

PREA AUDIT REPORT Interim Final
ADULT PRISONS & JAILS

Date of report: November 23rd, 2016

Auditor Information			
Auditor name: Chad T. Hockensmith			
Address: 1008 Green Garden Lawrenceburg, Kentucky 40342			
Email: marschad@outlook.com			
Telephone number: 502-839-4781			
Date of facility visit: November 14 - 16			
Facility Information			
Facility name: Gowanda Correctional Facility			
Facility physical address: PO Box 350, South Road, Gowanda, New York 14070			
Facility mailing address: <i>(if different from above)</i> Click here to enter text.			
Facility telephone number: 716-532-0177			
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: Susan Kickbush, Superintendent			
Number of staff assigned to the facility in the last 12 months: 746			
Designed facility capacity: 1,755			
Current population of facility: 1,490			
Facility security levels/inmate custody levels: Medium Security/			
Age range of the population: 18 - 81			
Name of PREA Compliance Manager: George Poff		Title: Captain/PREA Point Person/ADS PREA	
Email address: George.poff@doccs.ny.gov		Telephone number: 716-532-0177 Ext. 5560	
Agency Information			
Name of agency: New York State Department of Corrections and Community Supervision			
Governing authority or parent agency: <i>(if applicable)</i> Click here to enter text.			
Physical address: 1220 Washington Avenue, Albany, New York 12226-2050			
Mailing address: <i>(if different from above)</i> Click here to enter text.			
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 Effman		Title: Associate Commissioner	
Email address: Jason.effman@doccs.ny.gov		Telephone number: 518-457-3955	

AUDIT FINDINGS

NARRATIVE

On November 13, 2016, Auditors Chad T. Hockensmith (Chairperson) and Ian Rachal (Member) were picked up at the Buffalo International Airport by Deputy Superintendent of Administration, Patti Zaccagnino (Collins Correctional Facility). The Auditors were transported to the hotel and set to meet simultaneously with executive team members of both Gowanda Correctional Facility (GCF) and Collins Correctional Facility (CCF) for dinner.

The following GCF and CCF Executive Team members were present for informal introductions and discussions on how the audits would proceed:

- Superintendent Susan Kickbush (GCF)
- Superintendent James Thompson (CCF)
- Deputy Superintendent (Security) – Sanford Bunn (GCF)
- Deputy Superintendent (Security) – Phil Greis (CCF)
- Deputy Superintendent (Programs) – Leanne Latona (GCF)
- Assistant Deputy Superintendent (Programs) – Anita Ortiz (GCF)
- Deputy Superintendent (Programs) – Kim Kelly (CCF)
- Deputy Superintendent (Administration) – Sherry Tarbell (GCF)
- Deputy Superintendent (Administration) – Patti Zaccagnino (CCF)
- Captain – George Poff (GCF)
- Captain – Donald Lockwood (GCF)
- Captain – Mark Drumsta (CCF)
- Associate Commissioner – Jason Effman

It was discussed with both GCF and CCF Superintendents that a facility listing of all staff and inmates were to be provided to the Auditors at the beginning of each respective audit so a random sample of each could be selected for interviews along with those staff members required to be interviewed as part of the PREA Audit.

For Gowanda Correctional Complex, it was reported the facility had a total of 746 staff members. There were 30 staff interviews conducted representing 4% of the total GCF staff. During the interviews, the Auditors found the staff to have received excellent PREA education through orientation, in-service and refresher training. The staff were very knowledgeable on the steps to ensure the alleged victims of sexual abuse and/or sexual harassment were protected, while making the appropriate contacts to ensure the right staff were made aware and the appropriate actions were taken as per directives of the NYDOCCS. Further, staff understood the importance of making referrals for services such as medical and mental health services.

Gowanda Correctional Complex also reported a current inmate population of 1,490 inmates. Of the inmate population, 50 inmates were randomly selected and interviewed representing 3.3% of the total inmate population. It was very apparent during the interviews the inmates received PREA orientation in both video and written format. In fact, retention of the information was observed during the facility tour when multiple inmates stopped to ask Associate Commissioner Jason Effman, “Hey, aren’t you the guy on that video?” Further, during the interviews, all inmates acknowledged being initially screened upon arrival in the “Draft Processing” area being asked the questions required of in PREA Standard 115.41. It was also very apparent the inmates knew of measures they could take both in-house and outside the institution to get help for sexual abuse and/or sexual harassment.

During the facility tour, the following corrective actions were suggested by the Auditors, and received and implemented by GCF:

- 1) Additional mirror placements in several restroom corners to allow for appropriate angular viewing as officers are making rounds down the main hallway of the housing areas;
- 2) There are shower rooms with closed exterior doors leading to showering areas that are also blocked by shower curtains providing correct privacy. Deputy Superintendent of Security, Sanford Bunn, had memorandum posted as well as incorporated in post orders that when showers are in use, the shower doors are to remain in the full-open position. After showering at 11pm, the shower doors are to be secured until the next morning when showering is permitted the clearing of the 6:15am count;
- 3) Access to the Tunnels is restricted to only those having need to move kitchen meals from the centralized kitchen to the housing area in The Towers, as well as maintenance staff during the day. This will be accomplished through key control;
- 4) There was one Officers’ station door in The Towers that did not have a window cut out for visibility into the officers’ station when the door is closed. Since all the other officers’ station doors did have a viewing window cut-out, this door will also be replaced to accommodate for a window cut-out;
- 5) On the exterior of the centralized kitchen which is between The Towers, there was an outside area where a “blind-spot” was observed due to the design of the building. This has been remedied with the use of a mirror

Just prior to the onsite portion of this PREA Audit, a female Offender Rehabilitation Counselor in the Sex Offender Counseling and Treatment Program was arrested for alleged sexual abuse of an inmate in SOCTP. This is currently an ongoing investigation, but the NYDOCCS has been very transparent in what actions have been taken that can be shared for the purposes of this audit and it appears at this

time, the actions taken by staff are consistent with the PREA standards of ensuring the sexual safety of all inmates.

DESCRIPTION OF FACILITY CHARACTERISTICS

Gowanda Correctional Facility resides in Gowanda, New York, which is approximately 30 miles south of Buffalo, New York. The Gowanda Correctional Facility (also referred to as GCF) is rich in history, formerly the Gowanda Psychiatric Center. There are approximately 68 acres making up the entire facility, of which, 39 acres are within the perimeter fencing. The unique physical layout of this facility is there are two New York Correctional Facilities occupying this site, the other being Collins Correctional Facility.

The facilities are separately administered, but share some support services such as a powerhouse, water system and garage. The organizational hierarchy of GCF includes the following:

- Superintendent (1)
- Deputy Superintendents (3 – Security, Programs, Administration)
- Security Personnel (561) - (Captains (2), Lieutenants (10), Sergeants (28) and Correctional Officers (522))
- Administration Personnel (11) - (Institution Steward (1), Head Account Clerk (1), Office Assistant III (1), Payroll Clerk III (1), Office Assistant II (3), Office Assistant I (3) and Office Assistant I (1 – Switchboard))
- Programs Personnel (12) – (Supervising Offender Rehabilitation Specialist (1) and Offender Rehabilitation Specialists (11), which includes one Spanish language ORC and one clerical support staff)
- Education – (12) Teachers
- Vocation Programming – (11) Vocational Instructors

In addition to the above listed personnel, there are several other GCF personnel who support facility operations of: Food Service, Medical, Maintenance, Storehouse, State Shop, Central Laundry, Personnel, Alcohol and Substance Abuse Treatment Program (ASAT), Driving While Intoxicated Program (DWI), Sex Offender Counseling and Treatment Program (SOCTP), Inmate Grievance Program, Inmate Records, General Library, Law Library, Recreation and Ministerial Services.

Gowanda Correctional Facility security staff operate in a three-shift format as follows: 7am-3pm, 3pm-11pm and 11pm to 7am.

There are four housing units located at GCF referred to as A-Dorm, B-Dorm, C-Dorm and D-Dorm. The Two Towers, officially known as A and B (Building 86), date from 1957, and are long, narrow structures, each with six stories above ground. Each tower is a mirror image of the other and stand parallel in a north-south facing direction. The following housing units comprise The Towers:

- A-North-1 (45 Inmate Capacity), A-South-1 (47 Inmate Capacity)
- A-North-2 (52 Inmate Capacity), A-South-2 (52 Inmate Capacity)
- A-North-3 (51 Inmate Capacity), A-South-3 (53 Inmate Capacity)
- A-North-4 (41 Inmate Capacity), A-South-4 (43 Inmate Capacity)
- A-North-5 (41 Inmate Capacity), A-South-5 (43 Inmate Capacity)
- B-North-1 (54 inmate Capacity), B-South-1 (57 Inmate Capacity)
- B-North-2 (47 Inmate Capacity), B-South-2 (50 Inmate Capacity)
- B-North-3 (47 Inmate Capacity), B-South-3 (51 Inmate Capacity)
- B-North-4 (50 Inmate Capacity), B-South-4 (53 Inmate Capacity)
- B-North-5 (50 Inmate Capacity), B-South-5 (53 Inmate Capacity)
- B-North-6 (45 Inmate Capacity), B-South-6 (52 Inmate Capacity)
- ***The 6th Floor (A-North-6 and A-South-6) is closed and houses no inmates nor allows for access.

There are tunnels connecting the centralized kitchen to The Towers for all central food service delivery to all the mini-kitchens “Pantries” located on each wing.

Besides the Towers, there are two other dorms labeled C and D. These dorms are found along the south side of the institution and are identical to one another, also known as Building # 65 (C) and Building # 67 (D). These two buildings run in an east-west direction. The following housing units comprise these building which also house all those offenders participating in the Sex Offender Counseling and Treatment Program:

- C-East-2 (60 Inmate Capacity), C-East-3 (55 Inmate Capacity)
- C-West-2 (56 Inmate Capacity), C-West-3 (54 Inmate Capacity)
- D-East-1 (60 Inmate Capacity), D-East-1 (60 Inmate Capacity)
- D-West-2 (57 Inmate Capacity), D-West-2 (60 Inmate Capacity)
- D-West-3 (60 Inmate Capacity)
- ***The 1st floor of C Building contains rooms for inmate sex offender and other various programming. The 3rd Floor (West Wing) of D Building is closed and houses no inmates nor allows for access.

The facility staffs one Correctional Officer in each area, so there are always two Correctional Officers on each floor (within each wing). Also, in addition to the one centralized kitchen located in between The Towers, the centralized kitchen staff delivery all meals to the “Pantry” or mini type kitchen within each inmate occupied wing which accounts for 15 Pantry Kitchens and 30 Dining Rooms, which are also under an additional Correctional Officers’ observation. Thus, there are three Correctional Officers on every floor of every inmate occupied building.

The only other inmate housing areas include: Special Housing Unit (48 Inmate Capacity), Lobby (17 Inmate Capacity), Hospital (3 Inmate Capacity) and Infirmary (12 Inmate Capacity).

There are additional buildings within GCF that support Lawn and Grounds, Recycling and Storehouse services.

SUMMARY OF AUDIT FINDINGS

During the course of this audit, both Auditors made suggestions for recommended changes which GCF received and immediately implemented. Those are noted above in the Audit Narrative. There are 43 National PREA Standards. Of those, this PREA Audit Team did not find GCF failing to meet any of the applicable standards. Two (2) of the standards did not apply as noted below. Of the 41 remaining standards, 36 were found to have met the requirements of the standard and five (5) were found to have exceeded the requirements of the standard.

One pattern that should be very apparent in the findings is that the NYDOCCS has placed a great deal of emphasis on how it provides PREA education and training to its staff, volunteers & contractors, inmates and specialized investigators. Further, because of this training, there exists continual screening of inmates to ensure sexual safety on an ongoing basis.

Number of standards exceeded: 5; 115.31 (Employee Training); 115.32 (Volunteer and Contractor Training); 115.33 (Inmate Education – GCF provides many resources through facility orientation, brochures & Handouts, highly visible area postings throughout, and video/audio presentations); 115.34 (Specialized Training – Investigations); 115.41 (Screening for Risk of Victimization and Abusiveness)

Number of standards met: 36

Number of standards not met: [Click here to enter text.](#)

Number of standards not applicable: 2; 115.12 (GCF does not independently contract with any private agencies or other entities); 115.14 (GCF does not house youthful (juvenile) inmates)

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.

The New York State Department of Corrections and Community Supervision have instituted Directives # 4027A (Inmate-on-Inmate) and # 4028A (Staff-on-Inmate) addressing Sexual Abuse Prevention and Intervention. The department has zero tolerance for sexual abuse. It is the policy of the NYDOCCS that coercive inmate-on-inmate and staff-on-inmate sexual conduct is sexual abuse and is not to be tolerated. All allegations of sexual abuse, sexual threats and retaliation concerning an incident of sexual abuse will be thoroughly investigated.

Inmate Rule 101.10, (Standards of Inmate Behavior), prohibits inmates from engaging in, or soliciting others to engage in sexual acts. No victim of inmate-on-inmate sexual abuse shall be subject to discipline for engaging in sexual acts as a result of threats, intimidation or other coercive actions. Other sexual contact and conduct of a sexual nature are also prohibited by rules found in Rules Series 101.

Penal Law Section 130.05 removes any legal liability on the part of the inmate to engage in sexual conduct, including sexual contact, with an employee, unless they are married. This Penal Law addresses all sexual conduct with an inmate, including sexual contact, by any person providing direct services to inmates in a state correctional facility pursuant to a contractual arrangement or, in the case of a volunteer, a written agreement with the Department, is prohibited.

NYDOCCS Employees’ Manual (Revision 2013) Sections 2.19 (Sexual Abuse and Harassment) and 2.20 (Duty to Report sexual abuse and sexual harassment, retaliation, and confidentiality) further addresses the NYDOCCS zero tolerance and the need for staff to report, immediately, any knowledge, suspicion or information regarding sexual abuse or sexual harassment, retaliation against inmates or staff who reported such incidents and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

The NYDOCCS Executive Administration sent out Agency Wide memorandum (dated March 14, 2012) advising as part of the implementation of the PREA Standards, one of their steps in the implementation of the PREA Standards was the creation of an agency wide PREA Coordinator. The position of agency wide PREA Coordinator was delegated to Associate Commissioner, Jason Effman. Further, on April 4, 2014, memorandum was sent to all facility Superintendents from the Office of the Associate Commissioner, requiring each correctional facility to have a PREA Compliance Manager to serve as the facility’s “Point Person” who has sufficient time and authority to coordinate the facility’s efforts to comply with the PREA Standards. Superintendent Susan Kickbush has delegated this duty to Captain George Poff, as of this audit. Both the NYDOCCS Organizational Chart and the Gowanda Correctional Facility Organizational Chart show the designations of these PREA roles in upper-level positions within each.

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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PREA Standard 115.12 does not apply to Gowanda Correctional Facility. GCF does not contract independently with any private agencies or other entities.

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)

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.

Gowanda Correctional Facility makes best efforts to comply on a regular basis with a staffing plan providing for adequate levels of staffing with support of video monitoring. As of this audit, GCF reports the average daily number of inmates at 1,520. The average daily number of inmates for which its staffing plan is predicated on is set at 1,755. As indicated in the Pre-Audit Questionnaire and supported by reviewed (Security Chart/Staff Review Report 2/12/2015), the most common reasons for staff plan deviation include: Program Closings, Area/Building Closures, Trip Assignments, Post Function Ceases, No Scheduled Trips and Holiday Schedules.

Superintendent Kickbush submitted memorandum to NYDOCCS PREA Coordinator Associate Commissioner Effman, regarding the Gowanda Correctional Facility’s Annual Supervision and Monitoring Plan Review, dated August 17, 2016. Superintendent Kickbush indicates GCF utilizing Generally Accepted Detention and Correctional Practices in the use of its 530 security staffing positions. These staffing levels are determined by the facility physical layout and daily operational needs. Additionally, “Rounds Tracker” is also used in the Special Housing Units as an additional means to track security rounds by Corrections Officers and Security Supervisors.

The NYDOCCS has established policies and procedures which further enable for the supervision and monitoring of sexual abuse and sexual harassment within its facilities. Employees’ Manual (Revised 2013), Section 2.44, establishes that all employees are prohibited from alerting other employees that supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

Directive # 4001, (Facility Administrative Coverage and Supervisory Rounds) indicates the facility Superintendent or Acting Superintendent shall establish a schedule whereby the facility Superintendent, Executive Team Members and designated Division Heads will, when practical, make rounds of the facility’s living and activity areas at least weekly to encourage informal contact with staff and inmates, as well as observing living and working conditions. Each respective logbook will be signed in red ink and shall indicate the type of round, whether announced or unannounced. Rounds of this nature pertaining to the Special Housing Unit (“SHU”) shall be governed by Directive # 4933, “Special Housing Unit”.

Attachment Forms 4001A (Weekly Administrative Activity Report) and 4001B (Daily Security Supervisor Report) are also used to indicate the nature of rounds (announced/unannounced) and the specifics of the areas reviewed/observed and findings.

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)

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.

PREA Standard 115.14 does not apply to Gowanda Correctional Facility. GCF does not house youthful (juvenile) inmates.

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)

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.

It is of note that Gowanda Correctional Facility does not house female offenders at this time. Further, according to the Pre-Audit Questionnaire, GCF does not allow cross-gender strip or body cavity searches. As of this audit, 94% of all security staff have received training on conducting cross-gender pat down searches and searches of transgender and intersex inmates in a professional and respectful manner.

NYDOCCS has established several directives dealing with Correctional Officer assignment, Facility Administration, Control and Search of Contraband as well as various Health Services Policies addressing the PREA Standard of cross-gender viewing and searches.

Directive # 2230 (Guidelines for Assignment of Male and Female Correction Officers) establishes the Department's obligation to its inmates which includes protection of privacy to the extent the Department is able to do so. Staff of the opposite gender shall verbally announce their arrival on a housing unit to avoid unnecessarily invading the privacy of inmates of the opposite gender, unless emergency conditions dictate otherwise. The staff announcements must be accomplished in a manner that is easily heard and/or understood by all inmates on the unit. Directive # 4001 (Facility Administrative Coverage and Supervisor Rounds) further establish the announcement requirements.

Directive # 4910 (Control of & Search for Contraband) dictates the professional manner in which Personal Searches, Pat Frisks, Cross-Gender Pat Frisks, Female Inmates, Strip Searches and Strip Frisks shall be conducted and in appropriate locations. When these searches occur, appropriate documentation shall be completed including: Form # 2063 (Certificate of Search) and Form # 1140 (Probable Cause Finding to Conduct Strip Frisk or Strip Search – Female Inmate). A Security Supervisor of the Highest Rank shall be responsible for completing a monthly report of monitoring activities inclusive of the above documentation.

Health Care Services Policy # 1.37, addresses Body Cavity Searches and requires the exam to be conducted in a private environment with the inmate appropriately draped. A Corrections Officer, the same sex as the inmate, shall be present during the examination. Documentation of the body cavity search is recorded in the inmate's Ambulatory Health Record (AHR).

Health Care Services Policy # 1.19, addresses Health Appraisals and requires that facility staff shall not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. Special training of staff shall also be conducted concerning the performance of cross-gender pat frisks and pat frisks of transgender and intersex inmates in a professional, respectful and least intrusive manner as possible.

GCF Memorandum was reviewed sent by Superintendent KickBush regarding (Showers and Bathroom Areas) dated August 9, 2016. This memorandum addresses usage of shower facilities as well as separate showering accommodations for inmates identifying themselves as transgender or intersex. This memorandum is also posted in the housing units.

Training logs for course # 35029 (Preventing Sexual Abuse) for Corrections Officers, Supervisors and Civilians and course # 22000 (Pat Frisks) for Corrections Officers was reviewed.

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)

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NYDOCCS Directive # 2612, (Inmates with Sensorial Disabilities), address Title II of the American with Disabilities Act (ADA) prohibiting State and Local Entities from discriminating against any qualified individual with a disability in their programs, services and activities. Programs and Services provided by the NYDOCCS must ensure accessibility and usability by qualified inmates in the most integrated settings. Inclusive within this standard is the provision of qualified interpreters for those with visual and hearing impairments as well as Limited English Proficiency.

Directive # 4490, (Cultural and Language Access Services), the NYDOCCS has instituted a Language Access Coordinator that shall be utilized to obtain support services for all inmates identified as LEP. Additionally, Gowanda Correctional Facility has put in place Facility Operations Manual FOM # 4.202, (Language Access), to ensure language access services are provided to all inmates and visitors at GCF. An example Form # 4.202 was reviewed requesting Language Interpreting Services and the completion of those requested services.

The PREA Orientation Video, “Ending Sexual Abuse Behind the Walls: An Orientation”, is provided to all inmates each time they are received into a facility and is appropriately captioned in various languages. Additionally, PREA Materials and Brochures (Male Pamphlet # DC055EC) is available to LEP inmates in their dominant language, as well as those PREA materials posted within the facility.

Gowanda Correctional Facility indicates it has not relied on the usage of inmate interpreters, readers or other inmate assistants in support of inmates with LEP.

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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Gowanda Correctional Facility indicated on the Pre-audit Questionnaire there were 22 criminal background record checks conducted on all staff who may have contact with inmates.

The following directives and practices of the NYDOCCS are adhered to when considering hiring and promotional decisions within the agency:

Directive # 2012 (Release of Employee Personnel and Payroll Information) considers overall Job Performance inclusive of Confidential Performance Evaluation Records as consent would be provided by the employee.

Directive # 2112 (Report of Criminal Charges) requires the agency to file a “Report of Criminal Charges” when an employee is charged with the commission of a felony or misdemeanor.

Form 1253 (also known as the Department’s “Green Application”), is a Personal History and Interview Record which specifically considers (7.A.a) “Have you ever been named in any allegation of sexual abuse or sexual harassment?” and (7.E.b) “Have you ever engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution?” This auditor also reviewed the Personal History Questionnaire (EIU23) utilized by the NYDOCCS Employee Investigation Unit (EIU) question #20, #25, #36, #37, regarding disciplinary actions, allegations of sexual abuse, outcome of those allegations and termination or resignation under pending investigation, conviction(s) of criminal or attempted criminal acts of sexual activity and civil or administrative findings.

Directive # 2216 (Fingerprinting/Criminal History Inquiry – New Employees and Contractors) is required of all employees, contract service providers, contractors and volunteers and submitted to the EIU.

NYDOCCS Personnel Procedures Manual # 406A Recruitment Process Checklist # 14, PREA emails to ODM, OSI and Labor Relations are initiated. Personnel Procedures # 407, regarding civilian promotions, and # 407A regarding security promotions, are reviewed for prior incidents of sexual abuse, a conviction for a disqualifying sexual offense, or a civil administrative finding for such sexual acts. The review will also identify any incidents of sexual harassment. Further, NYDOCCS is prohibited from hiring or promoting anyone who may have contact with inmates who:

- A) Engaged in sexual abuse in prison, jail, lockup, community confinement facility, juvenile facility or other institution
- B) Requires the Department to consider any incidents of sexual harassment in determining whether to promote anyone who may have contact with inmates

Potential candidates with substantiated allegation(s) meeting the criteria under Title 28 C.F.R. 115.17(a) shall be bypassed in accordance with Civil Service Law. A request to remove the candidate from the eligibility list pursuant to Civil Service Law 50(4), shall be submitted to the Department of Civil Service. Incidents of sexual harassment shall be reviewed by the Director of Personnel to determine if it is in the best interest of the Department to promote the candidate.

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)

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Gowanda Correctional Facility indicated it had not installed or updated any video monitoring systems, electronic surveillance systems or other monitoring technology during the PREA audit year.

NYDOCCS Directive # 3053 (Alterations/Construction Request) Section II considers PREA Standard 115.18 as it pertains to planning for the addition or modification of existing facility’s design, acquisition, or modification upon the agency’s ability to protect inmates from sexual abuse and when installing or updating video monitoring/electronic surveillance or other monitoring technology.

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

NYDOCCS Directive # 4027B (Sexual Abuse Reporting & Investigation – Inmate-on-Inmate) covers the collection and preservation of evidence. According to the Directive, procedures for evidence collection and preservation may apply for reported or known victims of sexual abuse and are only to be used by facility staff in connection with an inmate-on-inmate sexual abuse investigation and only with proper authorization from the Office of Special Investigations (OSI). The Superintendent or designee shall ensure that trained, uniform personnel are designated to perform as facility Evidence Collectors in the rare event that facility personnel are required to perform such duties. The NYDOCCS recognizes the fewer staff members directly involved in the evidence collection and preservation process, the more preserved the crime scene is and the greater control over the chain of custody.

A Sexual Abuse Evidence Kit and Recovery Kit are stored in the Watch Commander’s office. These kits are sealed and a warning is specified on the kits “DO NOT OPEN WITHOUT AUTHORIZATION FROM THE OFFICE OF SPECIAL INVESTIGATIONS”. Contents of each kit have been reviewed and are included within this Directive. Also, included within this Directive are:

- A. Sexual Abuse Evidence and Recovery Kits (noted above)
- B. Collection and Preservation of Evidence from Victim/Inmate
- C. Collection and Preservation of Evidence from the Crime Scene
- D. Collection and Preservation of Evidence from Inmate/Suspect
- E. Evidence Drying and Storage

Also, part of Directive 4027B, a Sexual Abuse Incident Crime Scene Attendance Log is maintained, a Crime Scene Narrative Description detailed, CrimeScene Photography Record, Crime Scene Diagram/Sketch, Evidence Collection Log (Inclusive of the Chain of Custody of items taken into evidence).

Health Care Services Policy 1.60 (Sexual Assault) details that all rape and sexual assault treatment, including outside hospital services, will be provided to victims without financial liability and regardless of whether or not the victim cooperates in any investigation arising from the incident. All inmate victims of alleged sexual assaults will be medically evaluated regardless of whether or not the allegation has been independently verified prior to the victim’s presentation for treatment. Further, all victims of sexual abuse shall be afforded access to forensic medical examinations at an outside facility, without financial costs, where evidentiarily or medically appropriate. Inmate 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.

Gowanda Correctional Facility indicated as part of the Pre-audit Questionnaire that in the past 12 months, 30 examination have been conducted by a qualified medical practitioner.

The NYDOCCS Office of Special Investigations Sex Crimes Division also maintains policy and procedure for Inmate-on-Inmate Sexual Abuse under its Dispatch and Operational Guidelines which have been reviewed as part of this audit. The OSI Investigators within this division have been trained under PREA Specialized Training for Investigations and Investigative Techniques.

NYDOCCS utilizes the Department of Health Protocol for the Acute Care of the Adult Patient Reporting Sexual Assault (November 2008).

The NYDOCCS has established a multi-agency collaborative effort in working sexual abuse cases which include: Office of the Inspector General (IG), Sex Crimes Unit (SCU) and the New York State Police Bureau of Criminal Investigations (BCI) unit. All agencies work together to meet the relevant National Standards adopted under PREA.

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.

The NYDOCCS maintain the following Directives to ensure referrals of allegations for investigations are handled accordingly:

Directive # 0700 (Office of Special Investigations), specifically the Sex Crimes Division (SCD) specializes in investigating allegations of sexual misconduct between inmates and Departmental staff as well as inmate-on-inmate sexual abuse, and assist outside law enforcement in the development of cases for criminal prosecution. All complaints and information received relative to possible investigations are reviewed, processed and documented. All complaints are documented by the OSI.

In the past 12 months, Gowanda Correctional Facility reports having received 4 reports of sexual abuse and sexual harassment. All 4 of these allegations have been referred for criminal investigation.

Directives # 4027A (Inmate-on-Inmate) and # 4028A (Staff-on-Inmate) addressing Sexual Abuse Prevention and Intervention. The department has zero tolerance for sexual abuse. It is the policy of the NYDOCCS that coercive inmate-on-inmate and staff-on-inmate sexual conduct is sexual abuse and is not to be tolerated. All allegations of sexual abuse, sexual threats and retaliation concerning an incident of sexual abuse will be thoroughly investigated.

As part of Directive # 4027B (Form # 2103SAII – Inmate-on-Inmate) and # 4028B (Form # 2103 SASI – Staff-on-Inmate), a Monthly Sexual Abuse/Threat Incident Summary is maintained inclusive of the following components:

- 1) Sexual Abuse/Threat Incident Log Number
- 2) Date of Report
- 3) Time of Report
- 4) Date of Incident (If different)
- 5) Time of Incident (if different)
- 6) Name and DIN if Inmate(s) involved
- 7) Location of Incident
- 8) Brief Description of Incident
- 9) Date and Time Office of Inspector General was contacted (if applicable)
- 10) Name of Staff Involved
- 11) Total number of sexual abuse and improper frisk allegation by month and year-to-date

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.

According to the Pre-audit questionnaire, Gowanda Correctional Facility ensures all employees who may have contact with inmates are trained on:

- 1) Zero Tolerance sexual abuse and sexual harassment policy
- 2) How to fulfill the zero tolerance policy through prevention, detection, reporting and response policies and procedures
- 3) Inmates' rights 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 effectively communicate with inmates who may be: gay, bisexual, transgender, intersex, lesbian or gender non-conforming
- 10) How to comply with relevant mandatory reporting laws of sexual abuse to outside authorities

In its efforts to assure all employees are trained in the above, the NYDOCCS has established relevant Directives, Training Manuals and Lesson Plans including:

Directives #4027A (Sexual Abuse Prevention & Intervention – Inmate-on-Inmate), #4028A (Sexual Abuse Prevention & Intervention – Staff-on-Inmate).

Training Manual Subject 0.100 (Frequency Training Chart and Training Bulletins) including yearly, once every two years (includes Sexual Abuse Prevention and Response Refresher) and once in a career (includes Sexual Abuse Prevention and Response).

Training Manual Subject 6.500 (Facility Familiarization) is familiarization training tailored to the gender of the inmates at the employee’s facility. This is also required of employees transferring within the NYDOCCS to another facility.

Training Manual Subject 6.600 (Initial Employee Training/40 Hour Orientation) which includes course # 35029 on Sexual Abuse Prevention and Response (3 hours), Policy on the Prevention of Sexual Abuse of Offenders (September 4, 2013) memo, Course # 17078 on PREA Introduction/Refresher.

Gowanda Correctional Facility indicated on the Pre-audit Questionnaire 700 staff employed by the facility have received training or retraining on PREA requirements. GCF staff have also been provided PREA Pocket Cards for quick reference and supervisors have received the “PREA Overview and Quick Response Reference Guides”. Training logs were also reviewed.

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)

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.

The NYDOCCS ensures that all volunteers and contractors who have contact with inmates have been trained on their responsibilities under the PREA requirements and understand the training they have received through:

Directives #4027A (Sexual Abuse Prevention & Intervention – Inmate-on-Inmate), #4028A (Sexual Abuse Prevention & Intervention – Staff-on-Inmate). All contractors and contract employees, volunteers and interns shall receive orientation and periodic in-service training consistent with their level of inmate contact relating to prevention, detection and response to Staff-on-Inmate Sexual Abuse.

Directive #4071 (Guidelines for Construction Projects), each contract worker will be issued a copy of Form #4071A (Guidelines for Construction Projects). This directive covers: “What is Sexual Abuse?”, “What is Sexual Harassment?”, Duty to Report, Confidentiality and Acknowledgement. These guidelines and this directive must be explained to each contract worker for the contracting company by a DOCCS employee. All contractors will acknowledge receipt of this directive and the information inform #4071A by signature.

Directive #4750 (Volunteer Services Program), covers prohibited acts of sexual abuse and sexual harassment, the Department’s Zero Tolerance policy. All volunteers are provided with directives #4027A and #4028A covered above. Further, maintaining a professional relationship with inmates and care taken to avoid becoming emotionally involved with inmates is addressed.

Completed forms of acknowledgement and understanding of these directives were also provided and reviewed. Gowanda Correctional Facility indicated on the Pre-audit Questionnaire, 247 volunteers and/or contractors who may have contact with inmates have been trained on the PREA requirements.

During the interview of the staff member responsible for this area of training, it was reported this person conducts training at both Gowanda Correctional Facility and Collins Correctional Facility. Further, there are approximately four (4) re-orientation trainings conducted annually At both facilities. In addition to covering the material in the directives regarding sexual abuse and sexual harassment, the following is also covered in training:

- Standards of Conduct and Setting Personal Boundaries
- Inmate Manipulation
- Inmates can not consent to sexual acts
- Utilization of “Spiritual Hugs” where one hand is placed on the shoulder and the other used to shake between faith based volunteers and inmates in lieu of fully hugging inmates in an effort to avoid compromising positions
- Random Observations of volunteer presentations to ensure appropriate content and material delivery
- Utilization of “Shock Training” to impress upon those receiving the training the significant penalties associated with engaging in such behavior

This Auditor finds the awarding of an “Exceeds” rating appropriate based upon the audit findings.

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)

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.

The NYDOCCS provides for a comprehensive Prison Rape Elimination Act educational orientation program with the inmates reception into each of its correctional facilities. The following is part of the PREA Comprehensive educational program:

Directive #4021 (Offender Reception Classification), during intake, the PREA and Suicide Prevention Pamphlets will be distributed to each inmate. Gowanda Correctional Facility indicated on the Pre-audit Questionnaire, 2,208 inmates have received PREA information during orientation in GCF. During this audit, the Sexual Abuse Prevention Orientation Outline was provided within the documentation and reviewed, as well as training logs indicating inmate participation in the orientation process.

Directive #4027A (Sexual Abuse Prevention & Intervention – Inmate-on-Inmate) information is provided to all inmates during orientation at reception and at the facility orientation after transfer. The information shall be communicated orally and in writing (in English and Spanish), in a language clearly understood by the inmates. This information will address prevention, self-protection (situation avoidance), reporting sexual abuse and the availability of treatment and counseling. Additionally, as part of Directive #2612, Reasonable Accommodations for inmates with Sensorial Disabilities, the agency has a responsibility to provide sensorial disabled inmates with equal access to all information provided to the General Population.

At intake and reception into each NYDOCCS facility, inmate will watch an Inmate Orientation Film entitled, “Ending Sexual Abuse Behind the Walls: An Orientation. For Special Housing Unit (SHU) inmates, an audio version of this film will be provided.

The following PREA related materials are also provided to all NYDOCCS facilities:

- 1) Gender-Specific “The Prevention of Sexual Abuse in Prison: What Inmates Need to Know” brochures in English and Spanish. There is also a supply of these brochures in other language available when needed;
- 2) Zero Tolerance Posters featuring some of the inmates in the “Ending Sexual Abuse Behind the Walls” film;
- 3) PREA Pocket Cards which provide a summary of the procedures for staff receiving a first-hand report of sexual abuse

This information is made readily available throughout the facility.

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)

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.

The following NYDOCCS policies and procedures apply to the specialized training investigators receive as part of their job duties within the OSI Sex Crimes Division. As of this audit, there are 21 trained investigators within the OSI Sex Crimes Division.

OSI Policy & Procedure (Training Requirements Sex Crimes Investigators), require in addition to the standard PREA training mandated for all staff of the NYDOCCS under PREA Standard 115.31, Specialized Sex Crimes Investigators:

- 1) Specialized training in conducting sex crimes in confinement settings;
- 2) Techniques for interviewing sexual abuse victims;
- 3) Proper use of Miranda and Garrity Warnings;
- 4) Sexual Abuse evidence collection in confinement settings;
- 5) Criteria and evidence required to substantiate a case for administrative action or prosecution referral

Additionally, all OSI SCD Investigators shall complete both the “Investigating Sexual Abuse in Confinement Setting” and “Communicating Effectively and Professionally with LGBTI Offenders” as part of the PREA Learning Center online available courses. Annual training shall also be completed covering: “Sexual Abuse Investigations and PREA Update” and “Evidence Collection Training”.

OSI Investigator training forms and the training log covering course # 17072 (PREA Investigating) and course # 35029 (Preventing Sexual Abuse) was also reviewed as part of this audit.

During the interview with the OSI Investigator, both Auditors found the knowledge base, presentation, and responses to questions of a very high quality. Even though this particular investigator does seek out self-initiated trainings, presentation material was provided to the Auditors of recent training conducted by the NYDOCCS in Albany, New York. This three day training covered the following:

- 1) Cultural Competencies;
- 2) Dynamics of Sexual and Physical Abuse of Inmates in Confinement;
- 3) Statistical Overview of Sexual Abuse on Inmates in Confinement;
- 4) PREA Standards Specific to Investigations;
- 5) The Forensic Interview;
- 6) Active Listening and Other Techniques;
- 7) Legal Issues (Miranda, Garrity, surveillance, search and seizure, deliberate indifference, working with prosecutors; issues with discovery;
- 8) Evidence Collection;
- 9) Assuring quality Investigations;
- 10) The Mind Sciences of Bias;
- 11) Implicit Bias;
- 12) Building the Case for Mindfulness;
- 13) Prosecutors’ Perspectives, Tips and Advice;
- 14) Racial Anxiety and Stereotype Threat/Anxiety

The above are the types of consistent efforts the NYDOCCS make to ensure quality training delivery to its specialized investigators.

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)

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.

The following NYDOCCS policies and procedures apply to all contractors and staff within the Medical and Mental Health Care services:

All Division of Health Services contractors and staff sign a document indicating they have received Directives #4027A (Sexual Abuse Prevention & Intervention – Inmate-on-Inmate) and #4028A (Sexual Abuse Prevention & Intervention – Staff-on-inmate) policies.

Training Manual Subject 7.100 (40-Hour Orientation Program for Full-time Non-security Staff at Facilities), includes coverage of the policy on the Prevention of Sexual Abuse of Inmates, as well as PREA Introduction/Refresher Training.

Training Manual Subject 6.600 (Initial Employee Training), covers training on the Prevention of Sexual Abuse of Inmates.

There exists a memorandum of understanding between the New York State Office of Mental Health and the NYDOCCS that is inclusive of the required PREA training specifically under PREA Standard 115.31, for all full and part-time OMH staff. In addition, all full and part-time mental health care practitioners permitted to evaluate a care for patients within the scope of his or her profession shall participate in specialized training provided by DOCCS as required under PREA Standard 115.35.

HSPM 1.60 and PREA Standards for Medical and Mental Health Care Providers also require training for:

- 1) How to respond effectively and professionally to victims of sexual abuse and sexual harassment;
- 2) How to detect and assess signs of sexual abuse and sexual harassment;
- 3) How to preserve physical evidence of sexual abuse, in keeping with DOCCS procedures

During this audit, medical and mental health care training logs for course # 17083 (PREA Medical/Mental Health Provider) were reviewed. Gowanda Correctional Facility reported on the Pre-audit Questionnaire, 15 medical/mental health professionals received the required PREA training.

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)

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.

On August 26, 2016, agency wide memorandum was sent to all facility Superintendents from the Offices of the Deputy and Associate Commissioners. The purpose of the agency wide memorandum was to address the PREA Risk Screening standard. According to the memorandum, all facilities were required to adopt a Facility Operations Manual inclusive of a Risk Screening Tool. Examples were provided as templates to the facilities under PREA Risk Screening Forms 115.41M (Male Screening) and 115.41F (Female Screening). Additionally, Form 4021 (Security Screening Form) was also attached and to be used for assistance in housing assignment.

A review of the 115.41M and 115.41F Forms identified the screening tool as taking into account the following:

- 1) Whether the inmate has a mental, physical or developmental disability
- 2) Inmate’s Age
- 3) Inmate’s Physical Build
- 4) Previous Incarcerations
- 5) Whether the inmate’s criminal history is exclusively non-violent
- 6) Whether the inmate has prior convictions for sexual offenses against an adult or child
- 7) Whether the inmate is or perceived to be LGBTI or gender non-conforming
- 8) Inmate history of sexual victimization

- 9) Inmate's own perception of vulnerability
- 10) Whether the inmate is detained solely for civil immigration purposes

Further, from the Office of the Associate and Assistant Commissioner, memorandum was sent to all facility Superintendents addressing the "New/Revised Other Security Characteristics Regarding Sexual Orientation and Gender Identity (SOGI). This is to be used to better identify the sexual orientation and gender identity of inmates as part of current best practices in the field. Also, addressed in the memorandum was the fact inmates may not be disciplined for refusing to answer questions regarding sexual orientation or gender identity during classification or a classification update (inclusive of the Interview Guide Regarding Sexual Orientation and Gender Identity).

Gowanda Correctional Facility maintains Facility Operations Manual 3.313 (PREA Risk Screening), which covers how to utilize the Facility PREA Risk Screening assessment tool. GCF further reported on the Pre-audit Questionnaire 157 males have entered the facility within the past 12 months who have been assessed using the PREA Risk Assessment tool within 72 hours of intake.

All information contained with a PREA Risk Screening Tool shall not be disclosed to anyone other than to the extent necessary to make security classification, housing/placement, programming, treatment, investigation and other security and management decisions.

This Auditor bases the awarding of an "Exceeds" rating in this standard on the following:

- 1) The inmates are immediately assessed upon arrival into the facility for the ten items shown above which ensures that an incoming inmate at risk of sexual victimization is not only assessed as such, but is immediately reviewed by a security supervisor or Watch Commander to ensure his safety is accounted for in where he is placed;
- 2) Each inmate is reassessed and the above ten items are once again reviewed by his Offender Rehabilitation Counselor for ensuing of a proper assessment;
- 3) Every 90 days, the inmates are again evaluated and asked the following: "Any fear about safety or sexual abuse?", "Any concerns about sexual abuse?", "Are you being approached by staff for sex?" and "Currently being forced into sex for exchange of something?"

Based upon staff continually seeking to ensure the sexual safety of the inmate population, this "Exceeds" rating is warranted.

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)

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.

NYDOCCS' deployment of the PREA Risk Assessment Screening Tool in PREA Standard 115.41, sets the basis for how the information provided will be utilized within this standard. The following Directives will be adhered to when applying the screening information received from each inmate:

Directive #4009 (Minimum Provisions for Health and Morale), inmates shall be permitted to shower at least three times per week. Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates. These shower times are also posted within the housing units.

Directive # 4027A (Sexual Abuse Prevention & Intervention – Inmate-on-Inmate), Section IV.B. addresses Assessment and Classification and where the use of the PREA Risk Screening Tool information received will be utilized in making decisions on classification, housing assignments, programming and so forth.

Directive #4401 (Guidance and Counseling Services), Section III.B (Components-Caseload Reviews), require Offender Rehabilitation Coordinators to review inmates on their respective caseloads quarterly, using Function 40 of the Guidance Information Management System (GIMS) and COMPAS 8.0 (E-Justice Portal). Face-to-Face interviews are not required with inmates when they are more four or more years from their respective Earliest Release Date.

The Office of the Associate and Assistant Commissioner sent memorandum to all facility Superintendents addressing the “New/Revised Other Security Characteristics Regarding Sexual Orientation and Gender Identity (SOGI). As part of this memorandum, specifically addressed was Individualized Assessment of Transgender and Intersex Placements.

Gowanda Correctional Facility maintains Facility Operations Manual 3.313 (PREA Risk Screening), which covers how to utilize the Facility PREA Risk Screening assessment tool.

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)

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.

Directive # 4948 (Protective Custody Status) covers the use of segregated housing for any inmate who has alleged to have suffered sexual abuse. According to this directive, a Sexual Victimization Involuntary Protective Custody Inmate is an inmate who is appropriate for Protective Custody solely because he or she is at high risk for sexual victimization as determined by an assessment conducted pursuant to Directive #4027A (Sexual Abuse Prevention & Intervention – Inmate-on-Inmate) and Title 28 C.F.R. 115.41 of the National PREA Standards, or following a report that the inmate was the victim of sexual abuse, where an assessment of all available alternatives have been made, and a determination has been made that there is no available alternative means of separation from likely abusers, and who does not voluntarily accept admission into Protective Custody Status.

If Involuntary Protective Custody Status is made, the ADS/PREA Compliance Manager or the PREA Point Person must be notified the next business day. Either the ADS/PREA Compliance Manager or PREA Point Person will notify the Associate Commissioner/PREA Coordinator, in writing, of the date and time the Form #2168A was completed. The facility shall also clearly document:

- A) The basis of the facility’s concern for the inmate’s safety;
- B) Whether a determination has been made that there is no available alternative means of separation from the alleged abuser;
- C) An inmate placed in Involuntary Protective Custody shall have a hearing conducted within 14 days to determine need for P/C

Inmate placed in Protective Custody status shall continue to have access to programming, privileges, education and work opportunities to the extent possible.

The Facility shall assign such inmates to Involuntary Protective Custody on this basis only until an alternative means of separation from the alleged abuser can be arranged and such assignment shall not ordinarily exceed a period of 30 days. An Involuntary Protective Custody (IPC) Review shall be documented on Form #2170A.

Gowanda Correctional Facility indicated on the Pre-audit Questionnaire, no inmates were held in Involuntary Protective Custody Status due to being at high risk of sexual victimization, nor were any inmates held for longer than 30 days in this status in the past 12 months.

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.

Multiple methods are available for inmates housed in NYDOCCS facilities to report sexual abuse and sexual harassment. Employees’ Manual (Revised 2013), Section 2.20 (Duty to Report Sexual Abuse and Sexual Harassment, Retaliation, and Confidentiality), states all staff shall immediately report:

- 1) Any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment occurring in a facility, whether or not the facility is part of the agency;
- 2) Retaliation against inmates or staff who reported such an incident;
- 3) Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation

The duty to report includes third-party and anonymous reports.

Directive #4027A (Sexual Abuse Prevention & Intervention – Inmate-on-Inmate) and #4028A (Sexual Abuse Prevention & Investigation – Staff-on-Inmate), covers Reporting and Investigation of Inmate-on-Inmate Sexual Abuse or Sexual Threats, both verbal reports and written reports. Employees shall immediately report such allegations to their supervisor or watch commander directly. All reports of this nature shall be considered confidential.

On April 9, 2014, the New York State Commission of Corrections provided written notice agreeing to receive all written inmate and resident reports containing sexual abuse and sexual harassment allegation and then forward them immediately to Department officials. Upon receiving such reports, the SCOC will enter basic information into our compliant database and then forward the report to the NYDOCCS Office of the Inspector General at inspectorgeneral@doocs.ny.gov.

Further, inmates may report sexual abuse and sexual harassment by contacting the NYDOCCS OSI at (518) 457-2653 or through a third party at specialinvestigations@doocs.ny.gov.

All methods of reporting (telephone and mailing) are posted within the Gowanda Correctional Facility housing units in multiple languages. GCF reports having received no third-party notices during this audit period.

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.

Directive # 4040 (Inmate Grievance Program), is in place, however, Gowanda Correctional Facility is exempt from this standard. The basis for this exemption is NYDOCCS has zero tolerance from sexual abuse and sexual harassment. Consistent with their zero tolerance policy and PREA Standards 28 C.F.R. 115.52 (a), an inmate is not required to file a grievance concerning an alleged incident of sexual abuse or sexual harassment to satisfy the Prison Litigation Reform Act (PLRA) exhaustion requirement.

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.

NYDOCCS has set forth directives to ensure inmates have the ability to seek outside victim advocates for emotional support services related to incidents of sexual abuse. Inmates may obtain the offered support services through the mail, telephone (including toll free hot-line numbers) and for civil immigration purposes.

Directive # 4404 (Inmate Legal Visits) provides any Local, State or National Organization authorized to provide rape crisis services, victim advocacy services and emotional support services, including, but not limited to, organizations approved to provide such services in New York State by the Department of Health pursuant to Public Health Law 206 (15).

The Superintendent of each facility shall designate an area where such legal visits may occur. Such areas should ensure the confidentiality of all communications during the visit.

Directive #4421 (Privileged Correspondence), provides any Local, State or National organization authorized to provide rape crisis services victim advocacy services and emotional support services, including, but not limited to, organizations approved to provide such services in New York State by the Department of Health pursuant to Public Health Law 206 (15).

Directive #4423 (Inmate Telephone Calls), an inmate may add an Attorney or a Department of Health approved Rape Crisis Program to his/her telephone list at any time by submitted a request to his/her assigned Offender Rehabilitation Coordinator.

NYDOCCS has also provided all facilities a Just Detention International New York Resource Guide available to any inmate seeking counseling and support services.

The NYDOCCS also maintains an agreement with Samaritan Hospital of Troy New York (Sexual Assault and Crime Victims Assistance Program) regarding responsiveness to PREA related Hotline Call and emotional support services related to sexual abuse. Copies of this agreement were review as part of this audit.

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.

The NYDOCCS provides information via pamphlets, male/female PREA videos, agency directives on the agency's website. Further, third party reports may also be made and are available to the public at: <http://www.doccs.ny.gov/PREA/PREAinfo.html>.

Gowanda Correctional Facility reported on the Pre-audit Questionnaire the facility has received no third party reports regarding PREA allegations during this initial audit period.

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.

The NYDOCCS Employees Manual (Revised 2013), under section 2.20 requires all staff shall report immediately and according to agency policy (Directives #4027A, #4028A) the following:

- a) Any knowledge, suspicion or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not the facility is part of the agency or not;
- b) Retaliation against inmates or staff who reported such an incident; and
- c) Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation

Directive #0700 (Office of Special Investigations (OSI)), the Sex Crimes Unit specializes in investigating allegations of sexual misconduct between inmates and Departmental staff as well as inmate-on-inmate sexual abuse, and assists outside law enforcement in the development of cases for criminal prosecution.

As referenced above, Directives #4027A (Sexual Abuse Prevention & Intervention – Inmate-on-Inmate) and #4028A (Sexual Abuse Prevention & Intervention – Staff-on-Inmate), address the immediate reporting requirements and investigation of these types of sexual abuse and sexual threat allegations.

Memorandum on January 21, 2016, from the Office of the Associate Commissioner further addresses the PREA Coordinated Response Plan and the requirement for each NYDOCCS facility to develop and maintain such a written institutional response plan to deal with matters of sexual abuse, sexual harassment and retaliatory actions.

A Memorandum of Understanding is in place between the NYDOCCS and the New York State Office of Mental Health regarding PREA. As part of this MOU, OMH acknowledges is mandatory reporting requirements as part of the services it provides.

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.

Gowanda Correctional Facility reported on the Pre-audit Questionnaire, during the past 12 months, there have been no occurrences where GCF has determined an inmate was subject to substantial risk of imminent sexual abuse.

Even though grievances are not required where allegations of sexual abuse and sexual harassment are concerned, Directive #4040 (Inmate Grievance Program), considers the submission of “emergency” type grievances. The Inmate Grievance Program shall refer any grievance of an emergency nature directly to the appropriate response level (Superintendent or CORC) having authority to issue and immediate or expeditious and meaningful response. Emergencies shall include an inmate’s health, safety, or welfare is in serious threat or danger.

Further, Directive 4948 (Protective Custody Status), also provides for the voluntary and involuntary Protective Custody Status of inmates for their safety. As addressed in PREA Standard 115.68, for involuntary Protective Custody Status inmates, Form #2168A is utilized for recording of all information considered when making the involuntary placement.

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.

According to the Gowanda Correctional Facility Pre-audit Questionnaire, in the past 12 months, GCF received no notifications of inmates being abused while at other NYDOCCS facilities. GCF did receive 2 allegations of sexual abuse from other facilities.

According to memorandum sent from the Office of the Associate Commissioner, on February 12, 2016, the following reporting requirements are to be complied with when “Reporting to Other Confinement Facilities” as part of this PREA Standard and in order to have a uniform response to allegations of sexual abuse occurring at other confinement facilities:

- 1) The Superintendent of the facility receiving the allegation shall notify the head of the facility or appropriate office of the agency or facility where the alleged abuse occurred within 72 hours of receipt;
- 2) Any difficulty in locating contact information for the head of the facility or appropriate office of the agency or facility where the sexual abuse was alleged to have occurred, such shall be sent to the Central Office-Commissioner/Secretary, Investigations Office or PREA Coordinator of the agency or facility where the abuse allegedly occurred;
- 3) If the Alleged abuse occurred within the last 3 years, the Superintendent shall make a follow-up phone call to the head of the facility or appropriate office of the agency or facility where the abuse allegedly occurred to confirm receipt of information;
- 4) The Deputy Superintendent for Security at each facility shall record the allegation in the Sexual Abuse/Threat Log Book;
- 5) Copies of all documentation received as part of the notification will be maintained by the facility Superintendent, with a copy forwarded to the ADS PREA Compliance Manager or Captain/PREA Point Person;
- 6) OSI Sex Crimes Division shall ensure any allegation has been appropriately investigated in accordance with Departmental policy.

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.

The duties and responsibilities of all staff are provided for under Directive #4027B (Sexual Abuse Reporting & Investigation – Inmate-on-Inmate) and #4028B (Sexual Abuse Reporting & Investigation – Staff-on-Inmate) as follows:

- All employees must be aware of the sensitive nature when inmates report allegations of sexual abuse and sexual harassment
- All employees shall immediately report to their supervisor or watch commander any received verbal or written reports of sexual abuse and sexual harassment

- Medical personnel receiving such information provided during the course of medical treatment are required to report the minimum information necessary under HSPM 1.60.
- All reports of sexual abuse are confidential and only to be shared with essential personnel
- The Watch Commander shall initiate sexual abuse protocols upon receipt of an allegation of inmate-on-inmate sexual abuse

First Responders shall:

- 1) Treat information received, verbally or in writing, with sensitivity
- 2) Place the victim inmate under constant supervision during the immediate response
- 3) The employee shall request the victim inmate not take any actions that could destroy physical evidence
- 4) The employee's supervisor or watch commander shall be immediately notified
- 5) The Watch Commander shall immediately notify the Superintendent or designee
- 6) The Watch Commander shall notify the highest-ranking Health Services Staff on duty
- 7) The Watch Commander shall ensure the alleged victim inmate and aggressor inmate are physically separated by appropriate, effective means, pending investigation
- 8) The Watch Commander shall consider appropriate alternative placement for the inmate victim in a housing location separate from the aggressor inmate and the aggressor inmate placement in disciplinary housing, segregation or other appropriate location
- 9) All complaints and incidents of sexual abuse or sexual threats shall be logged
- 10) In instances where it is determined a crime scene is present, the scene shall be secured to ensure evidence is preserved
- 11) A complete investigation shall be conducted in all instances of reported sexual abuse or retaliation concerning an incident of sexual abuse

On January 21, 2016, the Office of the Associate Commissioner sent agency memorandum to all facility Superintendents requiring each facility to institute a Coordinated Response Plan Facility Operations Manual (FOM) as it pertains to PREA incidents. Gowanda Correctional Facility implemented this directive under FOM 3.312 (Coordinate Response Plan to an Incident of Inmate Sexual Abuse).

Gowanda Correctional Facility reported on the Pre-audit Questionnaire there have been 4 received allegations of inmate sexual abuse in the past twelve months. One of the received reports were reported in a time frame that allowed for the collection of physical evidence. In this one report, security staff:

- Protected the crime scene to allow for the collection of evidence;
- Requested the alleged victim take no actions that could destroy physical evidence;
- Ensured the alleged abuser take no action that could destroy physical evidence

There were no occurrences in the past twelve months where a non-security person was the first responder to an incident of sexual abuse.

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.

On January 21, 2016, the Office of the Associate Commissioner sent agency memorandum to all facility Superintendents requiring each facility to institute a Coordinated Response Plan Facility Operations Manual (FOM) as it pertains to PREA incidents. Gowanda Correctional Facility implemented this directive under FOM 3.312 (Coordinate Response Plan to an Incident of Inmate Sexual Abuse).

Gowanda Correctional Facility Facility Operations Manual (FOM) 3.312 (Coordinated Response Plan to an Incident of Inmate Sexual Abuse), sets for the facility procedures regarding:

- A. First Party/Victim Report or Observed Inmate Sexual Activity
- B. Third Party and Anonymous Report

Section IV. Coordinated Response of FOM 3.312 state the Watch Commander shall:

- Assess the situation;
- Initiate the appropriate protocol under Directive #4027B/#4028B;
- Immediately dispatch the area supervisor to the location of the alleged incident;
- Dispatch available security staff coverage along with the “Crime Scene Attendance Log”;
- Assign additional security staff if deemed necessary;
- Arrange transport of all inmate participants to medical;
- Obtain Security Supervisor and Staff reports of the incident by end of shift;
- Initiate the Sexual Abuse Response Containment Checklist (when necessary);
- Contact OSI SCD
- Follow protocols with medical services under HSPM 1.60 (Sexual Assault) for evaluation and determine if outside medical treatment is required.

Additional procedures are also included within this Coordinated Response Plan when the incident involves Staff-on-Inmate Sexual abuse.

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.

Directive #2110 (Employee Discipline-Suspension from Duty During the Continuation of Disciplinary Proceedings), sets forth in Section III, in accordance with Directive #4028A (Sexual Abuse Prevention & Intervention – Staff-on-Inmate) and Directive #4028B (Sexual Abuse Reporting & Investigation – Staff-on-Inmate), investigations of allegations of staff-on-inmate sexual abuse are the responsibility of the Department’s Office of Special Investigations. When OSI receives a report of staff sexual misconduct, they shall evaluate the facts and circumstances of the report together with any other reliable information and consult with the appropriate Bureau of Labor Relations representative regarding appropriate action, including removal of the employee from contact with any inmates pending the outcome of the investigation.

Directive #2114 (Functions of the Bureau of Labor Relations), Sections I (Employee Discipline) and K (Suspension) cover ways the NYDOCCS and Labor can protect inmates regarding allegations of employee misconduct.

According to the Pre-audit Questionnaire, Gowanda Correctional Facility has not had any employees removed from the facility for allegations of sexual contact with inmates during the past 12 months.

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.

According to the Pre-audit Questionnaire, Gowanda Correctional Facility has designated Security Captain George Poff (PREA Point Person) as the facility staff member responsible for monitoring for possible retaliation.

NYDOCCS Employees' Manual (Revised 2013), Section 2.19, all allegations of sexual abuse, sexual harassment, or retaliation against staff or an inmate for reporting such an incident or participating in an investigation will be thoroughly investigated. Furthermore, any perpetrator of a sexual abuse incident, sexual harassment, or act of staff voyeurism will be dwelt with severely through discipline or prosecution to the fullest extent permitted by law.

Memorandum from the Office of the Associate Commissioner, dated August 20, 2015, indicates each facility shall employ multiple PREA protection measures to include:

- 1) Housing Changes
- 2) Transfer of inmate victims or abusers
- 3) Removal of alleged staff or inmate abusers from victim contact
- 4) Emotional Support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with an investigation
- 5) Conduct shall be monitored by a facility designated staff member for at least 90 days following a report of sexual abuse or sexual harassment for any retaliatory actions (A Retaliation Monitoring Form is to be completed)

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.

Directive # 4948 (Protective Custody Status) covers the use of segregated housing for any inmate who has alleged to have suffered sexual abuse. According to this directive, a Sexual Victimization Involuntary Protective Custody Inmate is an inmate who is appropriate for Protective Custody solely because he or she is at high risk for sexual victimization as determined by an assessment conducted pursuant to Directive #4027A (Sexual Abuse Prevention & Intervention – Inmate-on-Inmate) and Title 28 C.F.R. 115.41 of the National PREA Standards, or following a report that the inmate was the victim of sexual abuse, where an assessment of all available alternatives have been made, and a determination has been made that there is no available alternative means of separation from likely abusers, and who does not voluntarily accept admission into Protective Custody Status.

If Involuntary Protective Custody Status is made, the ADS/PREA Compliance Manager or the PREA Point Person must be notified the next business day. Either the ADS/PREA Compliance Manager or PREA Point Person will notify the Associate Commissioner/PREA Coordinator, in writing, of the date and time the Form #2168A was completed. The facility shall also clearly document:

- D) The basis of the facility's concern for the inmate's safety;
- E) Whether a determination has been made that there is no available alternative means of separation from the alleged abuser;
- F) An inmate placed in Involuntary Protective Custody shall have a hearing conducted within 14 days to determine need for P/C

Inmate placed in Protective Custody status shall continue to have access to programming, privileges, education and work opportunities to the extent possible.

The Facility shall assign such inmates to Involuntary Protective Custody on this basis only until an alternative means of separation from the alleged abuser can be arranged and such assignment shall not ordinarily exceed a period of 30 days. An Involuntary Protective Custody (IPC) Review shall be documented on Form #2170A.

According to the Pre-audit Questionnaire, Gowanda Correctional Facility has not utilized voluntary or involuntary protective custody placement solely for the purpose of protecting an inmate who is alleged to have been the victim of sexual abuse.

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.

Directive #0700 (Office of Special Investigation (OSI)), sets for the duties, functions and various units within the OSI. The Sex Crimes Unit specializes in investigating allegations of sexual misconduct between inmates and Department staff as well as inmate-on-inmate sexual abuse, and assists outside law enforcement in the development of cases for criminal prosecution.

Directive #2011 (Disposition of Department Records), defines what records are, minimum records retention periods, retention/disposition schedules. However, records being used for audit or legal actions must be maintained until completion of an audit or ending of a legal action.

OSI Policy & Procedure (Training Requirements for Sex Crimes Investigators), require all reports of sexual abuse, sexual harassment and retaliation against inmate or staff shall be thoroughly investigated. When evidence exist a crime was committed, there is a referral to the appropriate prosecuting agency.

OSI Investigators shall receive specialized training in addition to PREA training required for all staff (115.31). This specialized training includes:

- Conducting sexual abuse investigations in confinement settings;
- Techniques for interviewing sexual abuse victims;
- Proper use of Miranda and Garrity Warnings;
- Sexual Abuse evidence collection in confinement settings;
- Criteria and Evidence required to substantiate a case for administrative action or prosecution referral;
- SSVIA and SAIRI Refreshers;
- Respectful Communication with LGBTI

The NYDOCCS shall maintain training documentation showing its investigators has completed standard and specialized training requirements.

OSI Policy & Procedure (Intake and Case Management Unit; Complaint Processing & Case File Management), Section III. Procedures for Complaint Processing include:

- A. Receipt of Complaints, Allegations, and Other Pertinent Information;
- B. Check OSI Case Tracking System;
- C. Initial Review and Screening;
- D. Processed and Reviewed/Screened Complaints;
- E. Fast Tracking Complaints

Section IV: Case Management and Other Responsibilities of the Intake Unit:

- A. Case File Management
- B. Requests, Subpoenas and “Litigation Holds” from the Attorney General’s Office, DOCCS Counsel’s Office or Another Agency;
- C. Recording Statistics;
- D. Evidence Custodians;
- E. Case File Retention and Destruction (The electronic Case File shall be permanently maintained)

The OSI SCD Inmate-on-Inmate Dispatch and Operational Guidelines require all evidence must be properly collected, logged, and secured pursuant to Directive #4027B – Evidence Collection and Preservation. The case will also be conferenced with the Bureau of Labor for consideration of disciplinary charges based upon any staff actions or failures to act contributing to an incident of sexual abuse or sexual harassment as per Directive #2110 (Employee Disciplinary – Suspensions from Duty During the Continuation of Disciplinary Proceedings). The case shall also be conferenced with the NYSPBCI Investigator and/or District Attorney’s Office to evaluate whether or not the quality

of the evidence is sufficient to support criminal prosecution.

NYDOCCS Agency Memorandum regarding “Implementation of the Prison Rape Elimination Act Standards” covers the multi-agency collaboration between the NYDOCCS Office of Special Investigations, Sex Crimes Division and the New York State Police BCI in ensuring thorough investigations of all sex crimes.

Gowanda Correctional Facility indicated on the Pre-audit Questionnaire there were 2 substantiated allegations of conduct that appear to be criminal that were referred for prosecution since August 20, 2012.

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.

On July 29, 2015, the Deputy Chief of Investigations of the OSI sent memorandum out to all members of the Sex Crimes Division staff regarding “Sex Crimes Division (SCD) Close Out Procedures”. According to proper investigative closeout, when recommending a case for closing, substantiated allegations are those allegations that have been determined to have occurred based upon a “preponderance of the evidence” when the weight of the evidence indicates that the allegation is more than likely to be true than not true.

PREA Specialized Training for Investigations also cover the “Preponderance of the Evidence” weight in determining substantiated allegations on training pages 11, 29, 30.

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.

Memorandum on September 14, 2015, From the NYDOCCS Chief of Special Investigations was sent to all facility Superintendents regarding “Notification of Investigative Determinations”. This memorandum advises that OSI will notify the relevant facility Superintendent of the case outcome and findings of the investigation. In every case, OSI will also notify the reporting inmate of the case outcome. The reporting inmate will be notified as to whether the allegation(s) has been determined to be substantiated, unsubstantiated or unfounded. All such notifications will be documented. The agency’s obligation to report under this standard shall terminate if the inmate is released from the agency’s custody.

Further, on July 29, 2015, the Deputy Chief of Investigations of the OSI sent memorandum out to all members of the Sex Crimes Division staff regarding “Sex Crimes Division (SCD) Close Out Procedures”. In addition to reporting the case outcome to the reporting inmate regarding the investigative findings of substantiated, unsubstantiated or unfounded, in cases where the allegation is unfounded, notification

may be made via mail by the facility Superintendent as outlined in the “Notification of Investigative Determination” memorandum.

For a Substantiated or Unsubstantiated Staff-on-Inmate sexual abuse case, inform the inmate if:

- 1) The staff member is no longer posted within the inmate’s unit;
- 2) The staff member is no longer employed at the facility;
- 3) The staff member has been indicted on a charge related to sexual abuse within the facility; or
- 4) The staff member has been convicted on a charge related to sexual abuse within the facility

For a Substantiated or Unsubstantiated Inmate-on-Inmate sexual abuse case, inform the inmate if:

- 1) The alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
- 2) The alleged abuser has been convicted on a charge related to sexual abuse within the facility

All notifications are documented in the case chronology.

Examples of Notifications of Investigative Determinations sent to reporting inmates were reviewed.

According to the Pre-audit Questionnaire, Gowanda Correctional Facility reported in the past 12 months, there have been no criminal and/or administrative investigations of alleged inmate sexual abuse that were completed within or outside the agency.

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.

Gowanda Correctional Facility reported on the Pre-audit Questionnaire over the past twelve months, there have been no occurrences where staff violated the sexual abuse or sexual harassment policies. This also includes no occurrences where staff were disciplined in any form for violation of PREA policies.

NYDOCCS Employees’ Manual (Revised 2013), Section 2.19 cover the guidelines for how the agency will address allegations of sexual abuse and sexual harassment, including retaliation for reporting such acts.

Directive #2110 (Employee Discipline-Suspension from Duty During the Continuation of Disciplinary Proceedings), when 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 inmates pending the outcome of the investigation.

Directive #2111 (Report of Employee Misconduct), provides guidance for reporting employee misconduct, recommending appropriate disciplinary action, and for the disciplinary process.

Directive #2605 (Sexual Harassment in the Workplace), Section IV. Discipline – sexual harassment is a form of employee misconduct that may result in disciplinary actions up to and including termination. The same will also apply to supervisors or managerial staff who knowingly allow sexual harassment to continue.

Directive #4027B (Sexual Abuse Reporting & Investigation – Inmate-on-Inmate) and #4028B (Sexual Abuse Reporting and Investigation – Staff-on-Inmate), requires an employee, contractor, contract employee or volunteer who engages in sexual conduct with an inmate is guilty of a sex offense regardless of the inmate’s willingness or non-willingness as a participant. The NYDOCCS will seek prosecution of such to the fullest extent of the law.

The presumptive disciplinary sanction for staff of inmate sexual abuse is termination.

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.

Gowanda Correctional Facility reported on the Pre-audit Questionnaire over the past twelve months, there have been no occurrences where contractors/volunteers have been reported to law enforcement for sexual abuse of inmates.

Directive #2605 (Sexual Harassment in the Workplace), Section IV. Discipline – sexual harassment is a form of employee misconduct that may result in disciplinary actions up to and including termination. The same will also apply to supervisors or managerial staff who knowingly allow sexual harassment to continue.

Directive #4750 (Volunteer Services Program), defines the types of volunteers and in Section 4 (Restrictions) a. Volunteers are prohibited from having sexual contact or engaging in any sexual conduct with an inmate. The NYDOCCS zero-tolerance position is communicated (Directives #4027A/#4028A) as well as Penal Law 130.05. All volunteers must acknowledge receipt in writing they will be held accountable for and act in accordance with the policy and the law.

OSI Policy & Procedure (Reporting of Misconduct to Outside Agencies), clearly communicates any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with inmates and shall be reported to law enforcement agencies and relevant licensing bodies.

All volunteers are provided with a Volunteer Information Packet which, under section 11, covers appropriate and inappropriate relationships with inmates.

Directive #4071 (Guidelines for Construction Projects), also covers PREA requirements for contractors and contract services.

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.

The NYDOCCS have established the following Directives which address disciplinary sanctions for inmates of sexual abuse as follows:

Directive #4027A (Sexual Abuse Prevention & Intervention – Inmate-on-Inmate) and #4028A (Sexual Abuse Prevention & Intervention – Staff-on-Inmate), cover Inmate Rule 101.10 (Standards of Inmate Behavior) which prohibits inmates from engaging in, or soliciting others to engage in sexual acts. No victim of inmate-on-inmate sexual abuse shall be subject to disciplinary sanctions for engaging in sexual acts as a result of threats, intimidation or other coercive actions. Other sexual contact and conduct of a sexual nature are also prohibited in Rule Series 101.

Directive #4932 (Chapter V, Standards Behavior & Allowances), cover the Scope and Interpretation of Rules and Regulations, Cases of Inmate Misbehavior, Violation Hearing, Disciplinary Hearing and Superintendent's Hearing. This includes providing for a disciplinary system that is consistent, fair and reasonable to address inmate misconduct and ensure the safety of all employees and inmates and facility security. Factors to be considered are also covered in the disposition of disciplinary issues when considering sanctions.

Further, the NYDOCCS has instituted guidelines for participation in the Sex Offender Counseling and Treatment Program. An inmate who is found guilty of a sex offense within the Standards of Inmate Behavior will be assigned to participate in the SOCTP.

Gowanda Correctional Facility reported on the Pre-audit Questionnaire there were no criminal or administrative findings of sexual abuse that have occurred at the facility in the past twelve months. A GCF Form 2171A Inmate Misbehavior Report was provided and reviewed during this audit of a Rule 101.20 (Lewd Conduct). SOCTP referrals were also reviewed.

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.

Directive #4301 (Mental Health Satellite Services and Commitments to CNYPC), 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. Form #3150 is utilized when making a mental health referral. Gowanda Correctional Facility indicated on the Pre-audit Questionnaire it was 100% compliant with the offering of medical/mental health services to all inmates indicating prior victimization during screening.

Health Care Services Policy #1.12B (Inmate Bloodborne Pathogens Significant Exposure Protocol), requires all inmate participant in sexual encounters require assessment whether or not the participation involved force, coercion or mutually agreed upon contact.

Health Care Services Policy #1.44 (Health Screening of Inmates), address PREA information obtained related to sexual victimization and sexual abusiveness occurring within 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 regarding housing, bed, work, education and program assignments. Informed consent (HIPAA release) shall also be obtained from inmates before reporting prior victimization that did not occur within an institutional setting.

Health Care Screening Forms 3278RC and 3278TR have also be redesigned to assist staff with determining when it is necessary to make a mental health referral and the specific type of mental health referral to be made and reviewed during this audit.

Memorandum of Understanding is in place between the New York State Office of Mental Health and NYDOCCS regarding PREA. The MOU specifically addresses handling on Ongoing Care for victims of sexual abuse from referral, to treatment offering, to treatment acceptance or rejection by the inmate. The level of mental health care provided to inmates will be consistent with a community level of care.

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.

Directive #4027B (Sexual Abuse Reporting & Investigation – Inmate-on-Inmate) and #4028B (Sexual Abuse Reporting & Investigation – Staff-on-Inmate), Section V.C.3, The Watch Commander shall notify the highest-ranking health care services staff on duty or on-call physician who shall initiate the procedures outlined in HSPM 1.60, including completion of a DOCCS “Mental Health Referral” on Form #3150.

Health Care Services Policy #1.60 (Sexual Assault), provide all treatment, including outside hospital services, will be provided to the victims without financial liability and regardless of whether or not the victim cooperates in any investigation arising from the incident. When appropriate to safeguarding the health of the inmate victim, offering HIV prophylactic medications prior to transportation to the emergency department. All victims of sexual assault shall be afforded access to forensic medical examinations, where evidentiarily or medically appropriate. Crisis intervention services will also be afforded to the victim inmate.

The Gowanda Correctional Facility FOM #3.312 (Coordinated Response Plan to an Incident of Inmate Sexual Abuse) was also reviewed during the course of this audit, as was a list of outside SANE/SAFE Hospitals available by county of location.

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.

Health Care Services Policy #1.44 (Health Screen of Inmates), All inmates upon arrival into a NYDOCCS facility or intra-facility transfer to the Special Housing Unit or Separate Keeplock Units shall be screened by a Registered Nurse.

HCSP #1.12B (Inmate Bloodborne Pathogens Significant Exposure Protocol), require inmates who experience significant exposure to bloodborne pathogens (HIV, HBV, HCV) will receive access to appropriate medical care and treatment. This includes all participants in sexual encounters whether by force, coercion or mutually agreed upon contact. All sexual assault allegations must be medically evaluated immediately per HCSP #1.60.

Inmate victims of sexual assault will be afforded ongoing medical and mental health services consistent with community standards at no financial liability to the inmate.

Memorandum of Understanding is in place between the New York State Office of Mental Health and NYDOCCS regarding PREA. The MOU specifically addresses handling on Ongoing Care for victims of sexual abuse from referral, to treatment offering, to treatment acceptance or rejection by the inmate. The level of mental health care provided to inmates will be consistent with a community level of care.

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.

NYDOCCS Memorandum dated May 9, 2014, from the Office of the Deputy and Associate Commissioners set forth the functions of the Sexual Abuse Incident Review teams as part of the PREA Standard under 115.86. The purpose of the Sexual Abuse Incident Review Team is intended to identify any gaps in policy, practice, or protocol and recommend improvements when appropriate. The review examines whether policies were followed and whether they need to be changed; whether physical plant and staffing are appropriate to minimize the risk of sexual abuse; whether gang and other group dynamics were a factor in the reported incident; as well as other factors.

The Sexual Abuse Incident Review Team will be comprised of: Asst. Deputy Superintendent/PREA Compliance Manager, a Security Captain (PREA Point Person) and a third member of the multi-disciplinary review team shall be designated by the superintendent for each review.

Sexual Abuse Incident Review must be completed within 30 days of the completion of the sexual abuse investigation, unless the allegation is determined to be unfounded. There is a confidential Sexual Abuse Incident Review Checklist accompanying each incident review.

The Sexual Abuse Prevention & Education Office staff will work closely with the facility staff to ensure that this review process is successfully implemented into practice.

Gowanda Correctional Facility reported on the Pre-audit Questionnaire that there have been 2 criminal and/or administrative investigations of alleged sexual abuse completed at the facility, within the past 12 months, that were followed by a sexual abuse incident review within 30 days, excluding only unfounded incidents.

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.

The NYDOCCS Office of Program Planning Research and Evaluation provide oversight in the collection and review of data.

Data Collection: Confidential incident-based data includes all information necessary to answer all questions from the most recent version of the Survey on Sexual Violence (SSV) conducted by the Bureau of Justice Statistics. This includes, but is not limited to Office of Special Investigations, Sex Crimes Division data, sexual abuse incident review data, unusual incidents, personnel records, confidential security information, inmate records, disciplinary data, and the inmate locator system. The Office of Special Investigations Sex Crimes Division retains control and retention of all investigative files. 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 the resulting data are securely retained.

Data Review: After preliminary review and preparation of all Office of Special Investigations Sex Crimes Division allegations, sexual abuse data is extracted, coded and prepared for a secondary review with a SCD Investigator. Allegations of sexual abuse are based on the most recent definitions provided by the Bureau of Justice Statistics and reporting requirements as specified in the National PREA Standards under

28 CFR 115. The reconciled data is aggregated for a final review to include, but is not limited to, substantiated incidents of sexual abuse. A final review team consisting of the Associate Commissioner/PREA Coordinator, the Chief of the Office of Special Investigations, the Deputy Chief of Investigations of the Sex Crimes Division and the PREA Analyst meet annually to review the substantiated PREA allegations prior to submission of data to the Bureau of Justice Statistics. All confidential information is securely retained by the Office of Special Investigations and the PREA Analyst.

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.

The NYDOCCS Office of Program Planning Research and Evaluation ensure all data is reviewed for corrective action. To accomplish this, the PREA analyst prepares and aggregates data collected in coordination with the Sexual Abuse Prevention and Education Office and the Office of Special Investigations Sex Crimes Division 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 which includes identification of problem areas, and 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 and provides an assessment of progress in addressing sexual abuse. The report provided in compliance with PREA Standards 115.87 and 115.88 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 Department’s website.

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.

The NYDOCCS Office of Program Planning Research and Evaluation ensure the collection and preservation of data. To accomplish this PREA Standard, data collected is securely retained electronically through the use of restricted/protected file storage. All incident-based case data are securely extracted from the OSI Case Tracking System by the PREA Research Analyst through use of a password protected access code. The data is imported into a secure restricted drive and file folder. Any aggregate data resulting from the use of incident-based data are secured in the same restricted drive.

The use and transformation of such data is sole-source usage. Methodology used to create this process is restricted to the user. Any documentation produced as a result of this data use is secured in a locked filing cabinet.

Aggregated sexual abuse data is made readily available to the public through its website. The Department retains all sexual abuse data

collected pursuant to 115.87 for at least 10 years after the date of initial collection.

As part of this audit, publicly available PREA data was made available at: <http://www.doocs.ny.gov/PREA/PREAinfo.html>. This location also provides the link to all NYDOCCS PREA Final Reports for all facilities and several were reviewed as part of this audit.

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.

Chad T. Hockensmith

November 23rd, 2016

Auditor Signature

Date