

**PREA AUDIT REPORT Interim Final
COMMUNITY CONFINEMENT FACILITIES**

Date of report: November 14, 2016

Auditor Information			
Auditor name: David Andraska			
Address: c/o American Correctional Association, 206 North Washington Street, Suite 200, Alexandria, VA 22314			
Email: ddafalls@hotmail.com			
Telephone number: (703) 224-0081			
Date of facility visit: October 3-4, 2016			
Facility Information			
Facility name: Lincoln Correctional Facility			
Facility physical address: 31-33 West 110 th Street, New York, New York 10026-4398			
Facility mailing address: <i>(if different from above)</i>			
Facility telephone number: (212) 860-9400			
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 type="checkbox"/> Community treatment center	<input checked="" type="checkbox"/> Community-based confinement facility	
	<input type="checkbox"/> Halfway house	<input type="checkbox"/> Mental health facility	
	<input type="checkbox"/> Alcohol or drug rehabilitation center	<input type="checkbox"/> Other	
Name of facility's Chief Executive Officer: Ronald Brereton, Superintendent			
Number of staff assigned to the facility in the last 12 months: 117			
Designed facility capacity: 284			
Current population of facility: 168			
Facility security levels/inmate custody levels: Minimum Security			
Age range of the population: 19-68			
Name of PREA Compliance Manager: George Vanvalkenburgh		Title: Acting Captain/PREA Point Person	
Email address: George.vanvalkenburgh@doccs.ny.gov		Telephone number: (212) 860-9400	
Agency Information			
Name of agency: New York State Department of Corrections and Community Supervision			
Governing authority or parent agency: <i>(if applicable)</i>			
Physical address: 1220 Washington Avenue, Albany, NY 12226-2050			
Mailing address: <i>(if different from above)</i>			
Telephone number: (518) 457-8126			
Agency Chief Executive Officer			
Name: Anthony J. Annucci		Title: Acting Commissioner	
Email address: commissioner@doccs.ny.gov		Telephone number: (518) 457-8134	
Agency-Wide PREA Coordinator			
Name: Jason D. Effman		Title: Associate Commissioner	
Email address: Jason.effman@doccs.ny.gov		Telephone number: (518) 457-3955	

AUDIT FINDINGS

NARRATIVE

The Prison Rape Elimination Act (PREA) Audit for Lincoln Correctional Facility began in September 2016 with the notice that the New York Department of Corrections and Community Supervision (DOCCS) through the American Correctional Association (ACA) had scheduled a PREA Audit with a tour date of October 3-4, 2016 of the Lincoln Correctional Facility located in New York, New York. PREA Certified Auditor David Andraska (lead) was notified by ACA e-mail of his appointment and schedule. The auditor made contact with the facility regarding logistics and checking on the posting of notices (posting was initiated through the American Correctional Association and the facility). Prior to the audit, the auditor received the PREA Pre-Audit Questionnaire and documents on a thumb drive provided by the facility. The thumb drive documentation contained a file for each of the forty-three (39) PREA standards with supporting documentation, Pre-Audit Questionnaire, and other facility supporting documentation. The auditor reviewed and evaluated the information provided by the facility as well as the New York State Department of Corrections and Community Supervision website prior to the audit.

The PREA Resource Audit Instrument used for Community Confinement Facilities was furnished by the National PREA Resource Center. To summarize, there are seven sections, A through G, comprised of the following: A) Pre-Audit Questionnaire, sent by Lincoln Correctional Facility; B) the Auditor Compliance Tool; C) Instructions for the PREA Audit Tour; D) the Interview Protocols; E) the Auditor's Summary Report; F) the Process Map; and G) the Checklist of Documentation.

On Sunday October 2, 2016, the auditor attended a "meet and greet" dinner with the Associate Commissioner/Agency-wide PREA Coordinator and staff, the Lincoln Superintendent and administrative staff from his facility. During dinner the audit schedule and logistics were discussed.

The on-site audit began on Monday morning October 3, 2016 with an informal briefing at 8:00 am. During this meeting, staff were introduced, the audit process explained, the audit schedule discussed and additional documentation requested. Attending the briefing were the Superintendent and his key staff, the regional Hub Supervisor, the Associate Commissioner and one his staff.

After the briefing a complete tour of the facility was conducted, including housing areas, program areas, food service, medical, recreation, medical, intake, visiting, laundry and storage. During the tour, the auditor made visual observations of the program areas and housing units including toilet and showers and officers post site lines. The auditor spoke to random staff and residents during the tour. Review of the housing unit log books was conducted to verify immediate/higher level staff rounds. The tour confirmed posting of PREA information in all area visited.

All required facility and staff and resident interviews were conducted on-site during the two day audit. On the first day of the audit there were 168 residents housed at the facility. Seventeen (17) resident interviews were completed (10.12% of the 168 residents). The random interviewees were selected by the auditor from the housing rosters and designated lists of inmates provided by the facility. A minimum of three inmates from each housing area (15), limited English speaking ability (1), LGBTI (1) were interviewed. A total of fifteen (15) staff was formally interviewed during the audit (12.8% of 117 staff). Staff was randomly selected from each of the three shift rosters and different departments within the facility. Additionally, specialized staff were interviewed including the Superintendent, PREA Point Person, Intermediate-Higher Level Staff, Medical and Mental Health, Contractor, Investigator, Staff Who Perform Screening, Incident Review Team, Staff Who Monitor Retaliation, Human Resources and Intake staff. The auditor also utilized interviews of Agency staff from previous PREA audits. In addition to these formal interviews, many informal discussions were held with staff and residents which assisted in this PREA compliance audit. No residents contacted the auditor, prior or after the audit, or requested to meet with the auditor while on site.

There was one allegation of sexual abuse and sexual harassment in the past twelve months at the Lincoln Correctional Facility. A review of the investigations was conducted and was determined to be unsubstantiated.

An exit meeting was conducted by the auditors David Andraska at the completion of the on-site audit. While the auditor could not give the facility a final finding, the auditor did provide a preliminary status of their findings and overall impressions of the facility. The auditors thanked the Superintendent, the Lincoln Correctional staff and the New York Department of Corrections and Community Supervision for their hard work and commitment to the Prison Rape Elimination Act.

DESCRIPTION OF FACILITY CHARACTERISTICS

The Lincoln Correctional Facility is managed by the New York Department of Corrections and Community Supervision and is located at 31-33 West 110th Street in New York, New York. Lincoln Correctional Facility is directly across the street from the north boundary of Central Park. The facility is an eight story structure constructed in the early part of the last century which opened in 1914 as the Young Women's Hebrew Association center for newly arrived immigrants to America. The US Army used the facility at the start of World War Two as a rest and recreation center for the troops. The New Lincoln School purchased the building in 1951. In 1976 the facility was acquired by the State of New York to serve as a minimum security work and education release center for non-violent male inmates from the state Department of Corrections and Community Services. The roof of LCF's eight story building is fenced and covered to serve as an outdoor recreation area for residents. The kitchen, dining room and food storage areas are on the eighth floor along with an inmate ID office. The seventh floor had been used for inmate housing but it has been vacant for the last 10 years due to a decline in inmate population. The current inmate population is housed on the sixth, fifth and fourth floors. These floors have both dayrooms and sleeping areas. The fourth floor also has space devoted to program offices and a restriction unit which temporarily houses inmates waiting for their disciplinary hearings. The third floor is devoted to a medical clinic, counselors' offices, inmate records and a clerical staff work area. The second floor has administrative offices, a business office and a large conference room. The first floor has public and inmate entrances, the arsenal/control center, the watch commander's offices, space for processing inmates in and out of the facility including a urinalysis area, parole offices, a mailroom and a program room. The basement contains maintenance offices and shop areas, a tool room, a laundry room, a storehouse, and a boiler room. The facility has just over 52,000 square feet, not including corridors and stairwells. Access between the floors is by staircases or elevators.

Lincoln Correctional Facility is classified as a minimum security facility for male inmates and it provides for work release, day reporting, and community residential treatment programming. To be eligible to participate in the Temporary Release Program, an offender must be within 24 months of their earliest release date, parole eligibility, conditional release or maximum expiration of his sentence. The offender must never have been convicted of absconding or escape offenses, have no outstanding warrants and be physically, mentally and emotionally capable of seeking and maintaining steady, gainful employment. Offenders cannot have been convicted of a homicide, sex crime or most other violent felonies.

Approved volunteers are allowed to come into the facility to meet and speak with residents, offering varied and specified tools to help ensure that the residents have the skills and knowledge to succeed once they transition into the community.

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

SUMMARY OF AUDIT FINDINGS

The Lincoln Correctional Facility was assessed as "In Compliance" with the PREA standards in this Final Report. As listed below, of the 39 standards for Community Confinement Facilities, Five (5) standards were assessed as substantially exceeding the requirements of the standard. Thirty Four (34) standards were assessed as meeting substantial compliance in all material ways with the standard for the relevant review period. (Please note that, Standard 115.212 Contracting with Other Entities, and Standard 115.252 Exhaustion of administrative remedies did not apply. These are described as meeting the standard and were marked as "meet standards").

Number of standards exceeded: 5

Number of standards met: 34

Number of standards not met: 0

Standard 115.211 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)

Standard 115.21 requires that the agency has a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct. The State of New York Department of Corrections and Community Supervision (DOCCS) have written directives mandating zero tolerance towards all forms of sexual abuse and sexual harassment. Directive #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate and Directive #4028A Sexual Abuse Prevention and Intervention Staff on Inmate address zero tolerance towards all forms of sexual abuse and sexual harassment. They also outline the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment. The Department's Employee Manual also outlines the zero tolerance policy in Sections 2.19 and 2.20.

The Agency-Wide PREA Coordinator is an Associate Commissioner; the appointment is documented through directive memo of March 14, 2012. He has direct access to the Commissioner and has the authority to manage the agency's PREA Program. His office supervises the eleven (11) regional PREA Compliance Managers and provides training and guidance as needed. Agency updates and changes are forwarded from this office to the units. Information updates and directives are shared during weekly conference calls with the regional PREA Compliance Managers. The Agency's PREA Coordinator was present during the audit.

The DOCCS has designated a regional PREA Compliance Manager that covers the Lincoln Correctional facility. The PREA compliance manager is classified as an Assistant Deputy Superintendent.

Each facility within the Department has identified a "point person" that will ensure that effective practices and procedures are in place at the facility to ensure compliant with standards. An acting Captain has been designated as the point person for the Lincoln Correctional Facility. The facility's Point Person appointment is confirmed in Memo: from the Superintendent to the Associated Commissioner. The point person will liaison with the facility's designated PREA Compliance Manager and provide guidance on operational matters with respect to the implementation of the PREA standards.

Interviews of the Agency-wide PREA Coordinator, the regional PREA manager and facility Point Person indicated they have sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards. Through observation of bulletin boards, posters, handouts and materials, review of inmate and staff handbooks, training curriculums and interviews with staff and residents it was apparent that the Lincoln Correctional Facility is committed to zero tolerance of sexual abuse and sexual harassment. Each staff member is provided a card identifying the steps to take as a first responder, reporting requirements, and how to report privately to the Office of Special Investigations.

The facility has trained all staff, volunteers and contractors in regards to zero tolerance of sexual abuse and sexual harassment. All residents are provided with verbal and written PREA information on the day they arrive at the facility. All new residents are required to attend a PREA orientation class within the first week at the facility. The auditor attended an orientation class and watched video presented at the class. The agency is committed to PREA and it is evident throughout the organization. Based on the evidence documented and confirmed, the auditor finds that Lincoln Correctional Facility "exceeds" the requirement for Standard 115.211.

Standard 115.212 Contracting with other entities for the confinement of residents

- 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)

Standard 115.212 is Non Applicable since Lincoln Correctional Facility does not contract directly with any private agencies or other entities.

The DOCCS has twenty contracts currently: Community Based Residential Programs (12) and Residential Stabilization Programs (8). The Community Based Residential Program contracts have contract dates of May 1, 2012 through April 30, 2017. One of the contracts will be discontinued on February 18, 2016. The Residential Stabilization Program contracts run from December 31, 2015 through April 30, 2017.

Each contact agency received notification from DOCCS in April 2014 that any residential program which contracts with DOCCS is now subject to the law, rules, and regulations of PREA and to include contract monitoring to ensure that the contract facility is complying with PREA standards. This language will be part of the Scope of Services in the contract. Each contract agency was required to acknowledge the regulations by completing a form and submitted it to the Department. It also identified the PREA Coordinator. The PREA Coordinator will work directly with the Contract Management Unit Staff and Re-Entry Staff to ensure the contract agencies are knowledgeable and compliant with the PREA requirements. Quarterly goals are being built for monitoring of compliance. The PREA Coordinator stated that the contract agencies will be in compliance by the first anniversary of the contract. DOCCS issued a Request for Application (RFA 2016-08) in August 2016 to contract with agencies to provide Community Based Residential Programs. The RFA includes requirements to meet this PREA standard.

DOCCS also sent PREA brochures and PREA posters to each contract agency. The brochure, "The Prevention of Sexual Abuse: Community Supervision Residential Program Information," was to be included in the orientation materials at the facility. The posters are to be posted in the inmate common areas for notification of the zero tolerance policy.

Standard 115.213 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)

Lincoln Correctional Facility has developed a staffing plan that is based on the criteria listed in Standard 115.213 to include 1) the physical layout of each facility;(2) the composition of the resident population;(3) the prevalence of substantiated and unsubstantiated incidents of sexual abuse; and(4) any other relevant factors. Based on the review of the staffing plan and interviews, the staffing plan was developed by the leadership of the Lincoln Correctional Facility with input from the PREA Coordinator and PREA Point person. The facility makes its best efforts to comply with the plan. When deviations occur, the position deviated and the reasons for the deviation are documented on the staffing charts and staff tracking sheet reports. The most common reasons for deviating from the staffing plan were emergency trips, special watch, programs closed and cell extractions. The Superintendent indicated during his interview that the staffing reports are reviewed daily by the shift Lieutenant. The Deputy of Security and the Superintendent review staffing reports the following day. The last staffing plan was completed in August 2015.

Intermediate and higher level staff conduct unannounced rounds. Through reviews of housing area logs, and interviews

with staff and residents, it was confirmed that unannounced rounds are done randomly throughout the facility. The intermediate and higher level security staff stated during interviews that they conduct random rounds by changing the pattern of their rounds and listen to radio traffic to ensure announcements are not made to the units. These rounds are documented on the Weekly Administrative Activity Report Form. DOCCS Directive, #4001 Facility Administrative Coverage and Supervisory Rounds, prohibits staff from alerting other staff members that supervisory staff rounds are occurring.

Standard 115.215 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)

Through a review of DOCCS Directive #4910 Control of and Search for Contraband, Directive Memo #4910, governing inmate searches and cross gender searches confirms, and Health Services Policy #1.37 Body Cavity Search, confirms the policies and procedures address the standard. Interviews with staff and residents and observation of actual searches conducted during the audit indicated that Lincoln Correctional Facility does not conduct cross gender strip searches. The policy does allow cross gender strip searches only in emergency situations. There were no cross gender searches conducted or logged for exigent situations during this audit period. All body cavity searches are completed only by medically trained professionals. The policy also prohibits staff from frisking or searching transgender and intersex inmates for the purpose of determining genitalia status. Training for searches of transgender and intersex inmates have been developed and added to original and in-service training. The review of the training lesson plans showed the procedure in the annual training. Interviews with random staff confirmed they were trained in the proper method to search transgender inmates.

Procedures require that staff of the opposite gender announce their presence when entering resident housing areas; this was observed during the audit. Female staff announced female in the dorm or female on the floor when entering the housing area.

Standard 115.216 Residents with disabilities and residents 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)

DOCCS Directives #4490 Cultural and Language Access Services and #2612 Inmates with Sensorial Disabilities with the Directive Memo Reasonable Accommodations PREA Information has established procedures to provide disabled inmates equal opportunity to participate in and benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Facility staff, the Office of Cultural and Language Access Services staff interpreters, and a Language Line Service are available to the facility for interpretation services. PREA handouts, PREA DVD "Ending Sexual Abuse Behind the Walls: An Orientation," and the inmate handbook are available in English, Spanish, Italian, Mandarin Chinese, Russian, Korean, Polish, and Haitian Creole. Audio education is available to the visually impaired through CDs and cassette tapes. The PREA posters are posted in English and Spanish throughout the facility. During the audit, one interview was conducted with a limited English speaking inmate through an interpreter. The resident interviewed, indicated he has received the PREA information and knew how to report if needed.

The agency directives prohibit the use of inmate interpreters or other types of inmate assistants except in limited circumstances where there may be delay in obtaining an effective interpreter. During the staff interviews, several staff thought they could use inmates as interpreters and this was addressed with them. There were no instances where an inmate interpreter was utilized during this audit timeframe.

Standard 115.217 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)

Per DOCCS Personnel Procedure Manual #406A –Recruitment Process, #407 Civilian Promotions, #407A Security Promotions, and Directive #2216 Fingerprinting/Criminal History Inquiry New Employees and Contractors; it was determined that the agency has established a system of conducting criminal background checks for new employees and contractors who have contact with inmates to ensure they do not hire or promote anyone who engaged in sexual abuse in a prison or other confinement setting; been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, coercion, or if the victim did not consent or was unable to consent to refuse; or had civilly or administratively adjudicated to have engaged in sexual activity in the community facilitated by force, coercion, or if the victim did not consent. Personnel Procedure #406A –Recruitment Process was revised on 4/8/16 to bring DOCCS recruitment process in compliance with PREA regarding contacting all prior institutional employers for information on substantiated allegations of sexual abuse or any resignations during a pending investigation of an allegation of sexual abuse. The contact will be documented on form PPM 406A.2.

DOCCS has an agreement with the New York State Division of Criminal Justice Services to provide notification to the agency of subsequent arrests of the subject individual unless the Division is prohibited by State statute to do so. This process is an immediate notification and exceeds the standard requiring background checks at least every five years. DOCCS Directive policy #2112 Report of Criminal Charges requires staff to report any criminal charges.

The Personal History and Interview Record Form, Availability Inquiry Form, and Personal History Questionnaire Employees require the employee to answer questions of: have not engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution and have not been civilly or administratively adjudicated or convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to refuse. These forms are utilized for new hires and promotions. Personnel files were reviewed with the Human Resource Manager. Also through interviews with the Human Resource Manager, Superintendent, and PREA Coordinator it was determined that the agency policy and PREA standards were being followed concerning hiring, promotional decisions, and background checks. DOCCS Directive #2012 Release of Employee Personnel and Payroll Information allows the sharing of information on substantiated allegations of sexual abuse or sexual harassment involving a former employee to other state agencies without authorization. All other requests require authorization in accordance with Section 50-a of the Civil Rights Law.

Interviews with the Associate Commissioner, the Superintendent and the facility Human Resource Director verified the required policies were in place and utilized for hiring and promotional purposes.

Standard 115.218 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)

The DOCCS Directive #3053 Alterations and Construction Request and Form #1612 Alterations and Construction Request requires facilities to consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect inmates from sexual abuse. The Superintendent must complete and submit Form #1612 which will indicate whether the alteration's impact will enhance, be neutral, or have a negative impact on the ability to protect inmates from sexual abuse. The Office of Facilities Planning, Deputy Commissioner for Correctional Facilities and the PREA Coordinator all review the request before approving.

The Acting Commissioner's interview indicated the Department has wide-spread audio/video surveillance in a number of facilities. Lincoln Correctional Facility has limited video surveillance cameras used primarily for entrance, exit locations and the roof top recreation area. Lincoln Correctional Facility did not have any substantial expansions or modification during the audit period.

Standard 115.221 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)

The DOCCS is responsible for criminal and administrative investigations. The Department's Office of Special Investigations (OSI) Sex Crimes Division conducts the investigations. The Department has a working agreement with the New York State Police, Bureau of Criminal Investigation to work cooperatively in the investigations of reports of Staff-on-Inmate and Inmate-on-Inmate sexual assault cases that may involve criminal conduct. The Department's Directive #4027B Sexual Abuse Reporting and Investigation and Operational Guidelines- OSI Immediate Dispatch, Inmate on Inmate/Staff on Inmate outline evidence protocols for administrative proceeding and criminal prosecutions. The Department utilizes the New York Department of Health Protocol for the Acute Care of the Adult Patient Reporting Sexual Abuse for evidence protocols and forensic medical examinations. The protocols were reviewed and found to be in line with the DOJ's National Protocol for Sexual Assault Medical Forensic Examinations. Interviews were conducted with OSI investigators. The interview confirmed the practices for PREA investigations and both investigators were very knowledgeable of the investigation process, the uniformed evidence protocol, and the use of the Sexual Abuse Checklist.

Emergency medical healthcare along with forensic examinations by SANE/SAFE staff are provided at an outside facility, with no cost to the inmate. An advocate will be provided to the inmate upon request to provide emotional support through the forensic medical examination and investigation interviews. There were no forensic medical exams performed by SANE/SAFE staff during the last twelve months.

The DOCCS and facility has a contract with Samaritan Hospital Sexual Assault and Crime Victims Assistance Program for victim advocate services. The agreement outlines the services provided by Sexual Assault and Crime Victims Assistance Program as: follow-up with inmates who made direct contact seeking rape crisis services via telephone or mail or requested through DOCCS; maintain active, confidential communication with DOCCS staff in order to facilitate treatment for inmate victims, consistent with the victim's right to confidentiality; to provide in person follow-up rape crisis counseling and emotional support services at the facility; and must be willing to participate in training to advance the goals and program objectives with DOCCS. The current contract has been extended while the Department develops a statewide hotline and the expansion of programs and counseling services.

Standard 115.222 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)

The DOCCS Directives, #4027B Sexual Abuse Reporting and Investigations Inmate on Inmate, #4028B Sexual Abuse Reporting and Investigations Staff on Inmate and #0700 Office of Special Investigations, direct that all allegations of sexual abuse and sexual harassment be referred for investigation. The Department's OSI Sex Crimes Division conducts the investigations. The Department has a working agreement with the New York State Police Department to work cooperatively in the investigations that may involve criminal conduct. All allegations are investigated and reported with findings. Documentation of the administrative investigation is maintained in the OSI and outcomes are shared with the facility administration. Interviews were conducted with the investigators of the OSI. They demonstrated the knowledge of their responsibilities and the responsibilities of the New York State Police Department in a criminal investigation. The roles and responsibilities of each agency was clearly defined and understood. The agency's policy is available on the agency's website.

There were no allegations of sexual abuse and sexual harassment in the past twelve months at the Lincoln Correctional facility that was referred for criminal investigations.

Standard 115.231 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)

The DOCCS has been training staff on sexual abuse prevention and reporting prior to the PREA requirement. In March 2015, the Department expanded the lesson plan to a three hour course titled Sexual Abuse Prevention and Response that replaced the two hour Prevention of Sexual Abuse of Offenders. The expanded lesson plan addresses all the PREA requirements: the zero tolerance policy; the agency policy and procedures for prevention; reporting and response to a sexual assault or sexual harassment incident, and the dynamics of sexual abuse and harassment in a confinement setting; common reactions of sexual abuse and sexual harassment victims; how to detect and respond to signs of threatened and actual sexual abuse; how to avoid inappropriate relationships with inmates; how to communicate effectively and professionally with inmates; and how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities. This training course will be required for each employee once in their career. A refresher course, Sexual Abuse Prevention and Response Refresher, is required every two years during in-service training. Further training is provided to staff through line up and staff meetings to share PREA updates. Documentation of staff participating and understanding the training is achieved by staff signing the Report of Training Form Sexual Abuse and Prevention Response (PREA).

The document review consisted of: Training Manual-Subject 0.100 Frequency Training Charts and Training Bulletins; Training Bulletin #7, PREA: Sexual Abuse Prevention and Response; Training Manual-Subject 6.500 Facility Familiarization; Memo from the Commissioner regarding Policies and Standards Generally Applicable to all Employees; Sexual Abuse Prevention and Response lesson plan; Report of training form: Sexual Abuse Prevention and Response; Memo from Deputy Commissioner and Associate Commissioner regarding Sexual Abuse Prevention and Response Training. This documentation covered all aspects of the training required by Standard 115.231. The DOCCS Directive #2401 Facility Familiarization states "all transferees shall receive familiarization on compliance with PREA and the Department's Sexual Abuse Prevention and Response procedures. Such familiarization training shall be tailored to the

gender of the inmates at the facility, including addressing gender dynamics for staff who are transferring from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa.” This facility familiarization is provided through the Sexual Abuse and Prevention and Response Training, Section Dynamics Between Male Inmates and Dynamics Between Female Inmates.

Interviews of random staff and general questions asked during the tour clearly indicate staff is knowledgeable on how to perform their responsibilities in detention, reporting and responding to sexual abuse and sexual harassment. During the formal interviews, all staff indicated they had recently attended the PREA training or were scheduled to complete this year. Each staff member is provided a card identifying the steps to take as a first responder, reporting requirements, and how to report privately to the Office of Special Investigations. DOCCS also provides a pocket size PREA overview and quick response reference guide to staff.

The facility showed to a real commitment to the training function. The interview with the superintendent revealed a professional commitment to PREA training and a high priority to the entire training process. Based on the evidence documented and confirmed, the auditor finds that Lincoln Correctional Facility “exceeds” the requirement for Standard 115.231..

Standard 115.232 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)

The DOCCS Directive #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate, Directive #4028A Sexual Abuse Prevention and Intervention Staff on Inmate and Directive #4750 Volunteer Services Program address the requirement for orientation, training and acknowledgement that they understand the training. All contractors and volunteers who have contact with inmates at the Lincoln Correctional Facility receive PREA training prior to assuming their responsibilities. The three hour orientation training includes the agency’s policy and procedures regarding sexual abuse and sexual harassment prevention, detention, reporting, and response including zero tolerance. Upon completing training, the volunteer/contractor will sign the Division of Ministerial, Family and Volunteer Services Acknowledgment Form, which documents in writing, that acknowledges they will be held accountable for and act in accordance with the PREA policy and the law. Interviews with a contractor demonstrated his knowledge of PREA, his responsibilities, and the agency’s zero tolerance policy. Training records reviewed demonstrated the contractors and volunteers received training and documented they understood the training through a signature.

Standard 115.233 Resident 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)

DOCCS provide a comprehensive inmate PREA education to the inmate population beginning at reception into the agency. At reception into the agency, inmates are provided information through a PREA pamphlet and inmate handbook that explains the agency’s zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents. When receiving inmates at the facility, the intake staff during the risk assessment process covers the PREA information with the inmate. DOCCS Directives ensure every inmate receives information at intake both verbally and written about sexual abuse and harassment. The inmate also receives an Inmate Orientation Manual that includes PREA information

and a pamphlet "The Prevention of Sexual Abuse in Prison." These materials cover the agency's zero tolerance policy and how to report incidents. This information is provided in formats accessible to all inmates. The brochures and handbooks are available in English, Spanish, Haitian-Creole, Russian, Polish, Italian, Chinese, and Korean. Audio education is available to the visually impaired through CDs and cassette tapes. Facility staff, the Office of Cultural and Language Access Services staff interpreters, and a Language Line Service are available to the facility for interpretation services when needed.

Within a week of arriving at the facility, inmates receive comprehensive education in a classroom setting. The inmates view the PREA video "Ending Sexual Abuse Behind the Walls: An Orientation." This video is available in English, Spanish, Haitian-Creole, Russian, Polish, Italian, Chinese, Korean, and close caption. This video covers the agency's zero tolerance policy; prevention; self-protection; how to report sexual abuse suspicions, assaults, and harassment; and how to utilize the PREA hotline for emotional support. The video is impactful with actual inmates providing testimonies and input on how to stay safe in the correctional setting. Staff conducting the training expands on the previous information provided in the handbook and pamphlet. The training is documented through a signature of each inmate on the Report of Inmate PREA Training Participation 115.33L Form.

Random residents interviewed and during discussion on the facility tour, acknowledged they have received PREA information upon arrival at the facility and reinforced daily through staff interaction and information posted in the housing areas. They were able to explain how to report an incident and were aware of the zero tolerance policy. The PREA posters are posted in English and Spanish throughout the facility.

Based on the evidence documented and confirmed, the auditor finds that Lincoln Correctional Facility "exceeds" the requirement for Standard 115.233.

Standard 115.234 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)

DOCCS policy, Training Requirements for Sex Crimes Investigations, require that investigators are to be trained in conducting sexual abuse investigations in confinement settings. The following training curriculums are utilized to provide training on sexual abuse investigations: PREA Specialized Training: Investigations, OSI Overview Training, NIC PREA Investigating Sexual Abuse in a Confinement Setting, and Evidence Collection Training, and Sexual Abuse Investigations and PREA. These training curriculums cover the topics of techniques for interviewing sexual abuse victims, proper use of the Miranda and Garrity warnings, sexual abuse evidence collection in confinement setting, and the criteria and evidence to substantiate a case for administrative action or prosecution referral. The investigators attend the general PREA training and the required specialized training for investigators. The DOCCS currently has 21 trained investigators. They are required to complete annual mandatory training for investigations. The specialty training was verified through the investigator interviews and review of the training records.

Standard 115.235 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)

The DOCCS require that all full and part-time medical and mental health care practitioners complete specialized training as required by Standard 115.235. This is documented through the Health Services Policy Manual 1.60 Sexual Assault, Initial Employee Training, 6.60 Training Manual, the 40 Hour Orientation Program for Full-time Non-Security Staff, and the PREA Medical and Mental Health Training Curriculum. The training curriculum includes how to detect and assess signs of sexual abuse and sexual harassment; how to preserve physical evidence of sexual abuse; how to respond effectively and professionally to victims of sexual abuse and sexual harassment; and how and who to report allegations or suspicions of sexual abuse and sexual harassment. The New York Office of Mental Health staff provides mental health services for DOCCS and Lincoln Correctional Facility. The DOCCS has a MOU with the New York Office of Mental Health that staff will complete the required training. The mental health staff complete the Division of Health Services Form with a signature acknowledging receipt of policies, zero tolerance policy, how to report incidents, and the prevention, detection, and response to sexual abuse and harassment.

Interviews with the healthcare staff demonstrated they understood how to detect and assess signs of sexual abuse and sexual harassment; how to preserve physical evidence of sexual abuse; how to respond effectively and professionally to victims of sexual abuse and sexual harassment; and how and who to report allegations or suspicions of sexual abuse and sexual harassment. The facility's healthcare practitioners do not conduct forensic medical exams but can provide emergency medical healthcare if needed. Forensic examinations by SANE/SAFE staff are provided at an outside hospital facility, with no cost to the inmate.

Standard 115.241 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)

The DOCCS Directive #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate, Lincoln Correctional Facility FOM #232 PREA Risk Screening and Memo from M.D. Deputy Commissioner/Chief Medical Officer dated 3/16/15, RE: Health Screening Forms 3278RC and 3278TR, outlines the screening process. An initial assessment is conducted of all inmates at the reception center. This assessment assists with determining and inmate's vulnerability or tendencies of acting out with sexually aggressive behavior. Inmates identified as high risk with a history of sexually assaultive behavior or vulnerability will be identified, classified appropriately, and monitored. This initial assessment will follow the inmate to the receiving facility. The receiving facility's correction counselor is to screen the inmate's records prior to the transfer for any history of sexual vulnerability or sexually aggressive behavior.

The auditor interviewed the intake staff and had the staff explain the assessment process. The intake staff begins the process by reviewing the incoming inmate's information in the agency's computer data system. At the arrival to the facility, the intake staff completes the PREA Risk Screening Form. This process conforms to the PREA standards. The screening forms include questions regarding mental, physical, and developmental disabilities; age of the inmate; physical build of the inmate; whether the inmate has been previously incarcerated; whether the inmate's criminal history is exclusively nonviolent; whether the inmate has prior convictions against an adult or child; whether or not the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; whether or not the inmate has previously experienced sexual victimization; and the inmate's own perception of vulnerability. The forms are usually completed on the day of receiving. The policy requires the screening should occur within 24 hours but no longer than 72 hours of arrival. An additional form Other Security Characteristics regarding Sexual Orientation and Gender Identity (SOGI) may be used based on information from the initial screening tool.

The Offender Rehabilitation Coordinators will reassess the inmate's risks of victimization and abusiveness within 21

working days. DOCCS directives addresses the reassessment of inmate's risk level when warranted by a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization. This information is reviewed quarterly with the inmate to determine if there are any changes as part of the caseload reviews with the guidance staff. As part of the quarterly caseload reviews, the staff member will review the inmate disciplinary history and any notes in the inmate's files prior to the meeting. A Quarterly Review Worksheet GNC-400R is completed during the meeting. No inmates were identified for reassessment during this audit period.

As part of the inmate's initial medical screening, health service staff also asks questions regarding sexual abuse and safety. This affords the inmate three opportunity to report or disclose any concerns regarding victimization and abusiveness upon transfer to a new facility.

Through policy review and confirmed through staff interviews, inmates will not be disciplined for refusing to answer or disclosing information during the risk assessment process. The staff interviews also confirmed appropriate controls have been implemented to ensure that sensitive information is not exploited by staff or other inmates. The screening tools are maintained in the inmate's institutional file in the Record Department. Information is shared with appropriate staff (medical, mental health, and supervisors) as needed to make housing, bed, work, education, program assignments and mental health and medical referrals.

Based on the evidence documented and confirmed, the timely and comprehensive initial screenings and reassessments, the medical and/or mental health screenings and reassessment and the quarterly reassessments, the auditor finds that Lincoln Correctional Facility "Exceeds" the requirement of Standard #115.41.

Standard 115.242 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)

DOCCS Directive #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate, Directive #4401 Guidance and Counseling Services and Lincoln Correctional Facility FOM #232 PREA Risk Screening, address the assessment process and the use of the screening information to determine housing, bed, work, education, and program assignments with the goal of keeping inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. If an inmate screens for high risk of sexual victimization or high risk of being sexually abusive, an immediate referral will be made to the watch commander to determine housing assignment. The housing assignment will be documented on the PREA screening form with copies forwarded to the PREA Compliance Manager, PREA Point Person, and the Guidance Office. The inmate is asked during the screening and reassessment process "Do you have any current concerns for your personal safety?" This material is taken into consideration for education and program assignments. The housing and program assignments are made on a case by case basis based on information obtained during the screening interview. The housing and program assignments may be changed after the inmate is further evaluated by the appropriate staff. Transgender and intersex are allowed to shower separately, as mandated by Directive # 4009.

Interviews with the PREA Compliance Manager, the Associate Commissioner and staff responsible for screening verified these procedures are in place and used by the facility. The facility had one resident who identified as transgender or intersex, but due to work schedules was unable to be interviewed. The auditor did discuss the resident's care with staff that works on the housing area assigned to the resident. The facility does not have separate housing or programs for transgender or intersex inmates. Through inmate and staff interviews, it was determined that the facility addresses the needs of the inmate consistent with the security and safety of the individual inmate.

Standard 115.251 Resident 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)

The DOCCS established procedures allowing for multiple internal and external ways for inmates to report sexual abuse, sexual harassment, and retaliation. PREA reporting methods are shared with inmates at intake, during orientation, in the PREA brochure, and on posters throughout the facility. The PREA Brochure, The Prevention of Sexual Abuse in Prison What Inmates Need to Know, inform inmates they can report verbally and in writing to staff, write the PREA Coordinator, write the OSI, and report to an outside agency the New York State Commission of Correction. Inmates may also report allegations through third party reporting or send an anonymous note. The inmates may also use the emotional support hotline, #77. The outside agency that operates the hotline will forward any reporting incidents to the agency. This was documented during the audit through emails to the agency. Reports to the New York State Commission of Correction may be made confidentially and remain anonymous upon request. The New York State Commission of Correction and OSI offices immediately forward any reports of sexual abuse and sexual harassment to agency officials for investigation. These reporting systems were demonstrated through review of policies and procedures, inmate handbook, posters throughout the facility, and interviews with inmates and staff. During the resident interviews, most inmates indicated they felt comfortable reporting sexual abuse or sexual harassment and all knew the options available to them for reporting.

Staff indicated through interviews they were aware of the methods available to them to report sexual abuse and sexual harassment of inmates. Directive #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate provides reporting and documentation requirements for staff. Staff were also knowledgeable on the ways inmates could report to staff and their responsibility in the process. The staff's PREA information card also outline that staff can privately report by calling the Office of Special Investigations, Sex Crimes Division.

Standard 115.252 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)

Standard 115.252 is non-applicable. The DOCCS is exempt in accordance with Directive #4040 Inmate Grievance Program and #702.2(i) Correction Law, Section 139.9, 9NYCRR Part 7695. A grievance filed is deemed exhausted upon filing with regards to the Prison Litigation Reform Act. The agency Directive #4040 The Inmate Grievance Program states that the Inmate Grievance Program Supervisor shall refer any grievance of an emergency nature directly to the appropriate response level having authority to issue an immediate or expeditious and meaningful response. During the audit, the Inmate Grievance Program Supervisor was interviewed regarding the grievance process. If a sexual abuse or sexual harassment allegation is received through a grievance, it is removed from the grievance process and submitted to the PREA Point Person, Watch Commander, or Superintendent to investigate as a PREA occurrence immediately.

Standard 115.253 Resident 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)

The DOCCS provides access to victim advocates for emotional support services through a hotline and mailing addresses. The library provides access to the Just Detention International New York Resource Guide which lists programs that are able to provide services to address needs related to sexual abuse. Inmates are able to add telephone numbers from the resource guide to their calling list at any time by submitting a request to the guidance staff. Inmates are also able to write as a privileged correspondence to one of these agencies or have a "legal" visit. Directive # 4404, Inmate Legal Visits allows advocacy organizations visitation with an inmate the same private status as a legal visit. Directive #4421, Privileged Correspondence, addresses correspondence with support organizations and classified such correspondence as privileged. This correspondence is allowed to be sealed and may be opened at the direction of the superintendent. Additionally, the inmate is allowed free postage for five letters each week. Directive # 4423 Inmate Telephone Calls, addresses telephone communications between inmates and support organizations. Subsequent Staff can assist inmates with placement of emotional support calls; these calls will not be monitored. Inmates at Lincoln Correctional Facility have access to the #77 Enhanced Victim Services Hotline. The agency through a memo to all inmates (dated April 4, 2014) informed inmates that conversations with representatives of Rape Crisis Programs are confidential and information can only be shared with the department if the inmate authorizes it. The hotline was tested during the on-site audit and was working. Inmates can write the New York State Commission of Correction confidentially and remain anonymous upon request. The inmate is able to use the weekly free postage allowance to write rape crisis programs. Correspondence to rape crisis programs is processed as privileged "legal" mail.

The DOCCS and facility has a contract with Mt. Sinai Hospital, Crimes Victim's Treatment Center for victim advocate services. The agreement outlines the services provided by the Program as: follow-up with inmates who made direct contact seeking rape crisis services via telephone or mail or requested through DOCCS; maintain active, confidential communication with DOCCS staff in order to facilitate treatment for inmate victims, consistent with the victim's right to confidentiality; to provide in person follow-up rape crisis counseling and emotional support services at the facility; and must be willing to participate in training to advance the goals and program objectives with DOCCS. This information is posted in the housing areas near the unit phones. The current contract has been extended while the Department develops a statewide hotline and the expansion of programs and counseling services.

Standard 115.254 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)

DOCCS website provides a link to the Office of Special Investigations as a method for third party reporting of sexual abuse and sexual harassment. The link encourages family members and the general public to report allegations of sexual assault to the facility Superintendent, Watch Commander, PREA Coordinator, and/or the Office of Special Investigations. Third party reporting information is shared through the agency website, brochures, pamphlets, and handouts. Observations during the tour of the facility found printed information and material strategically posted in the facility.

Standard 115.261 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)

DOCCS Employee Manual Section #2.20 and Directives, #4027A Sexual Abuse Prevention and Intervention Inmate and Inmate and #4028A Sexual Abuse Prevention and Intervention Staff and Inmate requires that all staff must report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. It also states that staff is not to reveal any information related to a sexual abuse report to anyone other than extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions. This is covered in the PREA Sexual Abuse Prevention and Response training and the in-service training Sexual Abuse Prevention and Response Refresher for all staff.

The specialized and random staff interviews confirm that staff are knowledgeable in their reporting duties, the process of reporting, and to whom to report sexual abuse and sexual harassment of inmates. . All the staff interviewed knew they were required to immediately report any incident of sexual misconduct to their supervisor. Staff also knew that any information on sexual misconduct was confidential. Directive #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate provides reporting and documentation requirements for staff. Staff were also knowledgeable on the ways inmates could report to staff and their responsibility in the process. The Sexual Abuse Response and Containments Checklist is used to ensure all steps of the reporting process are followed. Each staff member is provided a card identifying the steps to take as a first responder, reporting requirements, and how to report privately to the Office of Special Investigations.

The agency's Memorandum of Understanding with the New York Office of Mental Health (OMH) documents OMH acknowledgment of the staff and agency reporting duties for sexual abuse and to inform inmates of the practitioner's duty to report, and the limitations of confidentiality at the initiation of services.

The DOCCS Directive #4027B Sexual Abuse Reporting and Investigations Inmate on Inmate, #4028B Sexual Abuse Reporting and Investigations Staff on Inmate and #0700 Office of Special Investigations Sex Crimes Division, direct that all allegations of sexual abuse and sexual harassment be referred for investigation including third party and anonymous reports. The OSI, Sex Crime Division conducts the investigations. The interview with the Superintendent verified that all allegations are forwarded to the facility's sex crime investigators.

Standard 115.262 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)

DOCCS Directives #4027A Sexual Abuse Prevention and Intervention Inmate and Inmate and #4028A Sexual Abuse Prevention and Intervention Staff and Inmate, requires staff to take immediate action to protect any inmate subject to substantial risk of sexual abuse. The directives outline the immediate action that is to be taken to protect inmates who are in substantial risk of sexual abuse by removing the inmate immediately from the area to a safe location. Directive #4040 Inmate Grievance Program, requires that a supervisor refers any grievance of an emergency nature directly to the appropriate response level having authority to issue an immediate or expeditious and meaningful response. Directive #4948 Protective Custody Status addresses the involuntary placement process for an inmate who is at high risk for sexual victimization. All staff interviewed knew the steps to take to protect an inmate at risk for sexual abuse. Line and supervisory staff work simultaneous to take protective measures as information is reported. Also reviewed was Form 2168A which provides an assessment of alternative housing arrangement prior to using involuntary protective custody.

In the past twelve months, no inmate reported feeling at imminent risk of sexual abuse or any staff reported that an inmate was subject to substantial risk of imminent sexual abuse, therefore, there were no protective measures to implement.

Standard 115.263 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)

DOCCS procedures require upon receiving an allegation that an inmate was sexually abused while confined at another facility, that the Superintendent of the facility that received the inmate must notify the head of the facility where the sexual abuse is alleged to have occurred within 72 hours. This notification shall be made via electronic mail utilizing Form #115.63. This is outlined in the Memo Directive to all Superintendents regarding PREA Standard 115.63/263 dated August 24, 2015. The facility must also notify the Office of Special Investigations via electronic mail. The allegations will also be recorded in the Sexual Abuse/Threat Incident Log. Interviews with the Superintendent and specialized staff verified the facility is in compliance with the standard. In the past twelve months, there were no allegations of sexual abuse occurring at Lincoln Correctional Facility reported at another facility.

Standard 115.264 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)

The DOCCS Employee Manual Section #2.20 and directives, #4027A Sexual Abuse Prevention and Intervention Inmate and Inmate and #4028A Sexual Abuse Prevention and Intervention Staff and Inmate requires that all staff must report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse. The directives clearly specify the detailed procedures for security and non-security staff when responding to an allegation of sexual abuse. The first security staff member to respond to the report is required to separate the alleged victim and abuser; preserve and protect the crime scene; and request the alleged victim and alleged abuser to take no action to destroy evidence. Policy also outlines that staff are to notify the Watch Commander and immediate supervisor. The Watch Commander will make further notifications to the Superintendent, medical, mental health, and OSI, as noted on the Sexual Abuse and Containment Checklist. Lincoln Correctional Facility also has a written institutional plan, Facility's Operational Manual #231 Coordinated Response Plan to an Incident of Inmate Sexual Abuse.

The first responder responsibilities to separate the alleged victim and abuser, instruct not to take any actions that could destroy physical evidence, and ensure the crime scene is secure was also outlined in a Memo Directive Response to Inmate Sexual Activity, October 1, 2015. The first responder duties is covered in the PREA Sexual Abuse Prevention and Response training and the in-service training Sexual Abuse Prevention and Response Refresher for all staff. Each staff member is provided a card identifying the steps to take as a first responder and reporting requirements. Training provided at line up also prepares staff to respond.

Through interviews with investigative staff, higher and intermediate level supervisors, and random staff it was demonstrated that staff was knowledgeable in the steps to as a first responder. All staff are considered first responders. In the past twelve months, there were no allegation of sexual abuse reported at Lincoln Correctional Facility within a time period that allowed for collection of physical evidence.

Interviews with staff, review of documentation, examination of policies and procedures and that every staff carries a card listing the first responder duties the auditor finds that Lincoln Correctional Facility "exceeds" the requirement for Standard 115.264.

Standard 115.265 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)

Lincoln Correctional Facility has a written institutional plan, Facility’s Operational Manual #231 Coordinated Response Plan to an Incident of Inmate Sexual Abuse. The plan coordinates the actions taken in response to an incident of sexual abuse among first responders, security, medical and mental health practitioners, OSI, facility leadership, and victim advocates. A checklist, Sexual Abuser Response and Containment Checklist Form, is utilized to ensure all process steps are completed and notifications are made. During staff interviews, each area detailed their responsibilities in their coordinated efforts during an incident. Interviews with the Superintendent and higher-level staff indicated a commitment by the facility leadership for handling a coordinated response.

Standard 115.266 Preservation of ability to protect residents 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)

The DOCCS has not entered into or renewed any collective bargaining agreements since August 20, 2012. The state has state union contracts with: Administrative Services Unit (April 2, 2011- April 1, 2016); Institutional Services Unit (April 2, 2011 - April 1, 2016); Operational Services Unit (April 2, 2011-April 1, 2016); Security Services Unit (April 1, 2009 –March 31, 2016); Professional, Scientific, and Technical Services Unit (2011-2015), and Security Supervisors Unit (April 1, 2009 – March 31, 2016). The Professional, Scientific, and Technical Services Unit contract is currently in negotiations. The State union contracts allow removing alleged staff sexual abusers from contact with inmates pending the outcome of the investigations or of a determination of whether and to what extent discipline is warranted.

The language in DOCCS Directives #2110 Employee Discipline – Suspension from Duty During the Continuation of Disciplinary Proceeding and #2114 Functions of the Bureau of Labor Relations address the requirements of Standard 115.266. The facility can remove alleged staff sexual abusers from contact with any inmates or place an employee on administrative leave pending the outcome of an investigation. The interview with the Superintendent clarified that there are no restrictions from removing an employee from inmate contact during an investigation. He also verified the documentation would be retained if the allegation were substantiated and removed from the personnel file if not substantiated.

Standard 115.267 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)

DOCCS Employee Manual Section #2.19 – Sexual Abuse and Harassment and a Memo dated 8/20/2015 from the Agency-wide PREA Coordinator RE: Agency Protection against Retaliation establish a practice to protect inmates and staff who report sexual abuse or sexual harassment or cooperates with sexual abuse or sexual harassment investigations, and from retaliation by staff or inmates. Each facility designates a staff member with the responsibility of coordinating the monitoring for retaliation. The monitoring will include any disciplinary reports, housing and program changes, or any negative performance reviews or reassignments of staff. The monitoring shall include periodic in-person status checks every thirty days. There is a ninety (90) day monitoring time period for retaliation review, however the time frame can be extended if warranted. If a staff member or inmate who reported sexual abuse or cooperated with an investigation expresses a fear of retaliation, the facility and agency will take appropriate measures to protect that individual against retaliation.

Reviews are completed at a minimum every thirty (30) days for retaliation. This is documented on the PREA Retaliation Form #115.67 and the PREA Monitoring Log. Interviews were conducted with the agency head, the Superintendent and the PREA Point Person all confirmed the facility's compliance with the monitoring requirements. There were no reports of retaliation during the past twelve months.

Standard 115.271 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)

The PREA standard is met through DOCCS Directives #4027A Sexual Abuse Prevention and Intervention Inmate and Inmate and #4028A Sexual Abuse Prevention and Intervention Staff and Inmate, #0700 Office of Special Investigations, Training Requirement for Sex Crime Investigators, Inmate on Inmate Sexual Abuse Dispatch and Operational Guidelines, and Letter to Superintendent D'Amico Re: Implementation of the Prison Rape Elimination Act Standards dated May 2, 2014. The letter outlines the working relationship between OSI, Sex Crimes Division and the New York State Police, Bureau of Criminal Investigation for investigations of staff on inmate and inmate on inmate sexual abuse that may involve criminal conduct.

The agency follows a uniform evidence protocol to investigate sexual abuse and sexual harassment, sexual investigations are conducted promptly, early, and objectively including third party and anonymous reports, and the use of investigators who have been specially trained in sexual abuse investigations. The training curriculums are PREA Specialized Training – Investigators and Training Requirements for Sex Crimes Investigations. Based on the review of the investigations, the agency's policies, and interviews with facility staff and investigators, it was determined investigations into allegations of sexual abuse and sexual harassment are done promptly, thoroughly and objectively for all allegations. When an allegation is reported, the OSI begins an administrative investigation immediately. If criminal prosecution is warranted, the New York State Police is contacted and the two agencies continue the investigation working together. The investigators indicated the two agencies have a good working relationship with open communication during the progress of the investigation. If determined a crime has been committed, the case is referred for prosecution. The credibility of an alleged victim, suspect, or witness is assessed on an individual basis and not determined by the person's status as an inmate or staff. Neither the agency nor New York State Police require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation. The departure of the alleged abuser or victim from the employment or control of the facility or agency does not provide a basis for terminating an investigation. Investigators complete a written report with investigation findings that contains a thorough description of physical, testimonial, and documentary evidence. Written reports are maintained for seven years as a hard case and are permanently maintained electronically.

There were no substantiated allegations of sexual abuse that were referred for prosecution in the past twelve months at the Lincoln Correctional Facility. A review of prior closed investigations was conducted. The Investigation files reviewed were properly documented and organized.

Standard 115.272 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)

DOCCS imposes a standard of preponderance of the evidence for determining whether or not allegations of sexual abuse or sexual harassment are substantiated. This is documented through the DOCCS Lesson Plan Sexual Abuse Prevention, Response, and Investigation and the Directive Memo: Sex Crimes Division Close Out Procedures dated July 29, 2015. The interviews with the investigative staff confirm compliance with the policy and Standard 115.272.

Standard 115.273 Reporting to residents

- 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)

DOCCS memo directives require that all inmates who make allegations of sexual abuse shall be informed of the investigation outcome whether the finding was substantiated, unsubstantiated, or unfounded. The procedures for reporting investigation outcomes to inmates are documented in Directive Memo Sex Crimes Divisions Closeout Procedures and Directive Memo Notification of Investigation Determination. The process directs the OSI investigator to notify the inmate in person the outcome of the investigation when it is determined to be substantiated or unsubstantiated. The notification is documented in the electronic case file with date of notification. If the case is determined unfounded, the Superintendent of the facility will be notified by the investigator and the inmate will be notified by the facility. Documentation of unfounded notifications is the written response to the inmate. Interviews were conducted with the Superintendent and OSI investigators and they confirmed the facility followed the documented procedures.

If the allegation was sexual abuse by a staff member, the policy requires the inmate be informed of the status of the staff member in writing to include whether the staff member is no longer posted within the inmate's unit, the staff member is no longer employed at the facility, the agency's learns that the staff member has been indicated on a charge related to sexual abuse within the facility, and/or the agency learns the staff member has been convicted on a charge related to sexual abuse within the facility. If the allegation was sexual abuse by another inmate, the facility informs the inmate whether the alleged abuser has been indicated on a charge related to sexual abuse within the facility and/or convicted on a charge related to sexual abuse within the facility.

During the past twelve months, there was one investigation closed of an alleged inmate sexual abuse at Lincoln Correctional facility. Proper notification to the inmate was made.

Standard 115.276 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)

DOCCS Directive #4028B Sexual Abuse Reporting and Investigations Staff on Inmate and #2111 Report of Employee Misconduct, Directive Memo Presumptive Disciplinary Sanction for Staff Sexual Misconduct dated February 5, 2016, OSI Reporting of Misconduct to Outside Agencies, and Employee's Manual #2.19 address the requirements of Standard 115.76. Staff are subject to disciplinary sanctions up to and including termination for violating the agency's sexual abuse or sexual harassment policies. In accordance with the directive, any perpetrator of a sexual abuse incident, sexual harassment, or act of staff voyeurism will be dealt with severely through discipline or prosecution to the fullest extent permitted by law. These directives also provide disciplinary sanctions for violations of the agency's policies relating to sexual abuse or sexual harassment commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. Staff who would have been terminated if not for their resignation, will be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies. In the past twelve months, there have been no terminations or discipline imposed on any staff member for sexual abuse or sexual harassment.

Standard 115.277 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)

DOCCS Directive #4750 Volunteer Service Program, Directive Memo Policy on the Prevention of Sexual Abuse of Offenders, and OSI Reporting of Misconduct to Outside Agencies prohibit contractors or volunteers who engaged in sexual abuse to have contact with inmates and require they be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. They are also prohibited from further contact with inmates. Interviews with contractors and volunteers confirmed they were aware of the policies and remedial measures taken for engaging in sexual abuse or sexual harassment of inmates. Contractors and volunteers sign an acknowledgement form showing participation in training of this policy. The Superintendent stated during the interview that the volunteer/contractor would be suspended from entering the facility during the investigation. If the sexual abuse case is substantiated, the volunteer/contractor would be prohibited from entering an agency facility and may be turned over for prosecution if warranted. The facility would take appropriate remedial measures for any violation of agency sexual abuse or sexual harassment policies and would consider whether to prohibit further contact with inmates. In the past twelve months, there have been no contractors or volunteers suspended or reported to law enforcement for engaging in sexual abuse of inmates.

Standard 115.278 Disciplinary sanctions for residents

- 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)

DOCCS Directive #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate and Directive Memo Disciplinary Disposition Guidelines, and Guidelines for Disciplinary Dispositions, outline disciplinary sanctions for inmates for sexual abuse and sexual harassment. The inmates are subject to disciplinary sanctions following an administrative findings that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse, sanctions are commensurate with the nature and circumstances of the abuse committed, the inmates disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories, and considers whether an inmate's mental disabilities or mental illness contributed to his behavior. The Guidelines for Disciplinary

Disposition outlines the rule violation, tier levels (I, II, III), types of misbehavior, and confinement time clearly indicating a formal disciplinary process resulting in administrative findings. DOCCS directives prohibit all sexual activity between inmates to include consensual sexual activity and will process discipline on inmates, but will not consider it sexual abuse. The Standards of Inmate Behavior indicates an inmate may be disciplined for sexual conduct with staff only upon finding that the staff did not consent to such contact. The directive states an inmate reporting a sexual abuse in good faith upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if the investigation does not establish sufficient to substantiate the allegation for purposes or disciplinary action. In the past twelve months, there were no administrative findings of inmate on inmate sexual abuse. There was no criminal finding of guilty for inmate on inmate sexual abuse.

Inmates found guilty through the disciplinary process for sexual offenses will be referred to the sex offender counseling treatment program. This process is outlined in the Sex Offender Counseling and Treatment Program Guidelines.

Standard 115.282 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)

DOCCS, Health Services Policy #1.60 Sexual Assault, Directive #4027B Sexual Abuse Reporting and Investigations Inmate on Inmate, and Directive #4028B Sexual Abuse Reporting and Investigations Staff on Inmate, state that inmates who are victims of sexual abuse shall be afforded access to forensic medical examinations at an outside facility without financial cost where evidentiary 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. Emergency medical attention is provided through the facility's medical department. Inmates in need of emergency and/or SANE/SAFE services are transported to an outside facility. Upon an allegation of sexual abuse, the Watch Commander begins the notifications which include medical and mental health services. This process was verified through incident reviews and interviews with staff and residents. The residents also receive timely information about sexually transmitted infections prophylaxis. Treatment services are provided without any financial costs to every victim.

Standard 115.283 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)

DOCCS Health Services Policy #1.60 Sexual Assault, Inmate Bloodborne Pathogens Significant Exposure Protocol, Health Service Policy #1.44 Health Screening of Inmates, Health Service Policy 1.12B Inmate Bloodborne Pathogens Significant Exposure Protocol and the MOU with Office of Mental Health address all the requirements of Standard 115.283. The policies outline medical and mental treatment including evaluations, on-going care, and treatment to all inmates that have been victims and abusers. The services and treatment is at no cost to the inmates and are consistent with the community level of care. Per policy, inmate victims of sexual abuse while incarcerated are offered tests for sexually transmitted infections as medically appropriate. Interviews with medical and medical health staff, residents, and file reviews verify and document the process. There were no confirmed victims or inmate abuser in the last twelve months.

Standard 115.286 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)

DOCCS procedures as outlined in the Directive Memo Prison Rape Elimination Act Procedural Enhancements Sexual Abuse Response and Containment Checklist; Sexual Abuse Incident Reviews and Security Staffing Audits direct that a sexual abuse incident review must be conducted within 30 days of the conclusion of the investigation, unless the allegation is determined to be unfounded. The chair of the review team is the Deputy Superintendent of the area. The review team will consist of a security representative (Captain/ Point Person) and a third member designated by the Superintendent. Input will be obtained from the investigator, area sergeant, crisis intervention team, mental health, medical, and others as deemed appropriate. The team reviews the incident and completes the Sexual Abuse Incident Review Checklist. This form provides an extension outline for the review of the incident including: the reporting process conducted by security; evidence collection and notifications conducted by the investigator; medical and mental process including assessment/reassessment, treatment, victim advocate available, and outside emergency care; screening conducted by guidance; group dynamics; and conclusions/recommendations for improvement.

The incident review team reviews the circumstances of the incident; the name(s) of the person(s) involved; a consideration of whether the actions taken were consistent with agency policies and procedures; consider whether the allegation or investigation indicates a need to change policy or practice to better detect, or respond to sexual abuse; consider whether the incident or allegation was motivated by race, ethnicity, gender identity, lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status, gang affiliation, or was motivated or otherwise caused by other group dynamics at the facility; an examination of the area in the facility where the incident alleged occurred to assess whether physical barriers in the area may enable abuse; an assessment of the adequacy of staffing levels in that area during different shifts; and an assessment as to whether monitoring technology should be deployed or augmented to supplement supervision by staff. The report is forwarded to the Superintendent, Facility PREA Compliance Manager, and PREA Coordinator for review. The facility shall implement recommendations that result from the review, or document the reasons for not doing so.

In the past twelve months, there were no criminal and/or administrative investigations of alleged sexual abuse allegations, therefore no sexual abuse incident reviews were completed or required.

Standard 115.287 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)

The agency collects accurate information and data for every allegation of sexual abuse at facility under its control. The facility's Deputy Superintendent for Security is responsible for maintaining a Monthly Sexual Abuse Threat/Incident Summary (forms #2103SAII and #2103SASI) that is a chronological listing of each sexual abuse, threat, or compliant that occurs in a month. This information is forwarded to the Associate Commissioner for Correctional Facilities on a monthly basis. The agency collects the uniform data using a standardized instrument and data dictionary. DOCCS Directive #4027B Sexual Abuse Reporting and Investigations Inmate on Inmate; #4028B Sexual Abuse Reporting and Investigations Staff on Inmate; and the PREA Data Collection, Review, Retention and Publication Manual outlines the data collection process utilized by the agency. The agency aggregates the incident based sexual abuse data at least

annually. The 2013-2014 Annual Report on Sexual Victimization is approved by the Acting Commissioner and is available for review on the agency's website. The report was reviewed as part of the audit process.

Standard 115.288 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)

DOCCS PREA Data Collection, Review, Retention, and Publication Manual (revised on 8/18/15) states the PREA Analyst will prepare and aggregate data collected throughout the agency. An annual report is prepared which includes identification of problem areas, 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. Before publishing the annual report, the agency removes all personal identifiers. The annual report is approved by the Acting Commissioner and is made available to the public through the agency's website. The 2013-2014 Annual Report on Sexual Victimization is available for review on the agency's website. The report was reviewed as part of the audit process. Through interviews with the PREA Coordinator and Superintendent and review of the facility's monthly reports it documents the data collection process and correction actions taken by the facility. Per DOCCS Annual Report on Sexual Victimization 2013-2014, the number of substantiated sexual victimization at Lincoln Correctional Facility was 0 in both 2013 and 2014. DOCCS continues to implement enhancements based on patterns and trends that may be addressed through training or policy changes.

Standard 115.289 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)

DOCCS PREA Data Collection, Review, Retention, and Publication Manual (revised on 8/18/15) addresses all the elements of Standard 115.289. This manual ensures that the incident based information and aggregate data is collected and securely retained for at least ten years after date of initial collection unless Federal, State or local law requires otherwise. The data is retained and secured by OSI and the PREA Analyst. The manual also states the agency will prepare an annual report. The annual report includes: identification of problem areas, corrective action for each facility, and the agency as a whole, 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. Before publishing the annual report, the agency removes all personal identifiers. The annual report is made available to the public through the agency's website. The 2013-2014 Annual Report on Sexual Victimization is available for review on the agency's website at www.doccs.ny.gov/PREA/PREAinfo.html. The report was reviewed as part of the audit process.

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.



11/14/2016

Auditor Signature

Date