

PREA AUDIT REPORT Interim Final
ADULT PRISONS & JAILS

Date of report: May 13rd, 2016

Auditor Information			
Auditor name: Ian Rachal			
Address: PO Box 17841, Richmond, VA 23226			
Email: irachal@lahcari.com			
Telephone number: .			
Date of facility visit: April 12 th – 14 th , 2016			
Facility Information			
Facility name: Fishkill Correctional Facility			
Facility physical address: 18 Strack Dve. , Beacon, NY 12508			
Facility mailing address: <i>(if different from above)</i> .			
Facility telephone number: 845-831-4800			
The facility is:	<input type="checkbox"/> Federal	<input checked="" type="checkbox"/> State	<input type="checkbox"/> County
	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private for profit
	<input type="checkbox"/> Private not for profit		
Facility type:	<input checked="" type="checkbox"/> Prison	<input type="checkbox"/> Jail	
Name of facility's Chief Executive Officer: Robert F. Cunningham			
Number of staff assigned to the facility in the last 12 months: 1105			
Designed facility capacity: 1840			
Current population of facility: 1635			
Facility security levels/inmate custody levels: Medium Security/Maximum SHU200/Minimum Work Release			
Age range of the population: 18-85			
Name of PREA Compliance Manager: Roger L. Harris		Title: Captain	
Email address: roger.harris@doccs.ny.gov		Telephone number: 845-831-4800	
Agency Information			
Name of agency: New York State Department of Corrections and Community Supervision			
Governing authority or parent agency: <i>(if applicable)</i> .			
Physical address: 1220 Washington Avenue, Albany, NY 12226-2050			
Mailing address: <i>(if different from above)</i> .			
Telephone number: 518-457-8126			
Agency Chief Executive Officer			
Name: Anthony J. Annucci		Title: Acting Commissioner	
Email address: commissioner@doccs.ny.gov		Telephone number: 518-457-8134	
Agency-Wide PREA Coordinator			
Name: Jason D. Effman		Title: Associate Commissioner	
Email address: jason.effman@doccs.ny.gov		Telephone number: 518-457-3955	

AUDIT FINDINGS

NARRATIVE

The audit of Fishkill Correctional Facility (FCF) was conducted on April 12th – 14th, 2016 by a team of Department of Justice Certified PREA auditors, Ian Rachal (Lead Auditor), Chris Sweney, and Chad Hockensmith. All documentation in relation to the forty-three Jail and Prison PREA standards was delivered via mail to Lead Auditor Ian Rachal prior to the audit by facility personnel. No written correspondence was received from FCF offenders prior to or after the audit.

The on-site audit began with an entrance meeting attended by FCF and New York Department of Corrections and Community Supervision (NYDOCCS) leadership on April 12th. Immediately following this entrance meeting a facility tour was conducted.

The general population housing areas consist of dormitories, rooms, single cells, and double cells. Inmate shower and toilet areas feature entrance doors for privacy. Partitions and/or curtains were installed to afford inmates the ability shower or perform bodily functions without opposite gender staff viewing them. Segregation housing featured individual and double occupancy cells with toilets and showers inside the cell. Inmate housing areas all featured educational materials near the telephone locations for discrete accessibility.

The Commissary and Laundry each revealed blind spots in each location. Facility leadership acted promptly and had mirrors installed immediately during the course of the audit to mitigate this issue. The facility Mess Hall had abundant levels of staff supervision. This area is the designated area for all inmate correspondence to be submitted.

During the course of the tour, an inmate comprehensive education session was facilitated by a Programs staff member. A well-produced, informative video was played and at the conclusion of the video, inmate participants were encouraged to ask questions and they were answered in detail. Overall, the inmate education at the facility exceeds requirements of the associated standard.

Based on my observation of investigative efforts and current records, I feel that FCF is complying with all investigative requirements of PREA. There were 2 reported allegations of sexual abuse at the facility in the calendar year preceding this audit. Due to this, there were 2 sexual abuse incident reviews conducted in accordance with requirements.

Over 60 line-level personnel were interviewed during the course of the audit. I found them to be well informed about their duties and responsibilities in relation to the requirements of PREA. All staff members have been trained in accordance with PREA requirements.

An alphabetized listing of all inmates housed at the facility was provided and several inmates were randomly selected from each housing unit (over 120 total). There were no hearing/vision impaired inmates presented during my visit. Several Spanish speaking inmates were interviewed, but the use of an interpreter was unnecessary due to bilingual abilities present in the population. Staff interpreters were available for assistance if needed, as well as contracted telephone-based interpretation services.

Several transgender inmates were interviewed during the course of the random interviews. One transgender inmate expressed concerns about her desire to begin hormone therapy. These concerns were relayed to the facility administration who acted quickly to ensure that the inmate was scheduled for a medical appointment.

Several specialized interviews were conducted to include:

- PREA Compliance Manager
- PREA Investigators
- Facility supervisors
- Human Resources personnel
- Medical personnel
- Classification/Intake personnel
- Agency administrators

I found that personnel serving in these roles to be highly skilled and knowledgeable concerning their requirements in relation to the Prison Rape Elimination Act.

An outbriefing was conducted on April 14th attended by FCF and NYDOCCS representatives. Based on the documentation received, facility tour, and conducted interviews, a preliminary finding was given in relation to FCF's overall compliance with Prison Rape Elimination Act standards.

DESCRIPTION OF FACILITY CHARACTERISTICS

The mission of NYSDOCS is:

To improve public safety by providing a continuity of appropriate treatment services in safe and secure facilities where offenders' needs are addressed and they are prepared for release, followed by supportive services under community supervision to facilitate a successful completion of their sentence.

The Fishkill Correctional Facility is a medium security prison in New York, USA. The prison is located in both the Town of Fishkill and the City of Beacon in Dutchess County. Fishkill was constructed in 1896. It began as the Matteawan State Hospital for the Criminally Insane. Fishkill also houses the Regional Medical Unit for Southern New York's prisons.

The present facility is located on land originally purchased by the New York state government to build and operate Matteawan State Hospital for the Criminally Insane in 1892. Some of the original buildings are in use now at Fishkill. Matteawan ceased operation in 1977 and the facility was converted to its present use as a medium security prison for men.

Fishkill is one of six prisons that incorporate the Puppies Behind Bars program. Prison inmates raise puppies to be guide dogs for the blind, disabled children and adults, and fully trained service dogs for wounded soldiers coming home from Iraq and Afghanistan.

The Corcraft program is a program that employs inmates to manufacture beds, chairs and computer furniture for sale to state and local governments. They also fabricate to-order heavy gauge specialty items such as security doors and windows for correctional and psychiatric institution.

Fishkill Correctional Facility offers academic education, vocational training, a college program, substance abuse treatment services, Aggression Replacement Training (ART), Sex Offender Counseling Treatment Program (SOCTP), Work Release Program, Industrial Training, counseling, volunteer services, Transitional Services which includes "Thinking for a Change," Family Reunion Program (FRP), Hospice, and Network.

Fishkill Correctional Facility has an Intermediate Care Program (ICP) and a Transitional Intermediate Care Program (TrICP). Fishkill Correctional Facility also has a Residential Crisis Treatment Program (RCTP) consisting of observation cells and dormitory beds.

Fishkill Correctional Facility is classified as Mental Health Service Level 1, as defined in Correction Law, Section 2 (27), except the SHU-200 which is a Mental Health Service Level 2.

Fishkill Correctional Facility has a Processing Unit (PRC) for Temporary Release removals that is classified as Mental Health Service Level 1, as defined in Correction Law, Section 2 (27).

Fishkill Correctional Facility also contains a Regional Medical Unit (RMU) with a Unit for the Cognitively Impaired (UCI).

SUMMARY OF AUDIT FINDINGS

I find the Fishkill Correctional Facility to be in full compliance with all requirements of the Prison Rape Elimination Act.

Number of standards exceeded: 1

Number of standards met: 41

Number of standards not met: 0

Number of standards not applicable: 1

Standard 115.11 Zero tolerance of sexual abuse and sexual harassment; PREA Coordinator

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Directive #4027A
Directive #4028A
Employee Manual
Memoranda
Duty Description
DOCCS Organizational Chart

The New York State Department of Corrections and Community Supervision (NYDOCCS) has a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlines NYDOCCS’s approach to preventing, detecting, and responding to such conduct.

The NYDOCCS employs or designates an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards. The Fishkill Correctional Facility (FCF) has further designated a facility-level PREA Compliance Manager to oversee PREA compliance on-site.

Standard 115.12 Contracting with other entities for the confinement of inmates

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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Not Applicable

Standard 115.13 Supervision and monitoring

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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Based on review of:

Employee Manual
Directive #4001, Forms 4001A & 4001B
Facility Plot Plan
Staffing Review.

NYDOCCS has developed, documented, and made its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing and uses video monitoring, to protect inmates against sexual abuse.

In circumstances where the staffing plan was not complied with, FCF documented and justified all deviations from the plan. Reviewed shift rosters showing deviations from the plan.

NYDOCCS completes an annual review, in consultation with the PREA coordinator required by § 115.11, to assess, determine, and document whether adjustments are needed.

Standard 115.14 Youthful inmates

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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Based on review of:

Directive #0051
Housing Rosters
Demographic Information

The FCF is classified a a medium security correctional facility used as general confinement for males age 18 years or older. No youthful offenders were housed at the facility.

Standard 115.15 Limits to cross-gender viewing and searches

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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Based on review of:

Directive #2230
Directive #4001
Directive #4910
HSPM 1.37
HSPM 1.19
Sexual Abuse Prevention & Response Lesson Plan
Interviews with inmates.

FCF does not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.

FCF does 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 is determined during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

FCF trains security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

FCF has procedures in place that enable inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia. Inmates are afforded privacy during the performance of bodily functions, as well as showering. The physical plant layout of the housing dormitories provides inmates with bathroom with doors and showers with curtains.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Directive #2612
Directive #4490
Review of educational materials and language access plan

NYDOCCS takes appropriate steps to ensure inmates with disabilities (including, for example, inmates who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of NYDOCCS's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

FCF does not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety.

Standard 115.17 Hiring and promotion decisions

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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Based on review of:

Directive #2012
Directive #2112
Directive #2216
Memoranda & Forms
Criminal History inquiries.

NYDOCCS does not hire or promote anyone who may have contact with inmates, and does not enlist the services of any contractor who may have contact with inmates, who has engaged in sexual abuse in any criminal justice facility, has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or has been civilly or administratively adjudicated to have engaged in the activity described above.

NYDOCCS considers any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates.

NYDOCCS performs a criminal background records check before enlisting the services of any contractor who may have contact with inmates and performs a records check at least every five years of current employees and contractors who may have contact with inmates.

Standard 115.18 Upgrades to facilities and technologies

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Directive #3053
Alterations/Construction Request

When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, HCSO considers how such technology may enhance FCF’s ability to protect inmates from sexual abuse. There are currently planned additions coordinated with the involvement of agency PREA Coordinator and FCF’s PREA Compliance Manager.

Standard 115.21 Evidence protocol and forensic medical examinations

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Auditor discussion, including 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 standard. These

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Based on review of:

Directive #4027B
Memoranda & Forms
Training Materials

To the extent FCF is responsible for investigating allegations of sexual abuse; FCF follows a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

FCF offers all victims of sexual abuse access to forensic medical examinations without financial cost, where evidentiary or medically appropriate. Such examinations are performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible.

FCF makes available to the victim a victim advocate from the treating medical center.

As requested by the victim, a victim advocate, accompanies and supports the victim through the forensic medical examination process and investigatory interviews and provides emotional support, crisis intervention, information, and referrals.

Standard 115.22 Policies to ensure referrals of allegations for investigations

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Directive #0700
Directive #4027A
Directive #4027B
Directive #4028A
Directive #4028B
Reports
Interviews with PREA Compliance Manager and investigative staff.

FCF ensures that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. FCF ensures that allegations of employee wrongdoing are referred for investigation.

NYDOCCS has a policy that ensures allegations of sexual abuse or sexual harassment are referred for investigation and publishes such policy on its website. NYDOCCS documents all such referrals.

Standard 115.31 Employee training

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Training Manual Subject 0.100
Training Bulletin #7
Training Manual Subject: 6.500
Memoranda
Sexual Abuse Prevention and Response Lesson Plan
Interviews with random staff

FCF trains all employees who have contact with inmates on:

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

FCF documents through employee signature that employees understand the training they have received. Staff interviewed were knowledgeable about their duties and responsibilities in relation to PREA requirements.

Standard 115.32 Volunteer and contractor training

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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Based on review of:

Directive #4027A
Directive #4028A
Directive #4750
Memoranda & Forms
Interview with volunteers and contractors.

FCF ensures all volunteers and contractors who have contact with inmates have been trained on their responsibilities under NYDOCCS’s sexual abuse and sexual harassment prevention, detection, and response policies and procedures.

All volunteers and contractors who have contact with inmates are notified of NYDOCCS’s zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

FCF has documentation confirming that volunteers and contractors understand the training they have received. Reviewed training records on volunteers and contractors.

Standard 115.33 Inmate education

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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Based on review of:

Directive #4021
Directive #4027A
Memoranda & Forms
Educational Materials & Video
Interviews with random inmates and intake staff.

During the intake process, inmates receive information explaining NYDOCCS's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment via video.

FCF provides a comprehensive education to inmates through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents. This comprehensive education is reinforced during the Classification process where inmates acknowledge receipt of the education.

FCF provides inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills. There is documentation of inmate participation in these education sessions.

This auditor feels that based on the level of education provided and the efficacy of said education, NYDOCCS and FCF exceed the requirements of this standard.

Standard 115.34 Specialized training: Investigations

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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Based on review of:

Training requirements
Training curriculum
Training materials
Training report
PREA: Behavioral Health Care for Sexual Assault Victims in a Confinement Setting by the National Institute of Corrections.
Interview with investigative staff.

In addition to the general training provided to all employees NYDOCCS ensures that the in house investigators have received training in conducting investigations in confinement settings.

Specialized training includes techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. NYDOCCS maintains documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations.

Standard 115.35 Specialized training: Medical and mental health care

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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Based on review of:

Directive #4750
Training Manual Subject 7.100
Training Manual Subject 6.600
Training Materials and Curricula
Memoranda
Interviews with medical personnel.

FCF ensures 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; preserve physical evidence of sexual abuse; respond effectively and professionally to victims of sexual abuse and sexual harassment; and how and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

FCF maintains documentation that medical and mental health practitioners have received the training. Medical and mental health care practitioners also receive the training mandated for employees, contractors and volunteers.

Standard 115.41 Screening for risk of victimization and abusiveness

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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Based on review of:

Employee Manual
Directive 4027A
Form 7.002
Interview Guide
Forms & Memoranda
Interview with random inmates and Classification staff responsible for screening.

All inmates are assessed during an intake screening and upon transfer to another facility for risk of being sexually abused by other inmates or sexually abusive toward other inmates. Intake screenings take place within 72 hours of arrival at FCF. FCF uses an objective screening instrument.

The intake screening considers, 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;
- (2) The age of the inmate;
- (3) The physical build of the inmate;
- (4) Whether the inmate has previously been incarcerated;
- (5) Whether the inmate's criminal history is exclusively nonviolent;
- (6) Whether the inmate has prior convictions for sex offenses against an adult or child;
- (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
- (8) Whether the inmate has previously experienced sexual victimization;
- (9) The inmate's own perception of vulnerability; and
- (10) Whether the inmate is detained solely for civil immigration purposes.

The initial screening considers prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to FCF, in assessing inmates for risk of being sexually abusive.

An inmate's risk level is reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness.

Inmates are asked if they wish to divulge their sexual orientation in addition to the reviewing personnel's perception. Within 30 days from the inmate's arrival at FCF, FCF reassesses all inmate's risk of victimization or abusiveness based upon any additional, relevant information received by HCSO since the intake screening. This practice was coordinated in conjunction with the auditor and FCF personnel based on current practice at the time of the on-site visit.

Inmates are not disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked.

FCF has implemented appropriate controls on the dissemination within FCF 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. All files are controlled by Classification personnel behind locked doors and maintained in each inmates Classification files.

Standard 115.42 Use of screening information

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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Based on review of:

Directive #4027A
Directive #4401
Memoranda & Forms
Interview with PREA Compliance Manager and Classification personnel responsible for risk screening.

FCF uses information from the risk screening to decide housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

FCF makes individualized determinations about how to ensure the safety of each inmate.

In deciding housing and programming for a transgender or intersex inmate FCF considers on a case-by-case basis whether the placement would ensure the inmate's health and safety, and whether the placement would present management or security problems.

Placement and programming assignments for each transgender or intersex inmate is reassessed at least twice each year to review any threats to safety experienced by the inmate.

A transgender or intersex inmate's own views with respect to his or her own safety are be given serious consideration.

FCF does not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or
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status.

The transgender inmates I interviewed were housed in the general population. The showers in this units were designed in such a way to afford privacy for all assigned inmates. There were several self-identified transgender inmates at the facility.

Standard 115.43 Protective custody

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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Based on review of:

Directive #4948
Forms

Interviews PREA Compliance Manager, staff who supervise segregated inmates. No inmates have been placed in involuntary segregation.

Inmates at high risk for sexual victimization are not placed 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.

Inmates placed in segregated housing for this purpose have access to programs, privileges, education, and work opportunities to the extent possible. If FCF restricts access to programs, privileges, education, or work opportunities, FCF documents the opportunities that have been limited, the duration of the limitation; and the reasons for such limitations.

FCF assigns such inmates to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment are not ordinarily exceed a period of 30 days. If involuntary segregated housing assignment is made FCF clearly documents the basis for FCF’s concern for the inmate’s safety; and the reason why no alternative means of separation can be arranged. Every 30 days a review is performed to determine whether there is a continuing need for separation from the general population.

Standard 115.51 Inmate reporting

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Employee Manual
Directive #4027A
Directive #4028A
Inmate educational brochure and video.

The inmates can report abuse or harassment to the Office of Special Investigations, as well as a hotline. Based on interviews with random staff and inmates.
PREA Audit Report

FCF provides multiple internal ways for inmates to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. Inmate brochures have how to report sexual abuse reporting options printed on them as a constant reminder.

FCF provides at least one way for inmates to report abuse or harassment to the New York State Commission of Correction, an externally monitored entity that is not part of FCF, and that is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials, allowing the inmate to remain anonymous upon request.

Staff accepts reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports.

Standard 115.52 Exhaustion of administrative remedies

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Directive #4040
PREA-related complaints and interviews with inmates.

The NYDOCCS does not require inmates to file grievances concerning alleged incidents of sexual abuse or harassment to satisfy PLRA exhaustion requirements.

Standard 115.53 Inmate access to outside confidential support services

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Directive #4404
Directive #4421
Directive #4423
Memoranda
Applicable contracts
Interview with random inmates and staff.

FCF provides inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers. FCF enables reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible. While access to these organizations are provided through inmate request, this auditor feels that it would be easier to afford access by phone automatically to all inmates without them having to request the number being added to their account.

FCF informs 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.

Standard 115.54 Third-party reporting

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

NYDOCCS publically disseminated information

FCF has a method to receive third-party reports of sexual abuse/harassment and distributes publicly, information on how to report sexual abuse and sexual harassment on behalf of an inmate. These methods are easily identifiable and available online and onsite at the facility.

Standard 115.61 Staff and agency reporting duties

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Employee Manual
Directive #0700
Directive #4027A
Directive #4028A
Memoranda
Interviews with random staff, PREA Compliance Manager and medical/mental health personnel.

NYDOCCS requires 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 NYDOCCS; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

Apart from reporting to designated supervisors or officials, staff do not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions.

If the alleged victim is under the age of 18, NYDOCCS reports the allegation to the designated State agency under applicable mandatory reporting laws.

FCF reports all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to NYDOCCS’s designated PREA investigators. Verification conducted through victim interviews and review of reported allegations.

Standard 115.62 Agency protection duties

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Directive #4040
Directive #4948
Interviews with alleged victims, random staff, & PREA Compliance Manager.

Immediate action is taken to protect inmates when FCF learns that an inmate is subject to a substantial risk of imminent sexual abuse. A review of alleged incidents and witness statements shows immediate response by staff.

Standard 115.63 Reporting to other confinement facilities

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Interview with PREA Compliance Manager
Investigative files
Memoranda & Forms

Upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of FCF or designee notifies the head of the facility in question or appropriate office of the facility where the alleged abuse occurred. Such notification is provided as soon as possible, but no later than 72 hours after receiving the allegation, and all actions are thoroughly documented.

Standard 115.64 Staff first responder duties

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Directive #4027B
Directive #4028B
Sexual Abuse Prevention and Response (SAPR) lesson plan
Interview with security staff who are first responders, medical personnel.

Upon learning of an allegation that an inmate was sexually abused, the first security staff member to respond separates the alleged victim and abuser; preserves and protects any crime scene until appropriate steps can be taken to collect any evidence; and if the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and if the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

If the first staff responder is not a security staff member, the responder request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.

Medical personnel and First Responders were knowledgeable of their requirements.

Standard 115.65 Coordinated response

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

FOM 7.003 (Coordinated Response Plan)
Interview with PREA Compliance Manager, Nursing staff, and PREA investigators.

FCF has a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific

corrective actions taken by the facility.

Based on review of:

Directive #2110
Directive #2114
Interview with facility leadership,

NYDOCCS has not entered into or renewed 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.

Standard 115.67 Agency protection against retaliation

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Employee Manual
Memoranda
Forms
Interview with PREA Compliance Manager (designated staff member with monitoring retaliation).

NYDOCCS has a policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperates with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff, and designates the PREA Compliance Manager with monitoring retaliation.

FCF has 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 that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

For at least 90 days following a report of sexual abuse, FCF monitors the conduct and treatment of inmates or staff who reported the sexual abuse and 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, and are act promptly to remedy any such retaliation. There are periodic status checks performed. Items FCF monitors include any inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. FCF continues such monitoring beyond 90 days if the initial monitoring indicates a continuing need.

If any other individual who cooperates with an investigation expresses a fear of retaliation, FCF takes appropriate measures to protect that individual against retaliation

Standard 115.68 Post-allegation protective custody

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Directive #4948

Interviews with Classification personnel, PREA Compliance Manager,, and facility leadership.

FCF assigns such inmates to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment are not ordinarily exceed a period of 30 days. If involuntary segregated housing assignment is made FCF clearly documents the basis for FCF's concern for the inmate's safety; and the reason why no alternative means of separation can be arranged. Every 30 days a review is performed to determine whether there is a continuing need for separation from the general population.

Standard 115.71 Criminal and administrative agency investigations

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Directive #0700

Communication

Training materials & curricula

Interview with PREA investigative personnel, and investigative reports.

FCF conducts investigations promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.

Where sexual abuse is alleged, NYDOCCS uses investigators who have received special training in sexual abuse investigations.

Investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; interview alleged victims, suspected perpetrators, and witnesses; and review prior complaints and reports of sexual abuse involving the suspected perpetrator.

When the quality of evidence appears to support criminal prosecution, investigators conducts compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

The credibility of an alleged victim, suspect, or witness is assessed on an individual basis and is not determined by the person's status as inmate or staff. No agency requires an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.

Administrative investigations include efforts to determine whether staff actions or failures to act contributed to the abuse; and are documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

Criminal investigations are documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.

Substantiated allegations of conduct that appears to be criminal are referred for prosecution.

NYDOCCS retains all written reports for a minimum of 7 years , and an electronic copy is permanently retained in the electronic case file.

The departure of the alleged abuser or victim from the employment or control of NYDOCCS does not provide a basis for terminating an investigation.

Standard 115.72 Evidentiary standard for administrative investigations

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Memoranda
 Training materials and curricula
 Interview with investigative staff.

FCF imposes no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

Standard 115.73 Reporting to inmates

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Memoranda & associated directives
 Forms
 Interview with PREA Compliance Manager and investigative staff.

Following an investigation into an inmate’s allegation that they suffered sexual abuse in an agency facility, NYDOCCS Office of Special Investigations informs the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

NYDOCCS conducts sexual abuse investigations collaboratively with the NY State Police. In the event that NYDOCCS did not conduct the investigation, it requests the relevant information from the investigative agency in order to inform the inmate.

Following an inmate’s allegation that a staff member has committed sexual abuse against the inmate, NYDOCCS subsequently informs the inmate (unless NYDOCCS has determined that the allegation is unfounded) whenever the staff member is no longer posted within the inmate’s unit; the staff member is no longer employed at FCF; or FCF learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or FCF learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

Following an inmate’s allegation that they had been sexually abused by another inmate, FCF subsequently informs the alleged victim whenever FCF learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility ; or FCF learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

All such notifications or attempted notifications are documented.

Standard 115.76 Disciplinary sanctions for staff

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Employee Manual
Directive #2110
Directive #2111
Directive #2605
Directive #4028B
Directive #4028A
Memoranda

Staff are subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. Termination is the presumptive disciplinary sanction for staff who have engaged in sexual abuse.

Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) are commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, are reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

Standard 115.77 Corrective action for contractors and volunteers

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Directive #2605
Directive #4750
Memoranda
Volunteer Information Packet

Any contractor or volunteer who engages in sexual abuse is prohibited from contact with inmates and are reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

NYDOCCS takes appropriate remedial measures, and considers whether to prohibit further contact with inmates, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

Standard 115.78 Disciplinary sanctions for inmates

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Directive #4027A
Directive #4028A
Directive #4932
Memoranda
Sex Offender Counseling and Treatment Program (SOCTP) Guidelines
Disciplinary Incident Summary
Interview with PREA investigative staff.

Inmates are subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse.

Sanctions are commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories.

The disciplinary process considers whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.

NYDOCCS does offer therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse.

FCF disciplines an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

A report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred are not constituted as falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

NYDOCCS prohibits all sexual activity between inmates and may discipline inmates for such activity.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Directive #4301
HSPM 1.12B
HSPM 1.44
PREA Audit Report

Memoranda & Communications

Interview with staff responsible for risk screening and medical/mental health staff.

If the screening indicates that an inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, 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. Every inmate is seen within 14 days, if an inmate answers yes to any of the PREA related questions a further mental health evaluation is scheduled.

If the screening indicates that an inmate has previously perpetrated sexual abuse/prior sexual victimization, whether it occurred in an institutional setting or in the community, staff ensure that the inmate is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.

Any information related to sexual victimization or abusiveness that occurred in an institutional setting is 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 law.

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.

Standard 115.82 Access to emergency medical and mental health services

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

Directive #4027B

Directive #4028B

HSPM 1.60

Interview with medical and mental health staff.

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.

If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders take preliminary steps to protect the victim and are immediately notify the appropriate medical and mental health practitioners.

Inmate victims of sexual abuse while incarcerated are offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.

Treatment services are 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.

Standard 115.83 Ongoing medical and mental health care for sexual abuse victims and abusers

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

HSPM 1.44
HSPM 1.12B
HSPM 1.60
Interview with medical/mental health staff and PREA related incidents.

FCF offers medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in the facility.

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.

FCF provides such victims with medical and mental health services consistent with the community level of care.

Inmate victims of sexual abuse while incarcerated are offered tests for sexually transmitted infections as medically appropriate.

Treatment services are 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.

Standard 115.86 Sexual abuse incident reviews

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

PREA Procedural Enhancements Sexual Abuse Response and Containment Checklist
Sexual Abuse Incident Reviews
PREA investigative reports
Interview with facility leadership, and PREA Compliance Manager.

FCF conducts 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. This review occurs within 30 days of the conclusion of the investigation. The review team includes upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners.

The review team considers whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at FCF; and they examine the area in FCF where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; assess the adequacy of staffing levels in that area during different shifts; assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

Standard 115.87 Data collection

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

- Does Not Meet Standard (requires corrective action)

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

Based on review of:

PREA Data Collection

NYDOCCS collects accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions, and aggregates the incident-based sexual abuse data at least annually.

The incident-based data collected is based, at a minimum, on the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.

NYDOCCS maintains, reviews, and collects data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.

Standard 115.88 Data review for corrective action

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

PREA Data Collection

NYDOCCS online PREA information

Interview with PREA Compliance Manager.

NYDOCCS reviews data collected to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including identifying problem areas; taking corrective action on an ongoing basis; and preparing an annual report of its findings and corrective actions for each facility, as well as NYDOCCS as a whole.

Such reports includes a comparison of the current year’s data and corrective actions with those from prior years and provide an assessment of NYDOCCS’s progress in addressing sexual abuse.

NYDOCCS’s report is made readily available to the public through its website <http://www.doccs.ny.gov/PREA/PREAinfo.html>

Standard 115.89 Data storage, publication, and destruction

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

Based on review of:

PREA Data Collection

NYDOCCS makes 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 <http://www.doccs.ny.gov/PREA/PREAINfo.html>

All reports are securely retained and maintained for at least 10 years after the date of the initial collection unless Federal, State, or local law requires.

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.

Jan Rachal, CJM

05/13/2016

Auditor Signature

Date