draft Receipt (2/21/19)
- BHCF Form 4021, Security Screen Form (2/21/19)
- BHCF Form 115.41M, PREA Risk Screening Form (11/5/19)
- BHCF Form 115.41M, PREA Risk Screening Form (8/8/19)

- BHCF Form 115.41M, PREA Risk Screening Form (11/5/19)
- BHCF Form 4021, Security Screen Form (12/19/19)
- BHCF Form 4021-A, Draft Receipt (12/19/19)
- BHCF three offender Guidance Folders reviewed in full during onsite audit
- BHCF Conducting an Effective PREA Risk Screening Terminology pocket card

Interviews:

- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Intake Staff
- Medical Staff
- Staff Who Perform Screening for Risk of Victimization and Abusiveness
- Offenders Who Identify as Lesbian, Gay, Bisexual, Transgender, or Intersex
- Disabled Offenders
- Limited English Proficient Offenders
- Random Offenders

Site Review Observations:

- Observed the Draft process
- Observed PREA screening for risk of victimization and abusiveness process
- Reviewed offender files

Standard Subsections:

- (a) Policy (DIR #4027A, DIR #4021) requires that during intake, as well as upon any transfer to another facilities, all offenders are screened for their risk of being sexually abused by other inmates or for being sexually abusive toward other inmates. The BHCF Intake (Draft) Sergeant affirms the facility's adherence to agency policy. Specifically, all offenders received into the facility are screened for sexual victimization and/or sexually abusive risk factors on the same day that offenders are received into the facility. As a function of the Draft process, offenders are screened for their risk of victimization and abusiveness. This screening process was observed by the auditor.
- (b) Per BHCF policy (FOM #8.06), intake screenings ordinarily take place within 24 hours of offenders arriving to the facility. Per the Intake (Draft) Sergeant, within the audit time frame, of the 1,472 offenders received into the BHCF who length of stay in the facility was for 72 hours or more, 100% were subsequently provided risk screening assessments for their risk of being sexually victimized or for being a sexual abuser within 72 hours of their entry into the facility.
- (c) The PREA screening assessment is conducted using an objective screening instrument (FORM 115.41M). A review of the ten survey questions provided to offenders does not present with either an implicit bias or leading statements. The FORM 115.41M does not contain value

statements, bias language, or implied negative consequences for affirmative answers to any of the questions asked. Rather, it is a strictly utilitarian form that was witnessed by the auditor to be administered in a nonjudgmental manner. To determine an offender's risk of sexual victimization, an offender is asked ten questions. If the offender answers affirmatively to five or more of the questions, then the offender may be at high risk of sexual victimization and the Watch Commander must be promptly notified. To determine an offender's risk of sexual abusiveness, staff must review the offender's previous criminal and institutional history for instances of sexual abuse. If the offender has previously committed sexual abuse, then the offender may be at high risk of being sexually abusive and the Watch Commander must be promptly notified.

- (d) BHCF policy (FOM #8.06) requires the PREA Risk Screening Form be administered by a Sergeant or above. Subsequent reassessments are performed by the assigned Offender Rehabilitation Coordinator. The PREA Risk Screening Form does consider, at a minimum, if the offender has a mental, physical, or developmental disability. It considers the age of the offender, the offender's physical build, whether the offender has previously been incarcerated, whether the offender's criminal history is exclusively nonviolent, whether the offender has prior convictions for sex offenses against an adult or child, whether the offender has previously experienced sexual victimization, the offender's own perception of vulnerability, and whether the offender is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming. Offenders are explicitly asked if they are gay, lesbian, bisexual, transgender, intersex, or gender nonconforming/gender nonbinary. Offenders are then asked if others perceive them as the same. The risk screener's subjective perception regarding gender expression is also captured. It should further be noted that despite the fact the DOCCS does not detain offenders solely for immigration purposes, that question is still considered as a function of the PREA Risk Screening Form. During offender interviews, the overwhelming majority of offenders stated that they had, in fact, been asked the aforementioned questions upon their receipt into the BHCF. Of these, the majority of interviewed offenders also affirmed that facility guidance staff later asked them the same questions.
- (e) In assessing offenders for their risk of being sexually abusive, the PREA Risk Screening Form (FORM 115.41M) does consider prior acts of sexual abuse, prior convictions for violent offenses, and the history of prior institutional violence or sexual abuse. Along with physically observing the risk screening process, the auditor also reviewed nine PREA Risk Screening Forms completed within the auditing time frame. All forms were filled out in their entirety, with offenders having generally provided relevant answers to each of the questions asked. It should further be noted that the Intake (Draft) Sergeant confirmed that offenders may refuse to answer any question on the survey or may refuse participation in the entire survey without the threat of negative consequences.
- (f) BHCF FOM #8.06 requires that offenders are reassessed by an assigned Offender Rehabilitation Coordinator (ORC) ordinarily within 14 days of the offender's arrival to the facility. In speaking with ORC staff, their adherences to this policy was confirmed. Normally, reassessments are completed within one week of the initial assessment. Within the audit time frame, 1,472 offenders with a length of stay in the facility for 30 days or more, were reassessed for their risk of sexual victimization or of being sexually abusive within 30 days after their arrival to the BHCF. In reviewing the nine PREA Risk Screening Forms completed with the auditing time

frame, it was noted that all nine reassessments occurred within 14 days of the offender's initial BHCF assessment.

- (g) BHF FOM #8.06 requires that offender risk levels are reassessed upon referral, when duly warranted, upon request, when subject to an incident of sexual abuse, or when the agency receives additional information that bears on an offender's risk of sexual victimization or abusiveness. Both the PREA Point Person and ORC staff confirm reassessments are conducted as required. As well, in discussing reassessment processes with offenders, several offenders stated that after having brought concerns for their safety to the attention of security personnel, they were subsequently interviewed by their ORC regarding the survey questions presented on the PREA Risk Screening Form.
- (h) Policy (BHF FOM #8.06) expressly prohibits disciplinary sanctions against any offender who refuses to answer or fails to provide complete and/or accurate answers to any of the questions noted on the PREA Risk Screening Form. When interviewed, the Intake (Draft) Sergeant and PREA Point Person affirmed that disciplinary sanctions were not imposed against offenders for refusing or failing to answer any of the questions on the FORM 115.41M.
- (i) Policy (BHCF FOM #8.06) requires that the screening process be performed in a private setting so as to provide privacy to the responding offender. Policy further requires, as well as reinforced by specific language on the form, that facility staff must restrict the spread of information obtained as a function of the FORM 115.41M to only those designated staff members with operational need in order to inform classification, housing and work assignments, programmatic and non-programmatic activities, or any other relevant institutional activities. The PREA Point Person, Intake (Draft) Sergeant, and ORC all affirmed the information obtained by way of FORM 115.41M was considered restricted, and as such, was not distributed to unauthorized staff. Rather, per policy (BHCF FOM #8.06), the distribution of information within the PREA Risk Screening Forms is limited to the Watch Commander, Assistant Deputy Superintendent PREA Compliance Manager, and the Captain/PREA Point Person. Subsequent access to completed forms is limited to the Executive Team and Guidance Staff with a business necessity to review said forms. Lastly, the auditor observed that completed PREA Risk Screening Forms were filed in Offender Guidance Folders, which are restricted folders maintained within a lockable file cabinet.

Reasoning & Findings Statement:

This standard works to ensure offenders are properly screened for their risks of sexual victimization and abusiveness. Agency policy provides for an objective PREA Risk Screening Form, which is administered and scored at the facility level as a simple fact assessment. Offenders are reassessed as required by policy, to include if new information is discovered by facility staff that might warrant changes in offenders' risk status. Interviews with facility screening staff, as well as with offenders, confirm that the proper screening tool is being utilized at the BHCF. As well, the information gleaned from this form is appropriately used to inform classification, housing, work, and other facility-based activities. The auditor observed the risk screening process. The auditor also observed the secured storage of the PREA Risk Screening Forms within lockable cabinets. Staff charged with administering PREA Risk Screening forms affirm the restricted nature of the information and their adherence to the facility's

limited distribution list. As such, the BHCF has satisfied the basic requirements of this standard and is found to meet its expectations.

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*)
- ☐ **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.

Documents:

- Form 115.41F, PREA Risk Screening Form, Female Facility (5/19)
- Form 115.41M, PREA Risk Screening Form, Male Facility (5/19)
- DIR #4021, Inmate Reception/Classification (1/23/19)
- Memorandum, Report of PREA Risk Screening Information
- Form 4021, Security Screening Form (7/26/16)
- Form 4021-A, Draft Receipt (12/12/16)
- PREA Risk Screening Policy FOM Template (1/22/19)
- Form 115.41GI, Gender Identity Interview (5/19)
- DIR #4401, Guidance & Counseling Services (12/05/19)
- DIR #4009, Minimum Provisions for Health and Morale (6/14/18)
- BHCF FOM #8.07, PREA Risk Screening (2/7/19)
- BHCF Form 115.41M, PREA Risk Screening Form (6/6/19)
- BHCF Memorandum Report of PREA Risk Screening Information, Form 115.42 (6/6/19)
- BHCF FOM #11.21, Housing Unit Procedures (1/28/20)
- BHCF two offender Guidance Folders reviewed in full during onsite audit

Interviews:

- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Intermediate or Higher-Level Facility Staff
- Intake Staff
- Medical Staff
- Staff Who Perform Screening for Risk of Victimization and Abusiveness
- Random Staff

- Offenders Who Identify as Lesbian, Gay, Bisexual, Transgender, or Intersex
- Disabled Offenders
- Limited English Proficient Offenders

Site Review Observations:

- Observed the Draft process
- Observed PREA screening for risk of victimization and abusiveness process
- Observed offender housing and work assignments
- Reviewed offender files

Standard Subsections:

- (a) Policy (DIR #4021, DIR #4401, DIR #4009, BHCF FOM #8.06) requires that the agency use information from the PREA Risk Screening Form to help separate offenders with a high risk of being sexually victimized from those offenders with a high risk of being sexually abusive. As such, the information gleaned from the PREA Risk Screening Form is used to inform offender housing, bed, work, education, and program assignments. In speaking with the Intake (Draft) Sergeant and the PREA Point Person, once an offender is deemed as a possible high risk for sexual victimization, the Watch Commander is promptly notified. The Watch Commander will ensure that the offender at risk is not housed in a vulnerable location with respect to other offenders who are assessed at a high risk to sexually abuse other offenders and then notify the PREA Point Person of the concern. The PREA Point Person is subsequently responsible for completing the Report of PREA Risk Screening Information (Form 115.42) so as to ensure this information is continuously available to other staff with an operational need for the assessment information. Facility documentation reflects this is an institutionalized process.
- (b) Policy (DIR #4021, DIR #4401, DIR #4009, BHCF FOM #8.06) requires that the facility makes individualized determinations about how to ensure the safety of each offenders. In speaking with the PREA Coordinator, the Regional PCM, the BHCF PREA Point Person, and the BHCF Superintendent, staff affirmed that the concerns for every offender are reviewed on an individual basis. In speaking with offenders currently assigned to the BHCF, most stated that their own opinions regarding their personal safety are considered by BHCF staff when providing housing or job assignments.
- (c) In deciding whether to assign a transgender or intersex offender to a facility for male or female offenders, agency policy (DIR #4401, DIR #4021) requires that administrators consider, on a case-by-case basis, whether such a placement would ensure the offender's health and safety and whether such a placement would present management or security problems. In deciding whether to assign a transgender or intersex offender to a specific housing or program assignment, agency policy (DIR #4401, DIR #4021) dictates that administrators consider, on a case-by-case basis, whether such a placement would ensure the offender's health and safety and whether such a placement would present management or security problems. In speaking with the PREA Coordinator, the Regional PCM, the BHCF PREA Point Person, and the BHCF Superintendent, staff affirmed that an offender's genital status is not the sole determining factor in placing transgender or intersex offenders in male or female facilities, or in placing said offenders within specific housing or program assignments within a facility. In speaking with ORCs, agency policy

allowing for offenders to request placement in alternative facilities based on their gender identification was detailed. Specifically, this request is facilitated by the completion of a Gender Identity Interview Form (Form 115.41GI). However, as the BHCF does not currently have any transgender or intersex offenders assigned to the facility who have requested any such accommodation within the audited time frame, there were no completed documents for review.

- (d) Agency policy (DIR #4401) requires that the placement and programming assignments of transgender or intersex offenders are reviewed at least four times each year (quarterly) to determine any threats to safety experienced by the offender. When interviewed, BHCF ORC staff did affirm the facility's compliance with this policy.
- (e) Agency policy (DIR #4401) requires that upon the routine review of the placement and programming assignments of transgender or intersex offenders, the transgender or intersex offender's own view with respect to his or her own safety shall be given serious consideration. When interviewed, despite the BHCF not having any transgender or intersex offenders currently assigned to the facility, ORC staff and the BHCF PREA Point Person affirmed that the facility adheres to this policy when applicable. Additionally, during random interviews with offenders, most stated that they believed BHCF staff would consider their own views with respect to their own safety.
- (f) Policy (DIR #4009) allows for transgender and intersex offenders to be given the opportunity to shower separately from other offenders. In speaking with BHCF random staff, the existence of alternative shower times for transgender and intersex offenders was affirmed. Specifically, BHCF correctional staff stated that upon notification from a transgender offender, staff would then ensure that the shower area was closed to all other persons and that the transgender offender was provided privacy in showering. While there aren't any transgender offenders currently assigned to the BHCF, all other offenders interviewed, to include offenders who identified as gay or bisexual, stated that they didn't feel in danger during their shower times. In short, there weren't any offenders who expressed any concerns about showering or attending to other matters of personal hygiene while at the BHCF.
- (g) There aren't any correctional facilities within the New York DOCCS currently subject to consent decrees, legal settlements, or legal judgments requiring any facility to be established as a dedicated facility or housing unit for lesbian, gay, bisexual, transgender, or intersex offenders. Policy (DIR #4401) expressly forbids the placement of transgender or intersex offenders to a gender-specific facility, housing unit, or program based solely on the anatomy of their external genitals. In speaking with the PREA Coordinator, Regional PCM, BHCF Superintendent, and BHCF PREA Point Person, staff adamantly affirm that offenders who identify as transgender or intersex are not placed in a facility, or within a housing assignment, based solely on their external genital anatomy. During interviews of gay and bisexual offenders, none stated that they had ever been housed in a facility, or in a specific housing unit within the BHCF, based solely on their gender identity or sexual orientation. As well, of the random staff interviewed, all such staff affirmed that the BHCF does not house transgender, intersex, gay, or bisexual offenders in any specific areas based solely on their gender identity or sexual orientation.

Reasoning & Findings Statement:

This standard works to ensure the adequate use of screening information to promote and protect offenders who may be at high risk of being sexually victimized. The DOCCS has numerous policies in place to ensure the most effective and secure use of the PREA Risk Screening Form. Offenders deemed to be at high risk are routinely monitored by their ORC and the PREA Point Person. Agency policies require staff to make individualized determinations on a case-by-case basis regarding offender safety. Interviews with the Regional PCM and the BHCF PREA Point Person reflect that facility staff have discretion in managing the safety of individual offenders. The Regional PREA Compliance Manager, the BHCF PREA Point Person, and ORC staff affirm their adherence to agency policies and also confirm that the offender's own views regarding his safety are given serious consideration during risk assessment reviews. Staff affirm that transgender and intersex offenders are permitted alternative shower times to the general population. Additionally, while this standard requires agency staff to perform two reviews per year specific to the placement and programming assignments of transgender and intersex offenders, DOCCS policy requires these reviews to be conducted at least four times a year. As such, agency policy exceeds the basic requirements of this standard.

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

- ☐ **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.

Documents:

- DIR #4948, Protective Custody Status (6/29/17)
- Form 2168A, Sexual Victimization – Involuntary Protective Custody Recommendation (3/15)
- Form 2170A, Protective Custody Review (6/17)
- Form 4948A, Sexual Victimization Involuntary Protective Custody (3/15)

Interviews:

- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Designated Staff Member Charged with Monitoring Retaliation
- Incident Review Team Member
- Intermediate or Higher-Level Facility Staff
- Staff Who Supervise Offenders in Segregated Housing

Site Review Observations:

- Observed Segregated Housing Unit

Standard Subsections:

- (a) Policy (DIR #4948) mandates that agency staff refrain from placing offenders at high risk for sexual victimization in Involuntary Protective Custody housing unless an assessment of all available alternatives has been made and a determination rendered that there are no available alternative means of separation from likely abusers. If an assessment of all available alternatives cannot be immediately made, then policy (DIR #4948) allows the facility to hold an offender in Involuntary Protective Custody for less than 24 hours while completing the assessment using Form #2168A, Sexual Victimization – Involuntary Protective Custody Recommendation. In speaking with the Regional PCM, BHCF PREA Point Person, and the BHCF Superintendent, all staff confirm that there have not been any offenders placed in Involuntary Protective Custody during the audit time frame. As such, there wasn't any relevant documentation to review.
- (b) Policy (DIR #4948) allows that Protective Custody offenders are afforded similar access to programmatic activities, privileges, educational activities, and work opportunities as offenders assigned to the general population. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document this restriction on Form #4989A, Restriction of Inmate's Program-Participation. Included in this documentation, the agency must note the opportunities that have been limited, the duration of the limit, and the reasons for said limitation. In speaking with the Regional PCM, BHCF PREA Point Person, and the BHCF Superintendent, all staff confirm that there have not been any offenders placed in Involuntary

Protective Custody for high risk of sexual victimization during the audit time frame. As such, there wasn't any relevant documentation to review.

- (c) Policy (DIR #4948) mandates that Involuntary Protective Custody for offenders at a high risk of sexual victimization shall only be used until an alternative means of separation from likely abusers can be arranged. Policy (DIR #4989) further requires that the assignment shall not ordinarily exceed a period of 30 days. In speaking with the Regional PCM, BHCF PREA Point Person, and the BHCF Superintendent, all staff confirm that there have not been any offenders placed in Involuntary Protective Custody during the audit time frame. As such, there wasn't any relevant documentation to review.
- (d) Policy (DIR #4948) requires that upon placement of an offender into Involuntary Protective Custody, the facility must clearly document the basis of the facility's concern for the offender's safety. Additionally, the facility must document whether a determination has been made that there is no available alternative means of separation from the likely abusers, including documentation of what alternatives were considered and assessed to be unavailable. In speaking with the Regional PCM, BHCF PREA Point Person, and the BHCF Superintendent, all staff confirm that there have not been any offenders placed in Involuntary Protective Custody during the audit time frame. As such, there wasn't any relevant documentation to review.
- (e) Policy (DIR #4989) requires that an offender placed in Involuntary Protective Custody due to being a high risk of sexual victimization shall have this status reviewed every seven days for the first month, and at least every 30 days thereafter. In speaking with the Regional PCM, BHCF PREA Point Person, and the BHCF Superintendent, all staff confirm that there have not been any offenders placed in Involuntary Protective Custody during the audit time frame. As such, there wasn't any relevant documentation to review.

Reasoning & Findings Statement:

This standard works to ensure that the use of Involuntary Protective Custody is not a de facto management solution for offender safety concerns. Agency policy explicitly mandates that staff refrain from placing offenders at high risk for sexual victimization in Involuntary Protective Custody unless an assessment of all available alternatives has been made and there are no other available means of separation from likely abusers. In speaking with the Regional PCM, BHCF PREA Point Person, and the BHCF Superintendent, all staff confirm that there have not been any offenders placed in Involuntary Protective Custody during the audit time frame. As such, there wasn't any relevant documentation to review. Correctional staff routinely assigned to work within Segregated Housing were interviewed. While these staff confirmed that offenders assigned to Segregated Housing for high risk of sexual victimization would be afforded similar activities as offenders within general population, to the best of their knowledge, there have not been any such offenders assigned to Segregated Housing within the audit time frame. As such, the BHCF has satisfied all component parts of this standard and found to have met its provisions.

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

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.

Documents:

- DIR #4027A, Sexual Abuse Prevention & Intervention, Inmate-on-Inmate (11/29/17)
- DIR #4028A, Sexual Abuse Prevention & Intervention, Staff-on-Inmate/Staff-on-Parolee (11/29/17)
- Albany Training Academy, Sexual Abuse Prevention and Response
- Agency Memorandum, New York Commission of Correction agrees to be a third-party reporting sight for written complaints (5/24/17)
- Prevention of Sexual Abuse in Prison, What Inmates Need to Know, English (8/15)
- Statement of Compliance, Inmate Reporting (12/18/17)
- DOCCS Employee Manual (2019)
- PREA Pocket Card (9/15)
- BHCF Third Party Report (4/1/19)

Interviews:

- Agency Head
- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Offender Grievance Coordinator
- Random Staff
- Offenders Who Disclosed Sexual Victimization During Risk Screening
- Offenders Who Reported Sexual Abuse
- Random Offenders

Site Review Observations:

- Reviewed documentation related to offender reports of sexual abuse and sexual harassment, to include documented Offender Grievance Referrals and OSI investigations
- Reviewed documentation related to third-party reports of alleged sexual abuse and sexual harassment
- Tested the PREA Hotline
- Observed PREA Risk Screening assessments
- Observed multiple informational posters throughout the facility advising offenders of various reporting mechanisms for allegations of sexual abuse and sexual harassment
- Observed PREA informational video discussing various reporting mechanisms for allegations of sexual abuse and sexual harassment
- Observed numerous PREA educational and reporting references available for offender use within the facility Law Library

Standard Subsections:

- (a) The agency provides multiple internal ways for offenders to privately report sexual abuse and sexual harassment, as well as neglect or violations of staff responsibilities that may have contributed to such incidents. Additionally, the agency provides numerous avenues by which offenders may report any subsequent retaliatory measures experienced by offenders as a result of having reported said abuse. Upon receipt onto the facility, all offenders are provided a PREA Risk Screening and advised of their right to be free of sexual abuse and sexual harassment under the PREA standards. Offenders are provided a DOCCS informational PREA brochure, which contains contact information for internal and external reporting agencies. Offenders are also provided with a BHCF Inmate Orientation Handbook, which contains contact information for national, state, and local level internal and external reporting agencies and victim services organizations. According to the PREA brochure entitled *The Prevention of Sexual Abuse in Prison: What Inmates Need to Know*, offenders are encouraged to immediately report incidents of sexual abuse by “tell(ing) your facility’s designated PREA Compliance Manager or PREA Point Person, or any S.O.R.C., O.R.C., Chaplain, security staff person, medical staff, or any other employee. All staff must report the abuse, and they can only talk about the abuse with officials who must know about it to do an investigation or provide you with care. You may also talk to Mental Health staff. If you report the abuse in writing first, you may write to the Superintendent, a member of the facility Executive Team, a S.O.R.C., your O.R.C., a chaplain, a security supervisor, the Inmate Grievance Program Supervisor, Central Office, the PREA Coordinator or the Department’s Office of Special Investigations (OSI). If you want to report to an outside agency, you may contact the New York State Commission of Correction.” In interviewing staff, all employees were aware of an offender’s right to report allegations of sexual abuse and sexual harassment and to be free from measures of retaliation for having reported said abuse. In interviewing offenders, all offenders were equally aware of their right to report allegations of sexual abuse and sexual harassment and to be free from measures of retaliation for having reported said abuse. All offenders were able to articulate at least one manner by which a report could be made.
- (b) The facility also provides multiple avenues and contact information for offenders to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency.

The primary reporting entity, the New York State Commission of Correction, is able to receive and immediately forward offender reports to agency officials for their investigation. Upon an offender's request, the New York State Commission of Correction will allow an offender to remain anonymous. Per the agency PREA coordinator, the New York State Department of Corrections and Community Supervision does not detain inmates solely for civil immigration purposes. Nonetheless, information on how to contact relevant consular officials is available. As well, *A Jailhouse Lawyer's Manual: Immigration & Consular Access Supplement* is available for offender review within all New York DOCCS Facility Law Libraries.

- (c) Per policy (DIR #4027A, DIR #4028A, BHCF FOM #8.06), staff accept all reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties. All employees interviewed stated that they would act on any report of sexual abuse or sexual harassment regardless of the manner by which they became of that information. All offenders interviewed affirmed their right to make either verbal or written reports of sexual abuse and sexual harassment. Most offenders were aware that they could also make reports of sexual abuse and sexual harassment via third party or anonymously.
- (d) Per policy (DIR #4027A, DIR #4028A, New York DOCCS Employee Manual, Albany Training Academy Lesson Plan, BHCF FOM #8.06), staff have an affirmative duty to report any knowledge, suspicion, or information they may have regarding sexual abuse, sexual harassment, or retaliation against offenders or staff for having reported such abuse. Staff have been provided with PREA Pocket Cards that contain written instructions of what to do if/when they receive a first-hand report of sexual abuse. Along with detailed standard operation procedures to address the situation, the pocket card also provides staff with the contact information to make a private report of sexual abuse; specifically, as written on the PREA Pocket Card, staff are given the phone number for the DOCCS Office of Special Investigations Sex Crimes Division. When asked, generally staff were aware that they could make anonymous reports of sexual abuse and sexual harassment.

Reasoning & Findings Statement:

This standard works to ensure offenders, staff, and outside agents have the ability to report all instances of sexual abuse and sexual harassment against offenders. The agency does have multiple avenues by which offenders may make formal reports, to include verbal, written, anonymous, and third-party reports. While offenders are not encouraged to use the PREA Support Services Hotline to make reports of sexual abuse and sexual harassment, it does serve in that capacity if needed and the offender consents to a report being made. As such, this hotline was tested to ensure its functionality. Additionally, while offenders are not encouraged to utilize rape counseling support service centers as reporting avenues, they will also serve in this capacity if explicitly requested by the offender. With this in mind, the auditor solicited offender contact information from four rape counseling centers central to the BHCF. One of centers, Just Detention International, indicated that it did not receive any complaints of sexual abuse or sexual harassment from offenders assigned to the BHCF within the reporting time frame. The Crime Victims Treatment Center stated that it works regularly with person incarcerated within the BHCF and has not experienced any problems relative to its agents' abilities to communicate with offenders in a reasonably confidential manner. The other two agencies contacted (New York Department of Health Sexual Violence Prevention Program and the Franklin County Crisis Center Planned Parenthood of the North Country) did not provide any response regarding offender complaints from the BHCF. In

interviewing correctional staff, all such persons were aware that offenders could report allegations of sexual abuse and sexual harassment verbally, in writing, anonymously, and through a third party. When receiving verbal reports of sexual abuse and sexual harassment, all staff recognized the need to take immediate action to protect the offender in question and the need to document the verbal complaint as soon as possible. In speaking with offenders, all persons were aware of their right to be free from sexual abuse and sexual harassment, as well as their right not to suffer retaliation for having reported such abuse. All offenders understood their right to make verbal and written complaints. The majority of offenders understood their right to make anonymous and third-party complaints. As such, it is evident that the BHCF meets all aspects of this this standard.

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

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.

Documents:

- DIR #4040, Inmate Grievance Program (1/20/16)
- Memorandum: Grievance Complaint Alleging Sexual Abuse or Harassment Form
- Memorandum: Grievances Alleging Sexual Abuse or Harassment (5/15/19)
- Memorandum: Grievances Alleging Sexual Abuse or Harassment – Inmate Notification
- Memorandum: Grievances Alleging Sexual Abuse or Harassment – Watch Commander Notification
- BHCF Grievance Clerk's Log (March 2019)
- BHCF Inmate Grievance Complaint (3/5/19)
- BHCF PREA Referral (3/6/19)
- BHCF PREA Referral Offender Notification (3/6/19)
- BHCF PREA Referral Notification (3/11/19)

Interviews:

- Facility Warden/Superintendent
- Facility PREA Compliance Manager/PREA Point Person
- Offender Grievance Coordinator
- Investigative Staff
- Random Offenders
- Offenders Who Reported Sexual Abuse

Site Review Observations:

- Reviewed facility documents; namely Grievance Referral Logs

Standard Subsections:

- (a) The New York DOCCS is exempt from this standard as it does not have administrative procedures to address offender grievances regarding sexual abuse.
- (b) Policy (DIR #4040) does not permit offenders to submit grievances regarding allegations of sexual abuse and sexual harassment.
- (c) Policy (DIR #4040) does not permit offenders to submit grievances regarding allegations of sexual abuse and sexual harassment.
- (d) Policy (DIR #4040) does not permit offenders to submit grievances regarding allegations of sexual abuse and sexual harassment.
- (e) Policy (DIR #4040) does not permit offenders to submit grievances regarding allegations of sexual abuse and sexual harassment.
- (f) Policy (DIR #4040) does not permit offenders to submit grievances regarding allegations of sexual abuse and sexual harassment.
- (g) Policy (DIR #4040) does not permit offenders to submit grievances regarding allegations of sexual abuse and sexual harassment.

Reasoning & Findings Statement:

This standard works to ensure offender access to courts by way of exhausting administrative remedies specific to allegations of sexual abuse and sexual harassment. Policy (DIR #4040, New York State Corrections Law Section 139) does not permit offenders to submit grievances regarding allegations of sexual abuse and sexual harassment. In interviewing the BHCF Grievance Coordinator, the grievance referral process was explained in detail. In this, the BHCF does not accept offender grievances regarding allegations of sexual abuse and sexual harassment. Rather, any grievance regarding such is administratively closed as a grievance. For litigation purposes; namely, the Prison Litigation Reform Act, any documented complaint made by or confirmed by the offender serves to exhaust administrative

remedies. That said, the agency still investigates the allegations; it is simply done using a different mechanism. In this, the Inmate Grievance Coordinator will forward the allegations of sexual abuse or sexual harassment to the Watch Commander by the close of business on the same day received. The Watch Commander, in coordination with the PREA Point Person, then processes the allegations as a formal sexual abuse or sexual harassment complaint. Documentation supporting the submission of grievance referrals was reviewed to confirm BHCF Grievance staff submit said referrals in a timely fashion. As the submission of an offender grievance alleging sexual abuse and sexual harassment constitutes exhaustion of administrative remedies, the BHCF meets the provisions of this standard.

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

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.

Documents:

- Implementation of Statewide PREA Rape Crisis Hotline (12/12/18)
- DIR #4423, Inmate Telephone Calls (5/21/15)
- DIR #4404, Inmate Legal Visits (11/2/17)
- DIR #4421, Privileged Correspondence (6/2/16)
- Policy Memorandum "Rape Crisis Program Legal Call" (2/4/19) with clarifying email
- Contract: Services to Incarcerated Victims of Sexual Assault (8/31/19)
- Contract: Suicide Prevention and Crisis Services, Inc. (10/1/18)
- Contract: Planned Parenthood of Central and Western New York (6/10/19)
- Contract: Westchester Community Opportunity Program (6/10/19)
- Contract: Crime Victims Treatment Center (4/18/19)
- Contract: Northeast Health Foundation, Sexual Assault and Crime Victims Assistance Program at Samaritan Hospital (4/18/19)
- Contract: Safe Harbors of the Finger Lakes (4/18/19)
- Contract: Suicide Prevention and Crisis Services, Inc. (4/18/19)
- Help for Victims of Sexual Abuse in Prison, Victim Support Pamphlet, English (3/18)
- Help for Victims of Sexual Abuse in Prison, Victim Support Pamphlet, Spanish (3/18)
- DOCCS Help for Victims of Sexual Abuse #777 Poster (1/19)
- BHCF Facilitation of Offender Counseling (1/14/20)
- DOCCS Today publication (Winter 2018-2019)
- Office for the Prevention of Domestic Violence publication (Spring 2019)
- BHCF Third Party Victim Support (5/30/19)
- BHCF Third Party Victim Support (1/14/20)

Interviews:

- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)

- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Medical Staff
- SANE/SAFE Staff
- Mailroom Staff
- Random Staff
- Offender Placed in Segregated Housing (For Risk of Sexual Victimization)
- Offenders Who Disclosed Sexual Victimization During Risk Screening
- Offenders Who Reported Sexual Abuse
- Random Offenders

Site Review Observations:

- Tested the PREA Statewide Rape Crisis Hotline
- Reviewed PREA Risk Screening assessment and distributed information upon BHCF Draft
- Observed multiple informational posters throughout the facility advising offender of various reporting mechanisms for allegations of sexual abuse and sexual harassment
- Observed PREA informational video discussing various reporting mechanisms for allegations of sexual abuse and sexual harassment
- Observed numerous PREA educational and reporting references available for offender use within the facility Law Library
- Observed offender general visitation and legal visit areas informational posters
- Observed visitation area designated for members of an approved victim advocate service
- Interviewed Mailroom staff specific to correspondence between victim advocate services and offenders

Standard Subsections:

- (a) Upon an offender's assignment to the BHCF, that offender is provided a BHCF Inmate Orientation Handbook, as well as an informational PREA brochure. Victim Support brochures are also widely available in many areas throughout BHCF. These reference materials contain the contact information for several confidential support services. As well, contact information for confidential rape crisis support services are prolifically displayed throughout the facility and in all offender housing areas.

Per policy (DIR #4423) telephone calls to the PREA Statewide Rape Crisis Hotline are both free of charge and considered confidential in nature. Informational signs advising of this service are posted near all offender telephones. Policy (DIR #4404) further allows offenders to have confidential visits with rape advocacy services providers. While inspecting the Offender Visitation Area, the rooms designated for such visits were the same rooms as those designated for other confidential legal services. Lastly, policy (DIR #4421) classifies offender correspondence with approved support service agencies as privileged mail. In speaking with BHCF Mailroom staff, privileged mail may be sent from the facility sealed and is not subject to inspection.

Per the agency PREA coordinator, the New York State Department of Corrections and Community Supervision does not detain inmates solely for civil immigration purposes. Nonetheless, information on how to contact relevant consular officials is available. As well, *A Jailhouse Lawyer's Manual: Immigration & Consular Access Supplement* is available for offender review within all New York DOCCS Facility Law Libraries. When interviewed, all offenders knew that the agency provided free rape crisis support services to offenders. Additionally, all offenders were aware of at least one means by which they could contact rape crisis support services, with most offenders knowing that they could access those services by way of the PREA Statewide Rape Crisis Hotline.

- (b) Per policy (DIR #4423) offenders may add an approved rape crisis support service organization to their approved phone call list. In doing this, policy clearly states these phone calls are to be treated as confidential. Additionally, offenders may access the PREA Statewide Rape Crisis Hotline by dialing 777 from any phone within their housing units and recreation areas. While the informational posters adjacent to most offender phones clearly indicate that the PREA Statewide Rape Crisis Hotline is a confidential call, it further notes that the conversation is still recorded in the event of offender misuse. Policy (DIR #4404) allows advocates assigned to approved rape crisis support service centers to have unmonitored visits with offenders in the legal visitation area. Per the Rape Crisis Program Legal Calls policy memorandum from the agency PREA Coordinator, confidential victim support and advocacy legal calls are also provided to rape crisis program staff for the provision of emotional support and victim advocacy services. Policy (DIR #4421) notifies offenders that correspondence with approved rape crisis support services is considered confidential and subject only to physical inspection in the presence of the offender as privileged correspondence.
- (c) New York State Office of Victim Services has affected a contract with the New York State Coalition Against Sexual Assault to help address the rape crisis support service needs by providing funding for eight Rape Crisis Programs to serve incarcerated individuals. The New York Office of Victim Services and the New York Office for the Prevention of Domestic Violence has affected a contract to facilitate the PREA Statewide Rape Crisis Hotline available to all offenders incarcerated within the DOCCS. The BHCF does maintain and did supply agency and/or facility-based contracts for review.

Reasoning & Findings Statement:

This policy works to ensure that offenders assigned to the BHCF have access to outside confidential rape crisis support services and that access is provided in the most confidential manner as possible. The DOCCS has gone significantly above and beyond in meeting the minimum expectations of this standard. Incarcerated offenders within the DOCCS have free, frequent, and extensive access to rape crisis and support service advocates. Offenders are granted confidential phone calls, visits, and correspondence privileges with community service providers. While the minimum standards of this provision simply require agency staff to document their attempts at reaching memorandums of understanding with community providers, the DOCCS has actually entrenched itself with numerous service providers at the local and state levels. When interviewed, all employees and offenders knew that the agency provided free emotional support services to offenders upon request. As well, most offenders knew that they could

initiate access to those services by way of calling the PREA Statewide Rape Crisis Hotline. As such, the DOCCS, and by extension, the BHCF, far exceeds the minimum standards of this provision.

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*)

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.

Documents:

- DOCCS Home Page, PREA (1/16/20)
- BHCF Third Party Report (4/1/19)

Interviews:

- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Investigative Staff
- External Reporting Entities
- Random Offenders

Site Review Observations:

- Review NY DOCCS website specific to PREA and third-party reporting methods
- Reviewed additional third-party complaint forms during the on-site portion of the audit
- Observed the Offender Visitation Area informational posters
- Observed the Visitor Hospitality Center information posters
- Observed informational postings and other publications throughout the offender housing areas

Standard Subsections:

- (a) Policy (DIR #4027A, DIR #4028A) allows for the use of third-party reporting on allegations of sexual abuse and sexual harassment. During the on-site review, signage throughout the facility encouraged offenders to third-party report if needed. As well, public notices on PREA reporting, specifically third-party reporting, were available for review by offender family and friends via the facility's Offender Visitation Room, as well as the Visitor Hospitality Center. Additionally, public notice on third party PREA reporting is available to the general public on the agency's website. Documentation demonstrating a third-party report, made by way of the PREA Statewide Rape Crisis Hotline, was reviewed. As well, the BHCF PREA Point Person confirmed that the facility has received, and subsequently processes, all third-party complaints.

Reasoning & Findings Statement:

This standard works to ensure a publicly available third-party reporting mechanism exists for claims of sexual abuse and sexual harassment being inflicted upon offenders. In accordance to policy (DIR #4027A, DIR #4028A), the BHCF promotes the use of third-party reporting via informational posters and brochures spread out across the facility, the Offender Visitation Area and within the Visitor Hospitality Center. Electronic contact information is freely distributed on the agency's website in order to allow the general public direct access to reporting information. To ensure the functionality of the DOCCS site, all electronic links were tested and found to be operating as required. To ensure the functionality of the OSI online third-party reporting system, a test submission was successfully sent. As well, PREA informational posters, brochures, and training videos also provide offenders with a plethora of agency telephone numbers and electronic contact methods. While offenders themselves should not be able to access Internet resources, they can communicate this reference information to their family, friends, and personal advocates. Offenders themselves are provided numerous state and advocacy addresses to submit third-party correspondence. As well, offenders may also make a third-party party complaint via any staff member, through the State Commission of Correction, or by way of the PREA Statewide Rape Crisis Hotline. When interviewed, all staff were aware that the facility would accept and investigate third-party complaints of sexual abuse and sexual harassment from offender advocates. A majority of offenders were also aware of their right to file a third-party complaint on behalf of another offender. As the concept of third-party reporting is clearly institutionalized across staff and offender cultures, the BHCF has met the provisions of 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*)

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.

Documents:

- DIR #4027A, Sexual Abuse Prevention & Intervention, Inmate-on-Inmate (11/29/17)
- DIR #4028A, Sexual Abuse Prevention & Intervention, Staff-on-Inmate/Staff-on-Parolee (11/29/17)
- DOCCS Employee Manual (2019)
- MOU New York State Office of Mental Health and DOCCS (9/14/16)
- Statement of Compliance, Contracting with other entities for the confinement of inmates/residents (2/13/18)
- DIR #0700, Office of Special Investigations (11/28/18)
- BHCF FOM #8.06, Coordinated Response Plan to an Incident of Inmate Sexual Abuse (2/5/19)
- PREA Coordinated Response Plan Memo (1/21/16)
- Sexual Abuse Response and Containment Checklist (1/21/16)

Interviews:

- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Investigative Staff
- Medical Staff
- Random Staff
- Random Offenders

Site Review Observations:

- Employee training records
- Staff Interviews
- Offender Interviews

Standard Subsections:

- (a) Policy (DIR #4027A, DIR #4028A, DOCCS Employee Manual, DIR #0700) mandates that all employees must immediately report all knowledge, suspicion, or information of any sexual abuse or sexual harassment that has occurred within the correctional institution. As well, staff have an affirmative duty to report all knowledge, suspicion, or information regarding retaliation against offenders or staff for having reported an incident of sexual abuse and sexual harassment. Staff also have an affirmative duty to report any negligence or violation of responsibilities that may have contributed to an incident of sexual abuse, sexual harassment, or retaliation. A review of employee training records, as well as training curriculum records, reflects that, of the staff records reviewed, all staff had received initial PREA training, including acknowledge of their affirmative duty responsibilities. When interviewed, all staff confirmed their obligation to immediately report any information they might have regarding allegations of sexual abuse and sexual harassment.
- (b) Policy (DIR #4027A, DIR #4028A) mandates reports of sexual abuse and sexual harassment are confidential in nature. As such, employees are cautioned to share reported information only with authorized staff. Random staff interviews confirm that facility employees are aware of the sensitive and confidential nature of said complaints. In speaking with the PREA Point Person, the totality and reasoning surrounding the confidential investigatory process was clearly explained.
- (c) Policy (MOU between the New York State Office of Mental Health and the New York DOCCS) requires that medical and mental health practitioners have a duty to disclose their mandatory reporting status, including limitations of confidentiality, and to obtain informed consent, whenever possible, prior to providing medical or mental health services. During the medical staff interview, the need for medical staff to inform offenders (at the initiation of professional services) of their duty to report, as well as to their limitations of confidentiality, was affirmed.
- (d) As a product of New York's recent Raise the Age (RTA) legislation, all offenders incarcerated within the BHCF are legally classified as adults. Furthermore, as New York statutory law; specifically, the New York Consolidated Laws, Social Services Law, Section 488-497, removed incarcerated persons from the state's Vulnerable Person's Central Register. As such, the DOCCS is exempt from this provision.
- (e) Policy (DIR #4027A, DIR #4028A) mandates that all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, are referred to the agency's Office of Special Investigations, Sex Crime Division. When interviewing random facility staff, all employees affirmatively responded that any reports of sexual abuse and sexual harassment received by them would be immediately referred to supervisory and/or other entities appropriate for further investigations.

Reasoning & Findings Statement:

This standard works to ensure mandatory staff and agency reporting requirements. Both agency and facility policies mandate staffs' duty to report all allegations of sexual abuse and sexual harassment.

Policy further stresses the importance of confidentiality as it applies to reported incidents of sexual abuse and sexual harassment. Lastly, policy requires that all medical and mental health staff disclose their limits of confidentiality and obtain informed consent prior to the initiation of services. In interviewing correctional staff, both uniformed and non-uniformed, all employees expressed an understanding of policy. Training records and course curriculums document correctional staff training specific to mandatory reporting requirements. In interviewing BHCF medical staff, the processes of limited confidential and informed consent were explained in detail. As well, training records and course curriculums for the specialized training of medical staff document an understanding of mandatory reporting requirements. As such, the BHCF meets the provisions established within this standard.

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

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.

Documents:

- DIR #4948, Protective Custody Status (6/29/17)
- Form 2168A, Sexual Victimization – Involuntary Protective Custody Recommendation (3/15)
- BHCF FOM #8.06, Coordinated Response Plan to an Incident of Inmate Sexual Abuse (2/5/19)

Interviews:

- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)

- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Designated Staff Member Charged with Monitoring Retaliation
- Incident Review Team Member
- Intermediate or Higher-Level Facility Staff
- Investigative Staff
- Intake Staff
- Staff Who Perform Screening for Risk of Victimization and Abusiveness
- Medical Staff
- Random Staff
- Offenders Who Disclosed Sexual Victimization During Risk Screening
- Offenders Who Reported Sexual Abuse
- Random Offenders

Site Review Observations:

- Review of offender protection forms
- Review of retaliation monitoring documentation

Standard Subsections:

- (a) Per policy (BHCF FOM #8.06, DIR #4948), when the BHCF learns that an offender is subject to a substantial risk of imminent sexual abuse, agency officials have an affirmative duty to take immediate action to protect the offender. In speaking with the BHCF PREA Point Person, BHCF Superintendent, BHCF ORC staff, and 13 random staff, a plethora of possible options were discussed specific to offender protection measures. As the BHCF did not receive any reports within the audit time frame that any offenders assigned to the facility were at a substantial risk of sexual abuse, the facility has no documentation for review. Likewise, no protective actions were required.

Reasoning & Findings Statement:

This standard works to actualize the processes of offender protection. Both agency policy (DIR #4027A, DIR #4028A) and BHCF policy (FOM #8.06) require staff to take immediate action to ensure the safety of offenders who are at a high risk of sexual victimization. Provided there are no other alternative options available to ensure the offender's safety, policy (DIR #4849) further allows the facility to immediately increase the safety of the at-risk offender by placing said offender in Voluntary Protective Custody, Involuntary Protect Custody, or Sexual Victimization Involuntary Custody. During the audit time frame, the BHCF did not received any reports from offenders who were at a substantial risk of sexual abuse. In interviewing random staff, all persons were asked specifically what actions would be taken if an offender presented as a high risk for sexual victimization. Unequivocally, all staff responded that they would take immediate action to protect the potential victim. Additionally, supervisory staff were questioned as to their role in this potentially dangerous situation. While supervisory staff did provide a more technical and inclusive response, they too, were centrally focused on protecting the offender. Hence, the BHCF has realized the provisions of this standard.

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*)

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.

Documents:

- Agency Memorandum, Reporting to Other Confinement Facilities (Revised) (11/7/19)
- Jail Administrators Contact Information (2019)
- PREA Standard 115.63 Report of Sexual Abuse (11/19)
- BHCF PREA Standard 115.63 Report of Sexual Abuse – Sent (9/24/19)
- BHCF PREA Standard 115.63 Report of Sexual Abuse – Received (4/22/19)
- BHCF PREA Standard 115.63 Report of Sexual Abuse – Received (5/14/19)

- BHCF PREA Standard 115.63 Report of Sexual Abuse – Received (10/24/19)
- BHCF PREA Standard 115.63 Report of Sexual Abuse – Received (3/20/20)

Interviews:

- Agency Head
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility Warden/Superintendent
- Facility PREA Compliance Manager/PREA Point Person

Site Review Observations:

- Review of facility-to-facility referrals

Standard Subsections:

- DOCCS standard operating procedures; namely, Agency Memorandum, Reporting to Other Confinement Facilities (2019), require that when a facility receives notice regarding allegations of sexual abuse and sexual harassment occurring at another facility, the receiving facility must provide written notice of these allegations to the Superintendent of the destination facility within 72 hours. A review of documents for the past twelve months reflects that there were two such referrals made by the BHCF and five referrals made to the BHCF.
- Per DOCCS standard operating procedures, written notice of the aforementioned allegations must be provided as soon as possible, but not more than 72 hours after learning of the allegations. The BHCF superintendent confirmed that all notices are sent by her office to the destination facility as soon as possible, usually within 24 hours, but certainly within 72 hours. As well, all notices received by her office within the past twelve months have been sent to BHCF within 72 hours of the offender presenting allegations of sexual abuse and/or sexual harassment to agency staff. Documentation was reviewed to verify that at all referrals were made within 72 hours of facility awareness.
- The BHCF documents this notification through the use of e-mail Form 115.63. The Office of Special Investigations must also be provided a notice of the allegations.
- Upon receipt of said allegations, the Superintendent of the destination facility must then process the allegations in accordance agency policy. In this, the Office of Special Investigations associated with the destination unit will be responsible for conducting the investigation, as well as providing subsequent notification to the destination facility in accordance to policy.

Reasoning & Findings Statement:

This policy works to ensure agency staff are provided sufficient due process with respect to the timely notification of offender allegations involving sexual abuse and sexual harassment. Within the last 12 months, the BHCF has received five incoming allegations of sexual abuse and sexual harassment from offenders who reported such at another DOCCS facility. Within the last 12 months, the BHCF has

submitted two outgoing allegations of sexual harassment from offenders who reported said allegations once they were reassigned to the BHCF. Of the seven total complaints, five were reviewed for timely submissions. Both incoming and outgoing notifications sent to BHCF and sent from BHCF were completed within 72 hours of agency staff learning about the alleged abuse. Accordingly, agency policy, staff comments, and collaborative documentation all reflect that the BHCF has satisfied the provisions of this standard.

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

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.

Documents:

- DIR #4027B, Sexual Abuse Reporting & Investigation, Inmate-on-Inmate (11/29/17)
- DIR #4028B, Sexual Abuse Reporting & Investigation, Staff-on-Inmate/Staff-on-Parolee (11/29/17)
- Coordinated Response Plan to an Incident of Inmate Sexual Abuse (2/4/19)
- Albany Training Academy, Sexual Abuse Prevention and Response
- PREA Pocket Card (9/15)
- BHCF Training Roster, March 30, 2017 – December 31, 2019, Prevention of Sexual Abuse – Civilians
- BHCF Training Roster, March 30, 2017 – December 31, 2019, Prevention of Sexual Abuse – Corrections Officers
- BHCF FOM #8.06, Coordinated Response Plan to an Incident of Inmate Sexual Abuse (2/5/19)

Interviews:

- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Investigative Staff
- Intermediate or Higher-Level Facility Staff
- Random Staff
- First Responder
- Offenders Who Reported Sexual Abuse

Site Review Observations:

- Review of employee training records
- Review of OSI narrative case files
- BHCF staff interviews
- BHCF offender interviews

Standard Subsections:

- (e) Policy (BHCF FOM #8.06) requires the first responding security staff member to immediately separate the alleged victim and abuser. After ensuring the safety of the victim, policy (DIR #4027B, DIR #4028B, BHCF FOM #8.06) requires staff to preserve and protect the crime scene until evidence collection is possible. If the first responder learns that the victim has been sexually abused, and the abuse occurred within a time period that still allows for the collection of physical

evidence, the first responder should 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. Once the first responder learns that an offender has been sexually abused, and the abuse occurred within a time period that still allows for the collection of physical evidence, the first responder should 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. In interviewing a BHCF security first-responder, the actions taken were consistent with policy. Within the past twelve months, BHCF has received six allegations from offenders who claim to have been victims of sexual abuse. However, in five of these instances, the reports were received after the time period that would have still allowed for the collection of physical evidence. In the sixth instance, the offender declined participation in the forensic evidence collection process.

- (f) Policy (BHCF FOM #8.06) requires that non-security first responders contain and assess the situation, notify their immediate supervisor or the Watch Commander, instruct the participants not to take any action that could destroy physical evidence, and report the specific details, in writing, to the Watch Commander as soon as possible, and no later than the end of the day.

Reasoning & Findings Statement:

This standard works to determine whether facility staff understand their role when responding to offender allegations of sexual abuse and sexual harassment. Of primary importance is separating and securing the alleged victim and abuser. Of this, all staff interviewed absolutely articulated that point. The majority of staff then articulated the need to preserve any evidence possibly remaining at the crime scene and on the alleged victim. A review of employee training records and class curriculums reflect staff have received required training specific to the preservation of evidence regarding allegations of sexual abuse and sexual harassment. It is also noted that the agency has provided all employees with a PREA response “pocket card” (form DC159L). This pocket card outlines the critical steps including removing, separating, and isolating the reported victim, abuser, and witnesses; assessing the situation to determine if immediate on-site medical care is necessary; immediate notification to their supervisor or the Watch Commander; steps to be taken to preserve physical evidence on the person of the participants; securing of the crime scene; and completing a follow-up written report to the Watch Commander. It is also noted that immediate notification to a security supervisor and the Watch Commander provides assurance that all critical steps will be followed. This information, combined with agency policy, staff interviews, and facility training documentation sufficiently supports the expectations required by this standard.

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*)

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.

Documents:

- BHCF FOM #8.06, Coordinated Response Plan to an Incident of Inmate Sexual Abuse (2/5/19)

Interviews:

- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Designated Staff Member Charged with Monitoring Retaliation
- Incident Review Team Member
- Intermediate or Higher-Level Facility Staff
- Investigative Staff
- Medical Staff
- SANE/SAFE Staff
- Random Staff
- Random/Targeted Offenders

Site Review Observations:

- Review of agency policies
- Review of departmental level facility processes

Standard Subsections:

- (a) The BHCF has developed a written institutional plan; namely, BHCF FOM #8.06, to coordinate actions among staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to incidents of sexual abuse.

Reasoning & Findings Statement:

This provision works to coordinate facility efforts so that victims of sexual abuse and sexual harassment receive adequate support services. The BHCF Facility Operations Manual (FOM) #8.06, details the coordinated response plan to an incident of offender sexual abuse. In this, the roles of all facility staff are discussed and, perhaps even more importantly, the manner in which those roles interact with one another is outlined. This policy is a conveniently written overview of departmental responsibilities, equipped with notification and referral reminders. When asked, various departmental staff were able to articulate their role in the response process. As well, during offender interviews, many were able to articulate the responsibilities of responding staff; thus demonstrating this process has been institutionalized within the facility. As such, the BHCF has met all of the provisions within 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*)

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.

Documents:

- DIR #2110, Employee Discipline-Suspension from Duty During the Continuation of Disciplinary Proceedings (7/13/18)
- DIR #2114, Functions of the Bureau of Labor Relations (7/17/15)
- Contract: Security Supervisors Unit (2009-2016)
- Contract: Professional, Scientific, and Technical Services Unit (2016-2019)
- Contract: Administrative Services Unit (2016-2021)
- Contract: Institutional Services Unit (2016-2019)
- Contract: Operational Services Unit (2016-2019)
- Memorandum, Contract Negotiation Update (2/12/19)
- New York Governor's Office of Employee Relations State-Union Contract (7/12/19)
- NYSCOPBA (2016-2023)
- Union Contracts, Continuation After Expiration

Interviews:

- Agency Head
- Agency Contract Administrator
- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Administrative (Human Resources Staff)

Site Review Observations:

- Reviewed agency labor contracts

Standard Subsections:

- (a) Both the agency, as well as any other governmental entity responsible for collective bargaining on the agency's behalf, are 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 offenders pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

Reasoning & Findings Statement:

This provision allows the agency to protect offenders from having contact with sexual abusers and sexual harassers. Policy (DIR #2110, DIR #2114, DIR #2111, DIR #4028A, Section 75 of the New York Civil Service Law) allows for employees to be suspended from duty pending the outcome of a sexual abuse or sexual harassment investigation. In speaking with OSI staff, the process of suspending or separating an employee from employment as a function of a negative sexual abuse or sexual harassment investigation was explained. It was also noted that the DOCCS has no reservations about discharging

employees for engaging in sexual abuse and sexual harassment. Hence, the BHCF has satisfactorily met all provisions within 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*)
- ☒ **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.

Documents:

- DOCCS Employee Manual (2019)
- Memorandum, Agency Protection Against Retaliation (4/18/19)
- Agency Protection Against Retaliation Form (2019)
- Retaliation Monitoring Form – Inmate (4/19)
- Retaliation Monitoring Form – Staff (4/19)
- BHCF Retaliation Monitoring Form Inmate (4/4/19)
- BHCF Retaliation Monitoring Form Inmate (5/28/19)
- BHCF Retaliation Monitoring Form Inmate (4/1/19)
- BHCF Retaliation Monitoring Form Inmate (5/22/19)
- BHCF Retaliation Monitoring Form Inmate (6/4/19)
- BHCF Retaliation Monitoring Form Inmate (11/26/19)
- BHCF Retaliation Monitoring Form Inmate (12/16/19)
- BHCF Agency Protection Against Retaliation Form (2019)
- BHCF Agency Protection Against Retaliation Form (2020)

Interviews:

- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Designated Staff Member Charged with Monitoring Retaliation
- Random Staff
- Random Offenders
- Offenders Who Reported Sexual Abuse

Site Review Observations:

- Reviewed retaliation monitoring forms (staff/offender)
- Reviewed retaliation monitoring log

Standard Subsections:

- (a) The agency has numerous policies (Employee Manual, Agency Protection Against Retaliation) that prohibit the retaliation for reporting sexual abuse or sexual harassment and for cooperating with a sexual abuse and sexual harassment investigations. In accordance to these policies, the facility's Assistant Deputy Superintendent PREA Compliance Manager and the facility PREA Point Person will coordinate monitoring to prevent retaliation. The designated PREA Point Person will assist and serve as the backup for monitoring. The BHCF complies with agency policy in that the BHCF PREA Point Person is the designated monitor and the BHCF Regional AD PREA Compliance Manager assists with this process as needed.
- (b) Per policy (Agency Protection Against Retaliation), each facility, including facilities classified under the PREA Standards as Community Confinement Facilities (Edgecombe, Lincoln (now

closed), and Rochester) and Juvenile Facilities (Adolescent Offender Facilities), shall employ multiple protection measures, such as housing changes or transfers for offender victims or abusers, removal of alleged staff or offender abusers from contact with victims, and emotional support services for offenders or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

- (c) Per policy (Agency Protection Against Retaliation), for a minimum of four (4) months following a report of sexual abuse or sexual harassment, the facility shall monitor the conduct and treatment of:
 - a. An offender, including an incarcerated parolee, adolescent offender, or resident who reported an incident of sexual abuse or sexual harassment (including a third-party reporter)
 - b. An offender, including an incarcerated parolee, adolescent offender, or resident who was reported to have suffered sexual abuse or sexual harassment; and
 - c. An employee who reported an incident of sexual abuse or sexual harassment of an offender.
 - d. In accordance with Directives #4027B and #4028B, the Office of Special Investigations, Sex Crimes Division, shall be notified promptly of any complaint or evidence of retaliation.
 - e. The complaint or evidence shall be reviewed by OSI for investigation or for further direction. Upon consultation with OSI, the facility shall act promptly to remedy any such retaliation. Monitoring to prevent retaliation shall continue for an additional period of at least four (4) months if the previous period of monitoring indicates a continuing need.
 - f. Within the past twelve months, the BHCF has not had a reported incident of retaliation.
- (d) Per policy (Agency Protection Against Retaliation), in the case of offenders, such monitoring shall also include periodic in-person status checks approximately every 30 days.
- (e) Per policy (Agency Protection Against Retaliation), if any other individual (staff, volunteer, contractor, offender, adolescent offender, resident, etc.) who cooperates with an investigation expresses a fear of retaliation, the facility and agency shall take appropriate measures to protect that individual against retaliation as well.
- (f) The auditor is not required to audit this provision.

Reasoning & Findings Statement:

This standard works to prevent retaliation against employees and offenders for reporting sexual abuse and sexual harassment or for having cooperated with an investigation into such. Agency policy, specifically, Agency Protection Against Retaliation, provides a comprehensive overview of agency protection against sexual abuse and sexual harassment. In speaking with offenders, none noted that they had ever experienced retaliation for participating in a PREA related facility investigation. Both the Regional ADS PCM and the BHCF PREA Point Person provided a detailed explanation of the monitoring process. The auditor also observed the system currently in place at the BHCF. Given the totality of the policies provided, staff knowledge regarding the process, and a demonstration of the BHCF monitoring process, the BHCF has satisfied the basic provisions of this standard.

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

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.

Documents:

- DIR #4948, Protective Custody Status (6/29/17)
- Form 2168A, Sexual Victimization – Involuntary Protective Custody Recommendation (3/15)

Interviews:

- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Designated Staff Member Charged with Monitoring Retaliation
- Random Staff
- Staff Who Supervise Offenders in Segregated Housing
- Random Offenders

Site Review Observations:

- Observed the Segregated Housing Unit

Standard Subsections:

- (a) Policy (DIR #4948) prohibits placing offenders who allege sexual abuse or to be at a high risk of sexual abuse, in involuntary segregated housing unless an assessment of all other available

alternatives has been made and a subsequent determination concludes that there are no available alternatives means of separation from likely abusers. Within the past twelve months, the BHCF has not placed any offenders who have suffered sexual abuse in involuntary segregated housing pending completion of their assessment.

Reasoning & Findings Statement:

Agency policy strictly prohibits the use of involuntary segregated housing as a de facto response to offender safety concerns. Rather, as explained by the Regional PCM, the use of involuntary segregated housing should be considered only as the last available option, and even at that, as only a temporary measure. Within the reporting time frame, BHCF administration did not utilize involuntary segregated housing for any offender who had alleged sexual abuse. While conversations with the Regional PCM and the BHCF Superintendent did indicate that if absolutely necessary, offenders would be placed in involuntary segregated housing, it would be their absolute last option. As such, the BHCF has satisfied the requirements of this provision.

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.

Documents:

- DIR #0700, Office of Special Investigations (11/28/18)
- DIR #4027B, Sexual Abuse Reporting & Investigation, Inmate-on-Inmate (11/29/17)
- DIR #4028B, Sexual Abuse Reporting & Investigation, Staff-on-Inmate/Staff-on-Parolee (11/29/17)
- Statement of Compliance, 115.71 Criminal and Administrative Agency Investigations (9/10/18)
- NYSP Implementation of the PREA Standards (5/2/14)
- NY State Law, Criminal Procedure, Section 160.45, Prohibition against polygraph tests
- BHCF reviewed eight investigatory files in full during on-site audit

Interviews:

- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Investigative Staff
- Offenders Who Reported Sexual Abuse

Site Review Observations:

- Review of case files
- Interviewed OSI staff regarding training
- Reviewed OSI training certifications
- Reviewed agency training records documenting OSI training curriculums

Standard Subsections:

- (a) Policy (DIR #4027B, DIR #4028B) requires that the Office of Special Investigations (OSI) conduct prompt, thorough, and objective investigations in all instances of reported staff-on-inmate sexual abuse, sexual harassment, or retaliation concerning such an incident; as well as inmate-on-inmate sexual abuse, sexual harassment, or retaliation concerning such an incident. In conducting said investigations, agency policy requires that third-party and anonymous reports are also investigated.
- (b) Per policy (DIR #0700, OSI Policy Manual Chapter 5), all Office of Special Investigations (OSI) investigators have received specialized training in excess of the generalized sexual abuse and sexual harassment training provided to other staff. Among other classes, OSI investigators participate in the National Institute of Corrections PREA Investigating Sexual Abuse in a Confinement Setting course. In interviewing OSI investigators, said staff confirmed participation in numerous related courses while attending the Office of Special Investigations Investigator School. Additionally, training curriculums, employee training certifications, as well as completed training rosters, provided additional documentation to support facility compliance.

The training curriculums associated with additional OSI investigator classes provided at the Office of Special Investigations Investigator School reflect that OSI investigators also receive training on proper interview techniques for speaking with sexual abuse victims, the proper use of Miranda and Garrity warnings, sexual abuse evidence collection within a confinement setting, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. In August of 2019, OSI staff completed training in *Introduction to the Forensic Experiential Trauma Interview*, an interview methodology driven by the neurobiology of trauma and memory that provides interviewers with a framework to maximize the opportunities for information collection about an individual's high stress or traumatic experiences in a neutral, equitable, and fair manner. In speaking with OSI staff, said staff confirmed their attendance of such trainings. As well, training certifications and completed training rosters further verify that OSI staff participate in these trainings.

- (c) Per policy (DIR #4027B, DIR #4028B) OSI investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data. Policy (DIR #0700) allows that OSI investigators interview alleged victims, suspected perpetrators, and witnesses. Investigators are also required to review prior reports and complaints of sexual abuse involving the suspected perpetrator.
- (d) Policy (DIR #0102) allows OSI investigators to compel interviews only after approval to do so is obtained by the prosecutor, as well as the Deputy Chief Investigator or the Assistant Deputy

Chief Investigator. In speaking with the OSI Senior Investigator, the use of compelled interviews requires approval as they may pose a concern in subsequent judicial hearings.

- (e) Per OSI Training Curriculums, agency investigators must 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 an offender or staff member. In accordance to the Laws of New York, Criminal Procedure, Section 160.45, Prohibition Against Polygraph Tests, no district attorney, police officer or employee of any law enforcement agency shall request or require any victim of a sexual assault crime to submit to any polygraph test or psychological stress evaluator examination. During offender interviews, no one claimed to have been subjected to a polygraph test, or other truth telling devices, as a function of any OSI investigation.
- (f) Policy (DIR #4027A, DIR #4028A, OSI Training Curriculums) requires administrative investigations to consider whether staff actions or failures to act contributed to the sexual abuse and sexual harassment. All administrative investigations are documented in written reports. As a function on that documentation, these reports should include a description of the physical evidence and testimonial evidence, the reasoning behind credible assessments, as well as investigative facts and findings. A review of files maintained by OSI specific to this facility provided detailed written report of both the allegations and the subsequent investigation.
- (g) Policy (DIR #4027A, DIR #4028A, OSI Training Curriculums) requires that all criminal investigations be documented in written reports. As a function on that documentation, these reports should include a description of the physical evidence, testimonial evidence, and documentary evidence. A review of files maintained by OSI specific to this facility provided detailed written report of both the allegations and the subsequent investigation.
- (h) As noted by OSI Investigative staff, all substantiated allegations of conduct that appear to be criminal are referred for prosecution.
- (i) Policy (DIR #4028B, DIR #2011) requires that physical (paper) case records of the OSI be retained for a minimum of seven years. The electronic case file, including copies of the investigative report and other critical documents, shall be permanently retained.
- (j) Policy (DIR #0700) mandates that employee investigations into administrative or criminal misconduct will continue through completion, regardless of whether the employee remains employed with the agency.
- (k) The auditor is not required to audit this provision.
- (l) Policy (DIR #0700, DIR #4027A, DIR #4028A, DOCCS Website PREA page) requires facility and OSI staff to cooperate with outside investigators and endeavor to remain informed about the progress of the investigation.

Reasoning & Findings Statement:

The Office of Special Investigation is the law enforcement branch operating inside of the DOCCS. As such, the DOCCS is authorized to conduct its own investigations into allegations of sexual abuse and

sexual harassment. To work as a criminal investigator within the OSI, personnel must have law enforcement credentials. As well, OSI investigators must meet additional training requirements for working within a confinement setting. OSI staff do have the authority to investigate both criminal and administrative cases, to include collecting evidence, as well as interviewing victims, suspected perpetrators, and witnesses. OSI investigators have been trained on the standards of evidence required to support a finding of guilt in both criminal and administrative cases. As well, OSI investigators have been trained on due process and procedural requirements of both criminal and administrative cases. Lastly, as confirmed through interviews with OSI investigators, DOCCS and OSI investigative staff work corporately under a memorandum of understanding with members of the New York State Police and Bureau of Criminal Investigations in accomplishing mutually agreed upon objectives. This considered, the BHCF has certainly met the provisions of the 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

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.

Documents:

- Office of Special Investigations Policy Manual Chapter 5, Section II.4 (8/15/19)
- Statement of Compliance, Evidentiary Standards for Administrative Investigations (9/10/18)
- Policy Memorandum re Notification of Investigation Determination to Inmates or Parolee/Residents (5/17/18)

Interviews:

- Facility Warden/Superintendent
- Facility PREA Compliance Manager/PREA Point Person
- Investigative Staff

Site Review Observations:

- OSI Policy Manual
- OSI Audit Year Case Files

Standard Subsections:

- (a) Policy (Office of Special Investigations Policy Manual) requires that OSI investigators not impose a standard of proof higher than that of the preponderance of evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. Policy (Policy Memorandum: Notification of Investigation Determination to Inmates or Parolee/Residents) clearly establishes the standard of proof required to substantiate claims of sexual abuse and sexual harassment. Specifically, the allegations are determined substantiated, unsubstantiated, or unfounded based on the preponderance of the evidence. For substantiated claims, the weight of the evidence must indicate that the allegation is more likely to be true than not true.

Reasoning & Findings Statement:

Agency policy requires that the OSI establish a standard of proof no higher than a preponderance of the evidence when determining whether allegations of sexual abuse or sexual harassment are substantiated. When interviewed, OSI investigators confirmed that standard of proof to be slightly more than half. As well, the OSI Manual, issued by the OSI Deputy Commissioner, further confirms the required standard of proof. During the current audit time frame, OSI has investigated eight cases associated with the BHCF. Using those cases as a model, OSI explained the investigatory and disposition process, to ultimately include prosecutorial reviews, in great depth. It should be noted, however, that during the audit time frame, there have not been any cases sent to the District Attorney's Office for prosecution. The BHCF has satisfied all material provisions for this standard.

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.

Documents:

- Policy Memorandum re Notification of Investigation Determination to Inmates or Parolee/Residents (5/17/18)
- Office of Special Investigation Policy Manual Chapter 5, Sections II.4, IV.4 (8/15/19)
- Statement of Compliance, Evidentiary Standards for Administrative Investigations (9/10/18)
- Comment Page, Reporting to Inmates
- BHCF Notification to Complainant of Closure of Investigation (9/27/19)
- BHCF Notification to Complainant of Closure of Investigation (4/10/19)
- BHCF Notification to Complainant of Closure of Investigation (1/30/20)

Interviews:

- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Designated Staff Member Charged with Monitoring Retaliation
- Investigative Staff
- Offenders Who Reported Sexual Abuse

Site Review Observations:

- OSI Policy Manual
- OSI Audit Year, 8 Case Files

Standard Subsections:

- (a) Policy (Policy Memorandum: Notification of Investigation Determination to Inmates or Parolee/Residents) clearly establishes the standard of proof required to substantiate claims of

sexual abuse and sexual harassment. Specifically, the allegations are determined substantiated, unsubstantiated, or unfounded based on a preponderance of the evidence. For substantiated claims, the weight of the evidence must indicate that the allegation is more likely to be true than not true. Following the complaint's disposition, a Notification of Investigative Determination will be sent to the complainant via Privileged Mail.

- (b) Agency investigations are conducted by the Office of Special Investigations, Sex Crimes Division. As such, DOCCS possess all relevant information from the investigative agency so as to properly inform the offender of its disposition. However, if the agency did not conduct an investigation, agency staff would request the relevant information from the investigative agency in order to inform the offender.
- (c) Policy (Office of Special Investigations Policy Manual Chapter 5, Section VI.4) requires that when an offender has filed allegations of sexual abuse against an employee, unless those allegations are determined unfounded, the agency must notify the offender whenever that staff member is no longer posted in the offender's housing unit, no longer employed at the facility, the agency learns that the staff member has been indicted on a charge related to sexual abuse in the facility, or when the agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility. Interviews with OSI staff confirm the facility's compliance with said policy when appropriate.
- (d) Policy (Office of Special Investigations Policy Manual Chapter 5, Section VI.4) requires that when an offender has filed allegations of sexual abuse against another offender, the agency must notify the offender whenever the alleged abuser has been indicted on a charge related to sexual abuse within the facility and whenever the agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
- (e) Policy (Office of Special Investigations Policy Manual Chapter 5, Section VI.4) requires that the agency document all such notifications or attempted notifications. Interviews with OSI staff confirm the facility's compliance with said policy when appropriate.
- (f) Auditor is not required to audit this provision.

Reasoning & Findings Statement:

Agency policy requires administrative staff to provide offenders with dispositions for all claims of sexual abuse and sexual harassment. While all sexual abuse and sexual harassment claims are addressed by the OSI, in the event that an outside law enforcement agency conducts the investigation into an offender's allegations, agency staff would remain actively engaged in that investigation. Agency policy provides that all offenders who have filed a previous sexual abuse and sexual harassment claim against agency staff or another offender, receive notification upon a change in housing status for the offender and a change in job status for the employee. Lastly, policy requires these notifications to be documented. Within the previous 12 months, the OSI staff have provided notifications to two offenders who were assigned to the BHCF at the time of notification. Both notifications to BHCF offenders were provided in written format. Documentation reflecting proper notifications were reviewed and in compliance with policy. As such, the BHCF is complying with all parts of this provision.

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

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.

Documents:

- DIR #4028A, Sexual Abuse Prevention & Intervention, Staff-on-Inmate/Staff-on-Parolee (11/29/17)
- DIR #2110, Employee Discipline-Suspension from Duty During the Continuation of Disciplinary Proceedings (7/13/18)
- DOCCS Employee Manual (2019)
- PREA Presumptive Disciplinary Sanction for Staff Sexual Misconduct (2/5/16)
- DIR #2111, Report of Employee Misconduct (1/5/16)
- Statement of Compliance, Disciplinary Sanctions for Staff (9/10/18)

Interviews:

- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Investigative Staff
- Random Staff

Site Review Observations:

- OSI Policy Manual
- OSI Audit Year Case Files

Standard Subsections:

- (a) Policy (DIR #4028A) clearly advises staff that offenders do not have the legal ability to consent to sexual relations while incarcerated. As such, any person who engages in sexual conduct with an offender is committing a crime and will be prosecuted to the fullest extent of the law. Policy (DOCCS Employee Manual) further states, any perpetrator of a sexual abuse incident, sexual harassment, or act of staff voyeurism will be dealt with severely through discipline or prosecution to the fullest extent permitted by law. Interviews with OSI staff, as well as BHCF facility administration, confirm their adherence to agency policy specific to employee disciplinary and termination processes for any employee found to be engaging in acts of sexual abuse or sexual harassment.
- (b) Policy (DIR #4028A) continues by noting that any perpetrator of a sexual abuse or sexual harassment will be dealt with severely through discipline or prosecution to the fullest extent permitted by law. Policy (Memorandum: Presumptive Disciplinary Sanction for Staff Sexual Misconduct) notes that termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse of an offender. Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall continue to be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. Again, interviews with OSI staff, as well as BHCF

facility administration, confirm their adherence to agency policy specific to employee disciplinary and termination processes for any employee found to be engaging in acts of sexual abuse or sexual harassment. In the past twelve months, there haven't been any employees assigned to the BHCF who have engaged in any acts of sexual abuse or sexual harassment.

- (c) Policy (DIR #4028A) notes that 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. Policy (DIR #2110) states when the OSI receives a report of staff sexual misconduct, they shall evaluate the facts and circumstances of the report together with any other available information and consult with the appropriate Bureau of Labor Relations representative regarding appropriate action, including removal of the employee from contact with any offenders pending the outcome of an investigation. In the past twelve months, the BHCF has not had any staff who have been disciplined, short of termination, for any violation of agency sexual abuse or sexual harassment policies.
- (d) Policy (Office of Special Investigations Policy Manual Chapter 32, Section II) notes that all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, are reported to law enforcement agencies. Furthermore, all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, are reported to the relevant licensing bodies. In the past twelve months, as there haven't been any employees assigned to the BHCF who have engaged in any acts of sexual abuse or sexual harassment, there hasn't been any staff reported to law enforcement or licensing boards following their termination.

Reasoning & Findings Statement:

These standards work to ensure agency staff understand the gravity and the criminal nature of having sexual relations with incarcerated persons. The State of New York has certainly made the consequences of engaging in such behavior exceptionally clear. It should also be noted that over the past 12 months, there haven't been any staff members assigned to the BHCF who have violated agency sexual abuse or sexual harassment policies. As such, no staff have been terminated, disciplined, or reported to law enforcement agencies. The DOCCS, as well as BHCF administration, has satisfied the provisions of this standard.

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

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.

Documents:

- DIR #4750, Volunteer Services Program (1/14/19)
- Office of Special Investigation Policy Manual Chapter 32, Section II (8/15/19)
- Statement of Compliance, Corrective action for contractors and volunteers
- Policy on the Prevention of Sexual Abuse and Sexual Harassment
- BHCF Acknowledgement of "Standards of Conduct for Volunteers" and All Applicable Policies (8/12/19)

Interviews:

- Agency Contract Administrator
- Facility Warden/Superintendent
- Investigative Staff
- Administrative (Human Resources Staff)
- Contractors Who May Have Contact With Offenders

Site Review Observations:

- Review contractor/volunteer files

Standard Subsections:

- (a) Policy (FORM #4750C) advises volunteers that while they are working with inmates on a regular basis, a professional relationship must be maintained. In this, care should be taken to avoid becoming emotionally involved with offenders. DOCCS has zero tolerance for sexual abuse and sexual harassment as sexual abuse and sexual harassment violate Department rules and threaten security. All allegations of sexual abuse, sexual harassment, or retaliation for reporting such an incident or participating in an investigation will be thoroughly investigated. It is a crime for a volunteer or intern, who provides direct services to offenders in a state correctional facility, to engage in a sexual act with an offender or parolee assigned to that facility, even if the offender or parolee *willingly* participates in the act. 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 and will be reported to any relevant licensing bodies.
- (b) Policy (DIR #4028A) notes that 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. Policy (DIR #2110) states when the OSI receives a report of staff sexual misconduct, the facts and circumstances of the report, together with any other available information, shall be evaluated in consultation with the appropriate Bureau of Labor Relations representative regarding appropriate action, including removal of the employee from contact with any offenders pending the outcome of the investigation.

Reasoning & Findings Statement:

Policy expressly states that contractors and volunteers who engage in sexual abuse with offenders will be removed from contact with offenders pending the outcome of the investigation. Contractors or volunteers who engage in sexual abuse will be reported to law enforcement and to any relevant licensing body. These persons will also be subject to criminal sanctions. Over the past twelve months, the BHCF has not had any contractors or volunteers engage in sexual abuse or harassment of any offender. During the BHCF contractor interview, both the prohibition against sexual abuse and sexual harassment of offenders, as well as the consequences of having engaged such, were clearly known. Hence, the provisions of this standard have been met and BHCF is in compliance with such.

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*)

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.

Documents:

- Hearing Officer Reference Book (4/1/17)
- DIR #4932, Chapter V, Standards Behavior & Allowances (10/2/18)
- DIR #4401, Guidance & Counseling Services (12/05/19)
- DIR #4028A, Sexual Abuse Prevention & Intervention, Staff-on-Inmate/Staff-on-Parolee (11/29/17)
- DIR #4027A, Sexual Abuse Prevention & Intervention, Inmate-on-Inmate (11/29/17)
- BHCF Inmate Misbehavior Report (7/10/19)
- BHCF Inmate Program Overview (Sex Offender Treatment) (12/2/15)

Interviews:

- Facility Warden/Superintendent
- Facility PREA Compliance Manager/PREA Point Person
- Investigative Staff
- Medical/Mental Health Staff
- Random Staff
- Random Offenders

Site Review Observations:

- Review of offender disciplinary files

Standard Subsections:

- (a) Policy (Dir #4932) provides the standards associated with all disciplinary hearings. Policy (Hearing Officer Reference Book) further notes that following an administrative finding that an offender engaged in inmate-on-inmate sexual abuse, said offender is subject to disciplinary sanctions pursuant to formal disciplinary processes. During the past twelve months, the BHCF has had one administrative finding of inmate-on-inmate sexual abuse and no criminal findings of inmate-on-inmate sexual abuse.
- (b) Policy (Hearing Officer Reference Book, Appendix B & Appendix C) ensures that disciplinary sanctions imposed are commensurate with the nature and circumstances of the abuse committed, the offender's disciplinary history, and the sanctions imposed for comparable offenses by other offenders with similar histories. Specifically, sanctions consider aggravating and mitigating factors. To promote fairness, the sanctions can be read as an objective grid.

- (c) When considering an offender's disciplinary sanctions, policy (Hearing Officer Reference Book) does consider how an offender's mental disabilities or mental illness contributed to his behavior.
- (d) Per policy (DIR #4401), the agency offers a Sex Offender Counseling and Treatment Program for inmates who are convicted sex offenders, as well as other inmates that the Department identifies as likely to benefit from sex offender counseling and treatment. A finding of guilt at a tier hearing for a sexually abusive and/or assaultive act will qualify an inmate for this program. An inmate identified as needing the Sex Offender Counseling and Treatment Program will be transferred to facilitate participation.
- (e) Per policy, (DIR #4028A, DIR #6910), any incident of sexual assault on staff by an offender or parolee will be immediately reported to the Office of Special Investigations and handled in accordance with established Department policy for investigation and criminal prosecution of the offender.
- (f) Per policy (DIR #4028A), offenders will not be subject to retaliation of any kind for good faith reporting of sexual abuse, sexual harassment, or sexual threats. A report made in good faith based upon a reasonable belief that the alleged conduct did occur does not constitute falsely reporting an incident or lying for the purpose of disciplinary action, even if the investigation does not establish evidence sufficient to substantiate the allegations.
- (g) Per policy (DIR #4027A), inmate-on-inmate sexual abuse is defined as when one or more offenders engage in sexual conduct, including sexual contact, with another offender against his or her will or by use of threats, intimidation, or other coercive actions.

Reasoning & Findings Statement:

The offender disciplinary process is a formal means to address institutional misconduct. The BHCF uses a progressive disciplinary system, which allows for consideration of aggravating and mitigating factors. Within the last 12 months, the BHCF has processed one administrative finding of guilt for inmate-on-inmate sexual abuse and no criminal findings of guilt regarding inmate-on-inmate sexual abuse that occurred at the facility. In considering agency policies, facility procedures, staff interviews, and offender comments, BHCF is compliant with the disciplinary standards.

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

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.

Documents:

- PREA Screening for Reception/Classification (5/18)
- Health Services Manual Policy #1.44, Health Screening of Inmates (7/26/18)
- DIR #4301, Mental Health Satellite Services and Commitments to CNYPC (8/18/15)
- Form 3150, DOCCS Mental Health Referral (7/16)
- Health Services Manual Policy #1.12B, Inmate Bloodborne Pathogens Significant Exposure Protocol (10/25/17)
- MOU Office of Mental Health, mental health evaluation and treatment offered
- BHCF FOM #8.06, Coordinated Response Plan to an Incident of Inmate Sexual Abuse (2/5/19)

Interviews:

- Facility PREA Compliance Manager/PREA Point Person
- Intake Staff
- Medical Staff
- Staff Who Perform Screening for Risk of Victimization and Abusiveness
- Offenders Who Reported Sexual Victimization During Risk Screening

Site Review Observations:

- Observed Medical Department
- Review medical screening tools

Standard Subsections:

- (a) Policy (#1.44) notes that upon arrival at a DOCCS facility, every newly received or transferred offender will receive a health screening by a Registered Nurse (RN). This screening will include an inquiry into the offender's current and past health, mental health, and PREA history, as well as an immediate referral of any offender to a health provider if indicated. In the past twelve months, 100% of offenders received at the BHCF who disclosed prior victimization during screening were offered a follow-up meeting with a medical or mental health practitioner.
- (b) Per policy (DIR #4301), regular mental health referrals are addressed within a timeframe consistent with the nature of the referral and within 14 days in accordance with the OMH Central New York Psychiatric Center (CNYPC) Corrections Based Operations (CBO) Policy #1.3. In the past twelve months, 100% of offenders received at the BHCF who had previously perpetrated sexual abuse, as indicated during the screening, were offered a follow-up meeting with a mental health practitioner.
- (c) Per policy (DIR #4301), regular mental health referrals are addressed within a timeframe consistent with the nature of the referral and within 14 days in accordance with CNYPC Corrections Based Operations (CBO) Policy #1.3.

- (d) Per HSMP #1.44, in accordance with the Prison Rape Elimination Act (PREA) Standards, 28 C.F.R. 115.81, any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by federal, state, or local laws. Medical and mental health practitioners shall obtain informed consent (HIPAA release) from offenders before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18. As above, informed consent/HIPAA release is not required for a referral to the Office of Mental Health.
- (e) Per HSMP #1.44, in accordance with the Prison Rape Elimination Act (PREA) Standards, 28 C.F.R. 115.81, any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by federal, state, or local laws. Medical and mental health practitioners shall obtain informed consent (HIPAA release) from offenders before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18. As above, informed consent/HIPAA release is not required for a referral to the Office of Mental Health.

Reasoning & Findings Statement:

Within the past 12 months, 100% of offenders who had disclosed prior victimization during risk screening were offered a follow-up meeting with a medical or mental health practitioner. Within the past 12 months, 100% of offenders who had previously perpetrated sexual abuse as indicated during risk screening were offered a follow-up meeting with a medical or mental health practitioner. The BHCF is providing routine and regular medical screens and other health services. Documentation specific to the PREA Screening for Reception/Classification reflects the appropriate use of the screening tool to determine qualified housing and medical needs. The facility is meeting all of the provisions as established in 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

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.

Documents:

- BHCF FOM #8.06, Coordinated Response Plan to an Incident of Inmate Sexual Abuse (2/5/19)
- NY Public Health Law, Section 2807-c, General Hospital Inpatient Reimbursement
- Health Service Manual Policy #1.60, Sexual Assault (10/25/17)
- BHCF Patient Referral Form (9/3/19)
- BHCF Ambulatory Health Record Process Note (8/30/19)
- BHCF Inmate Injury Form (9/2/19)
- DOCCS Mental Health Referral (9/3/19)
- BHCF Infirmary 24 Hour Admission & Observation Short Form (9/3/19)
- BHCF Authorization for Release of Health Information (9/3/19)
- BHCF Inmate Injury Report (5/13/19)
- BHCF DOCCS Mental Health Referral (5/13/19)
- BHCF Inmate Injury Report (9/15/19)

- BHCF DOCCS Mental Health Referral (9/15/19)
- BHCF Medical Chart (07/19)

Interviews:

- Facility PREA Compliance Manager/PREA Point Person
- Medical Staff
- SANE/SAFE Staff
- Security Staff and/or Non-Security Staff Who Have Acted As First Responders
- Offenders Who Reported Sexual Abuse

Site Review Observations:

- Observed Medical Department
- Reviewed medical screening tools

Standard Subsections:

- (a) In accordance to the coordinated response to a sexual assault protocol, BHCF FOM #8.06 allows either Health Services Staff or the on-duty Physician to initiate the proper procedures as outlined in Health Services Policy Manual (HSPM) #1.60, Sexual Assault. This medical evaluation assists in determining if referrals to an outside hospital emergency department are medically indicated on the basis of evidence collection or physical trauma. During interviews with medical personnel, staff affirmed that said services are provided in accordance to the professional judgement of qualified practitioners.
- (b) BHCF FOM #8.06 allows for a possible schedule of events where there are only part time or no full time Medical or Mental Health staff present at the facility. To this effect, yes; security staff will assist in addressing the offender's emergency needs pending qualified mental health/medical assistance.
- (c) BHCF FOM #8.06 requires that after responding to an emergency scene, security shall immediately and separately escort each offender involved in the incident to the Medical department regardless of when the incident is alleged to have occurred. Medical staff will be advised of the reported involvement of each participant. As there is a 2-hour optimum window to initiate medical post exposure prophylactic treatment, time is of the essence to have participants seen by medical staff as soon after the incident as is possible.
- (d) New York Public Health Law, Section 2807-c states that no general hospital shall refuse to provide hospital services to a person presented or proposed to be presented for admission to such general hospital by a representative of a correctional facility. Additionally, in speaking with the Nurse Administrator, the auditor was informed that at no time would the Medical Department ever refuse to see an offender due to the offender's inability to pay. Offenders in New York DOCCS custody are not charged a co-pay or other fee in connection with the provision of medical or mental health care.

Reasoning & Findings Statement:

This standard is designed to provide offenders access to emergency medical and mental health services. In this, facility staff are meeting all of the provisions within this standard. Policy (BHCF FOM #8.06) allows that upon receipt of an offender into the Medical Department, Medical staff shall determine the offender's course of treatment; specifically, what is medically indicated on the basis of evidence collection or physical trauma. Lastly, during the audit period, there has been one instance where an inmate needed access to emergency medical and mental health services as a result of sexual abuse, of which, the offender was afforded said access.

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.

Documents:

- Health Services Manual Policy #1.60, Sexual Assault (10/25/17)
- MOU Office of Mental Health, mental health evaluation and treatment offered
- MOU between DOCCS and OMH (1/3/17)
- Health Services Manual Policy #1.12B, Inmate Bloodborne Pathogens Significant Exposure Protocol (10/25/17)
- DIR #4401, Guidance & Counseling Services (12/05/19)
- BHCF Patient Referral Form (9/3/19)
- BHCF Ambulatory Health Record Process Note (8/30/19)
- BHCF Inmate Injury Form (9/3/19)

- BHCF DOCCS Mental Health Referral (9/3/19)
- BHCF Infirmary 24 Hour Admission & Observation Short Form (9/3/19)
- BHCF Authorization for Release of Health Information (9/3/19)
- BHCF Inmate Injury Report (7/9/19)
- BHCF DOCCS Mental Health Referral (7/10/19)
- BHCF Medical Chart (07/19)

Interviews:

- Facility PREA Compliance Manager/PREA Point Person
- Medical/Mental Health Staff
- Offenders Who Reported Sexual Abuse

Site Review Observations:

- Observed Medical Department
- Review medical screening tools

Standard Subsections:

- HSPM #1.60 requires that all allegations of sexual assault must be evaluated immediately by the facility health staff.
- HSPM #1.60 notes that the victim of an alleged sexual assault will be medically evaluated regardless of whether or not the allegation has been independently verified prior to the victim's presentation for treatment. As a function of the medical evaluation for all involved offenders, the immediate completion and submission of a DOCCS Mental Health Referral, Form 3150, to Mental Health staff is required.
- HSPM #1.60 notes that in accordance with the PREA Standards 115.21 and 115.82, all victims of sexual abuse shall be afforded access to forensic medical examinations at an outside facility, without financial cost, where evidentiary or medically appropriate. All victims of sexual abuse shall 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. If not referred to an outside hospital emergency department, the offender is admitted to the infirmary after evaluation by a primary care provider or, if none on site, after consultation with the on-call physician. Each case will be discussed and documented in the AHR. Any necessary post exposure testing and treatment will be initiated. Emergency contraception is available from a contracted pharmacy services vendor. The immediate completion and submission of a DOCCS Mental Health Referral, Form 3150, to Mental Health staff is required.
- At the time of the audit, BHCF was an all-male facility without transgender male offenders assigned.
- At the time of the audit, BHCF was an all-male facility without transgender male offenders assigned.

- (f) HSPM #1.60 indicates that when medically appropriate, HIV prophylactic medications will be offered prior to transportation to the emergency department. The optimal time frame for post exposure prophylaxis (PEP) is within 2 hours post exposure.
- (g) HSPM #1.60 notes that all treatment, including outside hospital services, will be provided to offenders without financial liability and regardless of whether or not the offender cooperates in any investigation arising from the incident.
- (h) HSPM #1.60 requires that for all involved offenders, immediate completion and submission of a DOCCS Mental Health Referral, Form 3150, to Mental Health staff is required. HSPM #1.44 further requires that any subsequent mental health evaluation is conducted within 60 days of learning of such abuse history.

Reasoning & Findings Statement:

This standard is designed to ensure ongoing medical and mental health care for sexual abuse victims and abusers. The BHCF offers qualified and coordinated medical and mental health care regardless of an offender's ability to pay for said services. As appropriate, offenders are provided the opportunity to attend follow-up treatments. The medical services provided are consistent with the community level of care. The Medical and Mental Health Department has satisfied every aspect of the provisions and is in compliance with the standards.

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.

Documents:

- Sexual Abuse Incident Review Checklist (7/21/17)
- Policy Memorandum: Prison Rape Elimination Act Procedural Enhancement (5/9/14)

- BHCF Incident Review Recommendations (2/20/20)
- BHCF Incident Review Recommendations (2/24/20)

Interviews:

- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent
- Incident Review Team Member
- Random Offender Interviews

Site Review Observations:

- Reviewed Incident Review documents

Standard Subsections:

- (a) In accordance to the DOCCS Prison Rape Elimination Act Procedural Enhancement memo (5/9/14), sexual abuse incident reviews are required under section 115.86 of the PREA Standards following the completion of the investigation by the Office of Special Investigations. A review must be conducted within 30 days of the conclusion of every investigation, unless the allegation is determined to be unfounded. In the past twelve months, the BHCF has not conducted any criminal and/or administrative Incident Reviews of alleged sexual abuse. As such, there weren't any documents to review regarding such. Nonetheless, in speaking with the Regional ADS PREA Compliance Manager, BHCF PREA Point Person, and the BHCF Superintendent, each person explained their role within the Incident Review process.
- (b) In accordance to the Prison Rape Elimination Act Procedural Enhancement memo (5/9/14), an Incident Review must be conducted within 30 days of the conclusion of the investigation, unless the allegation is determined to be unfounded. While said reviews would normally occur within 30 days of the conclusion of the investigation, during the audit time frame, BHCF did not have a need to conduct any Incident Reviews. Nonetheless, in speaking with the Regional ADS PREA Compliance Manager, BHCF PREA Point Person, and the BHCF Superintendent, each person explained their role within the Incident Review process.
- (c) In accordance to the Prison Rape Elimination Act Procedural Enhancement memo (5/9/14), the PREA Standards require the review team to include upper-level facility management officials, with input from line supervisors, investigators, and medical or mental health practitioners. The chair of the review team will be the Assistant Deputy Superintendent PREA Compliance Manager (ADS/PREA). For those facilities that do not currently have an ADS/PREA, policy requires that an ADS/PREA from a nearby facility or one of the Correctional Facility Operations Specialists (CFOS) in the Sexual Abuse Prevention & Education Office, will participate and be responsible for coordinating the review and completing the review form. A Captain, typically the PREA Point Person, will be the security representative on the review team. A third member of the multi-disciplinary review team shall be designated by the Superintendent for each review. The designee must be Salary Grade 22 or equivalent, or higher. During the audit time frame,

BHCF did not have a need to conduct any Incident Reviews. Nonetheless, in speaking with the Regional ADS PREA Compliance Manager, BHCF PREA Point Person, and the BHCF Superintendent, each person explained their role within the Incident Review process.

- (d) In accordance to the Prison Rape Elimination Act Procedural Enhancement memo (5/9/14), a form has been designed to capture the review and any recommendations of the review team; namely, the Sexual Abuse Incident Review template. This template considers whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse. It considers whether the incident or allegation was motivated by race, ethnicity, gender identity, sexual orientation, gang affiliation, an offender's status or perceived status within any of the aforementioned categories, as well as other group dynamics at the facility. In conducting incident reviews, the review team does consider adequacy of staffing levels in the area during different shifts, whether physical barriers in the area may enable abuse, and whether monitoring technology should be deployed or augmented to supplement supervision by staff. Following consideration, the review team prepares a report of its findings, including recommendations for improvement, and submits said report to the Superintendent and the PREA Coordinator. During the audit time frame, BHCF did not have a need to conduct any Incident Reviews. Nonetheless, in speaking with the Regional ADS PREA Compliance Manager, BHCF PREA Point Person, and the BHCF Superintendent, each person explained their role within the Incident Review process.
- (e) Upon completion of the incident review report, the facility is required to either implement the recommendations for improvement or to document its reasons for not doing so.

Reasoning & Findings Statement:

Within the past 12 months, BHCF has not conducted any criminal and/or administrative investigation of alleged sexual abuse completed at the facility that was followed by a Sexual Abuse Incident Review. As such, there were no recommendations requiring action for the Incident Reviews. Nonetheless, given the totality of the information reviewed, policies, documented evidence, staff and offender interviews, it is still apparent that the BHCF has maintained compliance with each of the aforementioned provisions and is thus in compliance with the entire standard.

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.

Documents:

- DIR #4027B, Sexual Abuse Reporting & Investigation, Inmate-on-Inmate (11/29/17)
- DIR #4028B, Sexual Abuse Reporting & Investigation, Staff-on-Inmate/Staff-on-Parolee (11/29/17)
- Office of Program Planning Research and Evaluation PREA Data Collection, Review, Retention, and Publication Manual (8/18/15)
- Data Dictionary (5/29/19)
- BHCF Staff on Inmate, Monthly Sexual Abuse/Threat Incident Summary (12/19)

- BHCF Inmate on Inmate, Monthly Sexual Abuse/Threat Incident Summary (12/19)
- Survey Sexual Victimization Submission Confirmation (11/26/19)
- DOJ request for DOCCS to complete Survey of Sexual Victimization for 2018 (10/11/19)

Interviews:

- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent

Site Review Observations:

- Reviewed randomly selected Monthly Sexual Abuse/Threat Incident Summary
- Extensive review of agency website/PREA section

Standard Subsections:

- (a) Policy (DIR #4027B) mandates that the Deputy Superintendent for Security of each correctional facility shall be responsible for maintaining a Monthly Sexual Abuse/Threat Incident Summary that shall be a chronological listing of each sexual abuse, sexual harassment, threat incident, or complaint that occurs during a given month. This information will be collected using Form #2103SAll, Attachment A.
- (b) Per Policy (DIR #4027B), at the end of each month, the summary shall be forwarded to the Deputy Commissioner for Correctional Facilities and the Associate Commissioner for Prison Rape Elimination Act (PREA) Compliance.
- (c) Per the PREA Data Collection, Review, Retention and Publication Manual, the confidential incident-based data includes all information necessary to answer all questions from the most recent version of the Survey of Sexual Violence (SSV) conducted by the Bureau of Justice Statistics.
- (d) Per the PREA Data Collection, Review, Retention and Publication Manual, this includes, but is not limited to Office of Special Investigations, Sex Crime Division data, sexual abuse incident review information, unusual incidents, personnel records, confidential security information, offender records, disciplinary data, and the offender locator system. As a result of comprehensive data collection and review, the PREA Analyst maintains separate incident-based data from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews and ensures that said data is securely retained.
- (e) Since the passage of S4118 in 2007, the State of New York does not confine offenders in private, or otherwise for-profit, correctional institutions.
- (f) Per the PREA Data Collection, Review, Retention and Publication Manual, an annual report is prepared that includes identifying possible or potential problem areas, as well as corrective

action for each facility and the agency as a whole. The annual report includes a comparison of the current year's data and corrective actions with those from prior years, thus providing an assessment of progress in addressing sexual abuse. The report is provided in compliance with PREA Standards §115.87 Data Collection and § 115.88 Data Review for Corrective Action and approved by the Associate Commissioner/PREA Coordinator and the Commissioner. Before making aggregated sexual abuse data publicly available, the agency removes all personal identifiers. The report is then made available to the public through the DOCCS website.

Reasoning & Findings Statement:

This standard works to ensure that specific data relative to promoting sexual safety within a correctional institution is collected on a monthly basis. That data is then aggregated and made available for public review. The BHCF has complied with the timely collection of said data, subsequently furnishing it to appropriate entities as required. Hence, the BHCF has met all provisional requirements and is in compliance with this standard.

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.

Documents:

- Office of Program Planning Research and Evaluation PREA Data Collection, Review, Retention, and Publication Manual (8/18/15)
- DOCCS Webpage, PREA (9/13/19)
- DOCCS Annual Report on Sexual Victimization (2013-2016), (12/18)

Interviews:

- Agency Head
- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent

Site Review Observations:

- Extensive review of agency website/PREA section

Standard Subsections:

- (a) Per the PREA Data Collection, Review, Retention and Publication Manual, the PREA Analyst prepares and aggregates data collected in coordination with the Sexual Abuse Prevention & Education Office and the Office of Special Investigations Sex Crimes Division in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies,

practices and training throughout the year. An annual report is prepared that includes identification of problem areas, as well as corrective action for each facility and the agency as a whole.

- (b) Per the PREA Data Collection, Review, Retention and Publication Manual, the annual report includes a comparison of the current year's data and corrective actions with those from prior years, thus providing an assessment of progress in addressing sexual abuse. The report is provided in compliance with PREA Standards §115.87 Data Collection and § 115.88 Data Review for Corrective Action. The report is approved by the Associate Commissioner/PREA Coordinator and the Commissioner. Before making aggregated sexual abuse data publicly available, the agency removes all personal identifiers.
- (c) Per the PREA Data Collection, Review, Retention and Publication Manual, following approval by the Associate Commissioner/PREA Coordinator and the Commissioner, the report is then made available to the public through the DOCCS website. A review of the DOCCS website finds all agency PREA reports publicly available:
<https://doccs.ny.gov/about-prea#annual-reports>
- (d) Title 28, Judicial Administration, Subpart A – Standards for Adult Prisons and Jails, Section 115.88, subsection (d) states that the agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility; however, the agency must then indicate the nature of the material redacted. In speaking with the agency PREA Coordinator, the auditor was ensured that legislative and procedural restraints would be applied should the agency need to redact specific information other than publicly identifying statistics.

Reasoning & Findings Statement:

This standard works to determine if agency, and by extension, facility base staff use aggregated data to promote the overall safety and security of the facility. In speaking with the agency-wide PREA Coordinator, the Regional ADS PREA Compliance Manager, the BHCF PREA Point Person, and the BHCF Superintendent, the auditor was informed on how each staff member utilized the data, based on their role within the agency, to improve overall institutional safety. The BHCF has demonstrated clear compliance with each of the provisions, and as such, has reached the goal of the 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.

Documents:

- Office of Program Planning Research and Evaluation PREA Data Collection, Review, Retention, and Publication Manual (8/18/15)

Interviews:

- Agency PREA Coordinator
- Regional Assistant Deputy Superintendent (ADS) PREA Compliance Manager (PCM)
- Facility PREA Compliance Manager/PREA Point Person
- Facility Warden/Superintendent

Site Review Observations:

- Extensive review of agency website/PREA section

Standard Subsections:

- (a) Per the PREA Data Collection, Review, Retention and Publication Manual, in accordance with §115.89, all data collected is securely retained by the Office of Special Investigations and the PREA Analyst pursuant to §115.87.
- (b) Per the PREA Data Collection, Review, Retention and Publication Manual, aggregated sexual abuse data is made readily available to the public through its website.
- (c) Per the PREA Data Collection, Review, Retention and Publication Manual, before making aggregated sexual abuse data publicly available, the agency removes all personal identifiers. The report is then made available to the public through the DOCCS website.
- (d) Per the PREA Data Collection, Review, Retention and Publication Manual, the DOCCS retains all sexual abuse data collected pursuant to §115.87 for at least 10 years after the date of the initial collection.

Reasoning & Findings Statement:

This standard works to ensure both public availability and agency integrity in the presentation of aggregated sexual abuse data. In reviewing agency documents and speaking with staff, it is more than apparent that both the NY DOCCS PREA Coordinator, as well as the administration of the BHCF, operate with transparency in government. The facility has clearly obtained each provision, and thus, satisfactorily achieve overall compliance.

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*)
- ☐ **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.

Documents:

- Statement of Compliance, Frequency and Scope of Audits (11/1/18)

Interviews:

- Agency staff
- Facility staff
- Contracted staff
- Offenders

Site Review Observations:

- On-site review of the entire BHCF
- Review of documentation available via the NY DOCCS PREA website

Standard Subsections:

- (a) As noted with the Statement of Compliance, Frequency and Scope of Audits (11/1/18), PREA Audits have been completed at all DOCCS Correctional Facilities in accordance to schedule to ensure that at least one-third of each facility type operated by the Agency was and is scheduled to be audited during each audit year.
- (b) This is Audit Year 1 of Cycle 3.
- (h) The auditor had full access to all areas of the facility.
- (i) All documents requested by the auditor were received in a timely manner.
- (m) The auditor was permitted to conduct private interviews with offenders.
- (n) Offenders were permitted to correspond with the auditor using privileged mail processes.

Reasoning & Findings Statement:

Both the Regional PREA PCM and the BHCF PREA Point Person were exceptionally prepared for this review. The auditor was provided the PAQ well in advance of arriving to the facility. The auditor was given unrestricted access to the institution and provided with all reference materials requested. The auditor was provided with an efficient location from which to interview both employees and staff. Agency staff ensured that the flow of interview traffic was never restricted and that the auditor was able to attend all requested offender functions throughout the facility as needed. The auditor did not experience any significant barriers, in any stage of the audit, that were under the control of either the agency or the BHCF.

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*)
- ☐ **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.

Documents:

- Statement of Compliance, Audit Contents and Findings (11/1/18)

Interviews:

- Agency PREA Coordinator

Site Review Observations:

- Online review of the NY DOCCS website, PREA

Standard Subsections:

- (a) The New York DOCCS has developed an exceptionally informative PREA section on their agency website!

Reasoning & Findings Statement:

The New York DOCCS PREA website is amazing! Not even counting every PREA report ever written for a NY state prison being systematically filed, there are still tens and tens of informative hours-worth of materials available to the public at their convenience. The PREA page itself is easy to navigate and the material is interesting. Hopefully, the effort that Great State of New York put into building that page will help its citizens truly appreciate and better understand the incredible value of the Prison Rape Elimination Act.

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.

Valerie Wolfe Mahfood

May 1, 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.