

PREA AUDIT REPORT Interim Final
ADULT PRISONS & JAILS

Date of report: April 2, 2016

Auditor Information			
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Date of facility visit: 02/29/16 – 03/02/16			
Facility Information			
Facility name: Marcy Correctional Facility			
Facility physical address: 9000 Old River Road, Marcy, New York 13403			
Facility mailing address: <i>(if different from above)</i> P.O. Box 5000, Marcy, NY 13403-5000			
Facility telephone number: 315-768-1400			
The facility is:	<input type="checkbox"/> Federal	<input checked="" type="checkbox"/> State	<input type="checkbox"/> County
	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private for profit
	<input type="checkbox"/> Private not for profit		
Facility type:	<input checked="" type="checkbox"/> Prison	<input type="checkbox"/> Jail	
Name of facility's Chief Executive Officer: Justin J. Thomas			
Number of staff assigned to the facility in the last 12 months: 148			
Designed facility capacity: 1,218			
Current population of facility: 1,148			
Facility security levels/inmate custody levels: GP Secure Med A/ Residential Mental Health Unit Max A			
Age range of the population: 18-88			
Name of PREA Compliance Manager: Teri Kozak/Donald Lane		Title: PREA CM/Point Person	
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Agency Information			
Name of agency: New York State Department of Corrections and Community Supervision			
Governing authority or parent agency: <i>(if applicable)</i> Click here to enter text.			
Physical address: 1220 Washington Avenue, Albany, NY 12226-2050			
Mailing address: <i>(if different from above)</i> Click here to enter text.			
Telephone number: (518) 457-8126			
Agency Chief Executive Officer			
Name: Anthony J. Annucci		Title: Acting Commissioner	
Email address: commissioner@doccs.ny.gov		Telephone number: (518) 457-8134	
Agency-Wide PREA Coordinator			
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AUDIT FINDINGS

NARRATIVE

The Prison Rape Elimination Act (PREA) Audit for Marcy Correctional Facility (MCF) from initial notification through this auditor's Summary Report Adult Prisons and Jails/PREA Final Report began December 2015 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 February 29 – March 2, 2016, of the Marcy Correctional Facility, Marcy, New York. PREA Certified Auditor Marilyn (Lynn) McAuley (lead) was notified by ACA e-mail of her appointment and schedule.

The agency's vision is to enhance public safety by having incarcerated persons return home under supportive supervision less likely to revert to criminal behavior. The mission of DOCCS is "To improve public safety by providing a continuity of appropriate treatment services in safe and secure facilities where offenders' needs are addressed and they are prepared for release, followed by supportive services under community supervision to facilitate a successful completion of their sentence". The agency's goals include: create and maintain an atmosphere where both offenders and staff feel secure; develop and implement positive individualized treatment plans for each offender that includes post release reentry plans; teach offenders the need for discipline and respect, and the importance of a mature understanding of a work ethic; establish a needs/risk approach to treatment and community supervision to ensure a continuity of services; assist all staff by providing the training and tools needed to perform their duties while enhancing their skills; and offering career development opportunities for all staff. The Department's vision, mission statement and goals set the stage for comprehensive guidelines for developing, implementing, and monitoring the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment.

The audit process started with a contact from the Associate Commissioner/State-wide PREA Coordinator, New York Department of Corrections and Community Supervision, Albany, New York. The facility Superintendent sent the auditor a Welcome to Marcy Correctional Facility Booklet with valuable information on MCF including: Departmental Mission; aerial view and plot plan of MCF; MCF facts & figures and budget information; inmate movement program schedule; and executive team chart with responsibilities of each deputy superintendent. The Assistant Deputy Superintendent – PREA Compliance Manger - Marcy Correctional Facility mailed a USB thumb drive to the auditor. The thumb drive contained three essential parts with: part one including: policies, procedures, directives; part two PREA Audit – Pre-audit Questionnaire; and part three; documentation for each of the 43 PREA Standards. The areas of part one included: ACA notice of accreditation report for February 27 – March 1, 2013 audit; agency mission statement; facility layout; and population report for the daily facility's staffing plan showing offender population on the 1st, 10th and 20th day of each month for twelve months prior to the audit. Part two of the thumb drive contained the PREA Pre-audit Questionnaire folder (PAQ); and part three had a folder for each one of the 43 standards. The Marcy Correctional facility layout plan provided important information on the 69 buildings located inside the secured perimeter of the facility, prior to the actual facility visit and gave the auditor information necessary to complete pre-audit work. A tremendous amount of material was included in these folders including: facility staffing and inmate population reports; each PREA Standard compliance documentation; ACA Visiting Committee (VCR) Report; and PREA Pre-audit Questionnaire (PAQ) folder. Some of the information provided in advance on the flash drive required hard copy and was requested in advance to be available for the first briefing meeting at the beginning of the facility audit. The 43 standards folders (one for each standard) contained substantiated compliance documentation for each of the standards addressing: policies and procedures; interviews, screening appraisals of the incoming inmates, and treatment of offenders with intersex conditions, gender identity disorder, gender dysphoria, and staff personnel discipline forms. The ACA Standards Compliance Reaccreditation Report provided worthwhile information on facility description, condition of confinement, medical, mental health and programs that could be confirmed with observation, review of documentation and interviews. The Pre-audit Questionnaire which was a stand-alone folder provided required data necessary for the auditor to make a decision on compliance of the standards, and information for the auditor to use in completing the PREA Compliance Audit Instrument. The PAQ provided comprehensive, specific material that could be verified by the auditor on site with review of documentation, interviews with staff and inmates and observations during the tour of the facility.

The PREA Resource Audit Instrument used for Adult Prisons and Jails 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 New York Department of Corrections and Community Supervision; 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. These instruments were used for guidance during the tour, interviews with staff and inmates and recommendations for review of documentations.

The facility is accredited by the American Correctional Association (ACA) and the reaccreditation audit was scheduled for March 2-4, 2016 the same week as the ACA PREA audit. The previous ACA Reaccreditation Report dated February 27 - March 1, 2013 was provided and reviewed by the auditor. The Audit Report was for the three year period of 2010, 2011 and 2012 confirming that the last three years of the audit MCF had zero notices of non-compliance with local, state, or federal laws or regulations, no consent decrees, class action lawsuits or adverse judgment. Staff confirmed zero notices of non-compliance during the last three years 2013, 2014 and 2015.

Following the protocols of making contacts, and checking on the posting of notices (posting was initiated through the American Correctional Association and the facility, Marcy Correctional Facility) the auditor, on her own, began review of the Pre-Audit

Questionnaire and the material sent prior to discussion and the audit visit. Each item on the thumb drive was reviewed. Of particular interest to the auditor was the detailed information in the Pre-Audit Questionnaire completed by the facility PREA Compliance Manager/Point Person and the PREA Coordinator in January 2016. Also, in this preliminary review, special interest was taken in the compliance documentation provided for each standard. The information from the standard files and the PAQ was used to complete the PREA Compliance Audit Instrument Checklist of Policies/Procedures; the PREA Resource Audit Instrument and other Documents in advance to identify additional information that might be required and could be collected prior and during the audit visit.

The auditor stayed in Utica, New York and commuted a short distance each way each day to Marcy Correctional Facility with the Department's agency-wide PREA Coordinator. The Auditor and PREA Coordinator proceeded to the Administration Building where a brief meeting was held with: the auditor; Superintendent; PREA Coordinator; area PREA Compliance Manager; facility PREA Compliance Manager/Point Person; and facility Executive Staff. During the brief meeting the PREA Auditor was given hard copy of significant information that was on the flash drive and sent to the auditor in advance of the site visit. Included in this information was the inmate count list for Monday, February 29, 2016 for random selection of inmates to be interviewed during the audit. Also provided were; list of employees, population reports, Marcy Correctional Facility information packet with facility data important to the audit, interoffice memorandums and various reports confirming MCF staffing, facility diagram with location of camera upgrades, agency and facility missions and organizational charts. The weekly audit schedule for MCF included PREA and ACA Reaccreditation audits at the facility.

The auditor sent a daily audit activity schedule for the 3 days of the audit prior to arriving at the facility. This schedule was discussed during the initial briefing and revised based on the needs of individuals involved in the audit process. The first audit briefing discussed tour protocols and points of interest for the following two days and prior to beginning the facility tour. The interview process started with the Superintendent and facility PREA Point Person interviews after the morning PREA audit briefing on the first day of the audit. At this time, a review of the inmate population (1,136 inmate count on first day of audit) was made and random inmates were selected from each housing unit for interview by the auditor. Random selection of inmates resulted in 36 inmates (3.2% of 1,136 inmate count) selected to be interviewed including: one non-English inmate with an interpreter; one handicapped inmate; one transgender inmate; one bisexual inmate; and one gay inmate. Interviews, with male and female staff with years of service ranging from 6 months to 35 years, were conducted with 37 random selection of staff and 16 from specialized staff resulting in 53 staff interviewed out of 581 for 9.1% of MCF total staff interviewed that have contact with inmates. Security staff were interviewed from all three shifts and included: 1 captain; 2 Lieutenants; 2 Sergeants; 2 Correctional Officers; 1 SHU officer; 1 intake officer; 1 first responder; 2 intermediate/higher-level staff (unannounced rounds); 1 staff who perform screening; and 2 RMHU officers. Non-security staff included: 2 ORC transitional staff; 3 program staff; 3 administrative staff; 2 medical staff; 2 mental health staff; human resource manager; 1 SAFE/SANE staff; 1 volunteer; 1 contractor; 2 investigative staff; 1 incident review team member; 1 retaliation monitor; and 1 first responder.

The Marcy facility tour including the auditor, Superintendent, PREA Coordinator, PREA Compliance Manager/Point Person and Deputy Superintendent for Security began immediately after completion of the interviews with the Superintendent. The facility is on 240 acres with 81 buildings, 69 of which are inside the secured perimeter. Based on the size of the facility the tour was broken down into two days. The tour started on the first day with the intake area and continued to the housing units where observations found the units clean and in excellent condition. During the two day audit tours of the facility the following areas were included: all housing areas; program activities and gym; administration; visitation; health services; mental health area; laundry; recreation; religious programming; academic and vocational education; library services; food services; and the Resident Mental Health Unit. Interviews with specialized staff, random sample of staff and inmates were conducted on all three days of the audit. On the final day of the audit the auditor, area PREA Compliance Manager and the facility PREA Compliance Manager/Point Person reviewed the 43 PREA Standard files using the Pre-Audit Questionnaire and PREA Audit Tool to assess final compliant review. Observations during the tours, informal interviews with staff and inmates, and review of documents confirm that MCF considers PREA a number one priority and have developed, implemented and are monitoring all of the 43 standard to ensure compliance with the standards requirements.

In conclusion the auditor based the decision of compliance for the standards on: data gathering; review of documentation; observations during tour of facility; sampling techniques for interviews with staff, inmates, and files; interviews; and comparing policies and practice to the requirements of the standards addressing all parts of each of the 43 standards.

Data gathering was accomplished: prior to the audit by receipt of a flash drive from the DOCCS; during the audit upon request; and post audit when writing the report. Data received required review to confirm documentation for each part of the 43 standards was in place by policy and confirmed by practice. Information on the flash drive, provided in advance of the site visit, is as described in paragraph three.

Review of the documentation received in advance of the site visit included a thorough look at: policies, procedures and directives; letters and emails, training curriculum and attendance reports; organizational charts; posters, brochures, inmate orientation manual, films and other PREA related materials; unannounced round logs; DOCCS Annual Report on Sexual Victimization 2013-2014; employee manual; facility specific material; staffing plan with annual review; investigation guidelines; and ACA VCR report. Each piece of information received and identified with a part of the standard was compared for compliance. Missing and additional information required was: requested in advance of site visit; presented to the auditor during the beginning day of the site visit; during the three days of the audit; and sent to auditor after site visit.

The facility provided an outline of MCF plot plan showing all the building on site to review prior to actual tour. The major part of the

observation process was during the official tour of the facility utilizing the PREA compliance audit instrument – instructions for PREA audit tour paying special attention to the following areas: intake/reception; general housing; segregated housing; residential mental health unit; health care and mental health; food service; disciplinary office; SHU; training; academic/vocational programs; guidance and community supervision; ministerial services; and law library and general library. The PREA audit instrument was used to look at areas recommended and questions to ask; recording the answers for use in deciding compliance in the standards. It was important to observe and confirm the required signs, telling inmates of their right to be free of sexual abuse and how to report incidents of sexual abuse, were posted. The required information was on posters placed strategically throughout the facility. During the tour of the facility the auditor observed logs to confirm unannounced rounds are being done on all three shifts.

Sampling techniques for interviews with staff, inmates, and files included random selection of staff and inmates from: list of all inmates by housing unit; list of all employees broken down by security and non-security staff; list of employees hired during the last 12 months; list of volunteers and contractors; investigators assigned to facility; specialty staff; available SANE/SAFE staff; intake staff; medical and mental health staff; and list of inmates who: are disabled/limited English proficient; transgender/intersex/gay/bisexual; in SHU for risk of sexual victimization; who reported a sexual abuse; and who disclosed sexual victimization during risk screening. Files selected for review were based on requirements of the standards and confirmed policy is in place and practice shows compliance to the standards.

The facility provided the auditor an office to hold staff and inmate reviews. Facility staff provided excellent service making sure the individuals selected were available for the auditor to interview them. The auditor used the PREA Audit Instrument for: random sample of inmates; special class of inmates; random sample of staff (security and non-security); specialized staff; Superintendent; and PREA Compliance Manager/Point Person. While the recommended questions were asked the auditor also added questions that would help in deciding compliance of the various standards.

Marcy Correctional Facility is a well-managed facility with obvious complete cooperation between management, security, medical, mental health and other staff in developing, implementing and monitoring on a daily basis the requirements of the 43 PREA standards. Review of documentation, observations during the tour, interviews with staff and inmates and comparing the information with the total requirements of the PREA audit was enhanced by the extreme cooperation of all staff at MCF in providing additional information as requested. Staff is completely knowledgeable of the PREA standards and enforce the standards to ensure the safety of inmates and staff at MCF.

DESCRIPTION OF FACILITY CHARACTERISTICS

The Marcy Correctional Facility (MCF) is classified as a medium security correctional facility and is located in central New York State's Mohawk River Valley, approximately 10 miles west of Utica in the Town of Marcy in Oneida County, New York. The facility is built on a 240 acre tract of land between the NYS Thruway and Erie Canal to the South, Mid-State Correctional Facility and CNYPC to the North across Old River Road and is named after the Town, Asylum and highest mountain peak in New York State. All are named after William Marcy, Associate Justice of the State Supreme Court, US Senator, Secretary of State and Secretary of War, and three-time Governor of New York. Originally opened in 1988, as the 4th facility built/opened in the Central New York area, at a 700 bed capacity, the facility has expanded numerous times to its present make-up with a capacity of 1,218 inmate beds. The facility is located in the "Oneida Hub," a cluster of facilities that share services, i.e. pharmacy, transportation and regional training, and are supervised by a Supervising Superintendent and an Assistant Commissioner. The Hub is comprised of 4 facilities, Mohawk, Mid-State, Hale Creek ASACT and Marcy. Marcy Correctional Facility and Mid-State Correctional Facility share a powerhouse (on Mid-State's grounds) and vehicle maintenance garage (on Marcy's grounds). Also located in the immediate area is the Central New York Psychiatric Center (State mental hospital) which is adjacent to Mid-State Correctional Facility.

Marcy Correctional Facility is comprised of 81 buildings with 69 of them strategically placed inside the secure perimeter. There are 18 buildings serving as dormitories housing for 60 inmates in each one. The dormitories are divided into one or two man cubicles. Two of the dormitories are designated handicapped accessible and based on the flat terrain the facility accommodates wheelchair bound inmates. The officer's stations are open and elevated, giving good site lines throughout the dormitories. The housing units spread throughout the facility ranging from general population, Honor Housing, RSAT/ASAT and ADT units and a 32 single-cell bed Special Housing Unit (SHU) used for disciplinary detention and offenders with Protective Custody issues. The facility is used for the general confinement of males 18 years of age or older and has a special housing unit. Marcy Correctional Facility special housing is a 100 bed Residential Mental Health Unit (RMHU) which is classified as maximum security. The RMHU is jointly operated by the Department and Office of Mental Health (OMH) as a Residential Mental Health Treatment Unit for inmates with serious mental illness as defined in Correction Law, section 2 (21). Housing units at MCF consist of dormitories with the exception of the 32 bed Special Housing Unit (SHU). The SHU and RMHU units consist of single cells.

In December 2009, the S-Block, a 200 bed double celled special housing unit, was renovated and became the Residential Mental Health Unit. A 57,000 square foot program building was erected off the housing unit in order to allow for each offender to receive 4 hours out of cell therapeutic treatment and programming. High security classrooms are used to allow offenders treatment and educational opportunities with a behavioral approach to gradual increase in privileges and movement to a less restrictive environment. This program was mandated as part of a 2007 court approved private settlement agreement with the non-profit advocacy organization Disability Advocates, Inc. This unit has: 100 single celled beds (112.5 sq. ft.); 4 observation cells (RCTP); 57,000 square feet for program and office space; 14 program classrooms; media resource room – including mental health wellness; video teleconference equipment on premises and medical and dental care on premises. The RMHU addresses the special needs of inmate-patients currently diagnosed with a serious mental illness who, due to their disciplinary status, are serving time in a Special Housing Unit (SHU) or Separate Keep lock Unit. The RMHU provides evaluation, intervention and supportive mental health and correctional rehabilitative services for the inmate-patient participants by offering four hours of specialized out-of-cell therapeutic programming, five days a week.

Security includes a closed circuit television monitoring system. There are two control centers: one located at the main entrance of the lobby area and the second control room is located on the Mental Health Unit on the rear side of the compound. Additionally the Resident Mental Health Unit has 306 digital cameras with 30 day retention and live monitoring. Since August 20, 2012 there have been no new facilities or substantial expansions or modifications of existing facilities at MCF. The facility has not installed or updated a video monitoring system, electronic surveillance system or other monitoring technology since August 20, 2012.

The facility has a bed capacity of 1,218 (1,080 general confinement; 100 residential mental health unit; 32 special housing unit; 4 OMH satellite unit (RCTP); and 2 infirmary) with current population of 1,148 and 1,136 counts on the first day of the audit Monday, February 29, 2016. During the last twelve months 1,278 inmates were admitted to the facility with 100% of them receiving comprehensive education on their rights to be free from both sexual abuse/harassment and retaliation. The inmates were trained on agency policies and procedures for responding to such incidents within 30 days of intake. The auditor attended the change of shift for all three shifts addressing the group, observing and interviewing staff. Staff is very proud of their jobs, knowledgeable about their duties especially to the PREA Standards and confirms they have received and understand the required original PREA training and annual PREA updated training. Review of files confirms that staff has signed confirming they have received PREA training as required by the standards.

The Marcy Correctional Facility Executive Team includes: Deputy Superintendent for Administration; Deputy Superintendent for Security; Deputy Superintendent for Programs; and Deputy Superintendent for Mental Health with the Deputy Superintendent for Administration responsible for: business office; personnel; time and attendance; fire/safety; health services; physical plant and vehicle maintenance; food service; and recycling. The Deputy Superintendent for Security staff includes: 3 Captains; 11 Lieutenants; 23 Sergeants; and 332 Correction Officers responsible for safety and security of all employees, visitors, contractors and the care, custody and control of all inmates in and outside of the facility; disciplinary office; and special housing unit. Also, this Deputy is responsible for: Arsenal; Crisis Intervention Unit; and Training. Training is a crucial for the PREA program. There are 186 Correction Officer Posts located throughout the facility, providing

security in the housing units, medical unit, school area, academic area, mess hall/kitchen, yards an gym, program and activities buildings, the walkway, lawns and grounds, and outside perimeter. The Deputy Superintendent for Programs is responsible for: ACA Accreditation; academic/vocational programs; guidance and community supervision; ASAT/RSAT; aggression replacement training (ART); transitional services; ministerial services; volunteer services; recreation activities; correspondence unit; and law library and general library. The Deputy Superintendent for Mental Health is responsible for: joint case management committee; joint central office review committee; residential mental health unit; residential crisis treatment program; and general population mental health services. Working together DOCCS provides a variety of programs and OMH provides a variety of services. At the time of the PREA audit the population in RMHU was: 62 stage 1; 26 stage 2; 8 stage 3 for total population of 96 inmates.

Marcy Correctional Facility offers: Aggression Replacement Training (ART); Comprehensive Alcohol Substance Abuse Treatment (CASAT); Residential Substance Abuse Treatment (RSAT); an Alternate Drug Treatment Program (ADTP); academic education; vocational training, substance abuse programing; counseling; transitional service; and a "low risk" sex offender program. The Office of Mental Health operates a Prison Based Sex Offender Treatment Program.

Also housed on the grounds of MCF is the DOCCS's Central Pharmacy Services that currently provides pharmaceutical and medical supplies through centralized purchasing, inventory and distribution to DOCCS facility. Opened in October, 2011, the building is a state of art distribution center staffed by Marcy employees in varying positions including pharmacists, pharmacy aides and support positions.

The Inmate Records Coordinator (IRC) staff maintains the legal files, documents and records assuring that the inmate's time with DOCCS are in accordance with State law and serves as facility liaison with the Department's Division of Classification and Movement, the Attorney General's Office, various Courts and Police Agencies. The IRC is the liaison for the Court of Claims and serves as the facility Freedom of Information Law (FOIL).

The Inmate Grievance Resolution Committee is a program governed by Correction Law and Departmental Directives wherein an inmate may challenge policies, procedures and other matters that do not have any appeal system. The committee is made up of both staff and inmate representatives, with equal voting poser, and is based on a non-retaliatory system of attempting to resolve inmate issues. Sexual abuse, sexual harassment and retaliation incidents are not processed through the grievance protocol. Standard 115.52, Exhaustion of administrative remedies says an agency shall be exempt from this standard if it does not have administrative procedures to address inmate grievances regarding sexual abuse. The Department of Corrections and Community Supervision (DOCCS) is exempt from this Standard in accordance with Directive #4040, Inmate Grievance Program, 7/12/06 & Rev. Notice 5/15/14- 702.2 (i) Correction Law, Section 139, 9 NYCRR Part 7695. Any inmate grievance filed regarding a complaint of sexual abuse or sexual harassment is immediately reported by IGP Supervisor to the Watch Commander for future handling in according with agency policy. The facility is exempt from this standard making Standard 115.52 non-applicable.

The MCF's Business Office is responsible for all aspects of the facility's fiscal and stores operations including monitoring the facility's budget, purchasing and accounts payable, employee payroll, inmate accounts, equipment and inventory control, storehouse, state shop with inmate clothing issue responsibilities, laundry and inmate commissary. A fully staffed Personnel Office is responsible for overseeing timekeeping, maintaining employee personnel and medical files and performance and probationary evaluations. These were important areas for the auditor to: tour and ask questions, look at files; and observer activity for compliance with the PREA Standards.

Health Services provides a full range of health care services in a well-equipped medical unit to all inmates by a fully staffed director, physician, nurse administrator, nurses, dentist, dental hygienist and dental assistants. MCF is staffed with 2 full time doctors and 19.5 registered nurses, and provides 24 hour fulltime outpatient medical care. The area that stores the active and inactive medical records is secured with only the medical records clerk and the nursing administrator having access. The agency has access to the following hospitals: University Hospital SUNY Health Science Center, Syracuse, NY; and St Joseph's Hospital Health Center, Syracuse, NY; for medical care requiring critical or serious interventions. All forensic medical examinations for MCF and inmates are provided at no cost to the victim and are completed by SANE/SAFE staff from Vera House. The forensic examinations services are available 24/7 at St. Joseph's Hospital and SUNY Health Science Center. The auditor interviewed staff from Vera House who confirmed the coverage and advised they provides access to a victim advocate from a rape crisis center to the victim.

Mental Health Services are provided on-site in the Health Unit and in the RMHU by clinicians from the Office of Mental Health. Inmates in general population in need of service may write to obtain a call out to speak with a clinician, and staff has been trained to observe behavior that may lead to a referral for services. An OMH clinician visits the SHU on a daily basis, checking on inmates on the caseload and assessing new admissions. Approximately 350 inmates are on the active mental health caseload at any time with approximately 232 of those on medication with 7-9 seriously mental ill inmates in general population.

Food service includes MCF participating in the DOCCS Statewide Menu using an eight-week menu cycle pre-approved by a registered dietician. MCF utilizes the Quick Chill Method and receives deliveries and food products on a weekly basis from the Department's Food Production Center located at the nearby Mohawk Correctional Facility. Therapeutic and religious diets are available to offenders after justification for such diet is presented and approved.

Guidance and community supervision includes policies ensuring each inmate is assigned to the caseload of an Offender Rehabilitation

Coordinator (ORC). The ORC is required to: provide comprehensive counseling to offenders; and conduct an initial interview with the inmate within 5 days of his arrival at MCF. Interviews are then conducted on an as needed basis, at least quarterly, to discuss program performance, progress and attendance, as well as overall record and behaviors. The ORC's assisted the inmates and follow them from their reception at MCF through the planning of their release.

The DOCCS has zero tolerance for sexual abuse and sexual harassment. Sexual abuse and sexual harassment violate Department rules and threaten security. All reports of sexual abuse, sexual harassment, and retaliation against an inmate, parolee or staff member for reporting or taking part in an investigation of possible sexual abuse or harassment is thoroughly investigated and if there is evidence that a crime was committed, it will be prosecuted to the fullest extent permitted by law. The Department played a key role in introducing legislation to make sexual conduct between employee and an inmate under the Department's custody a crime. Shortly after that law was enacted in 1996, the Department established a "Sex Crimes Unit" within the Office of Special Investigations, one of the first in the nation. These specialized investigators work closely with the New York State Police Bureau of Criminal Investigations. The Department worked with NIC to develop "Avoiding Inappropriate Behavior Between Staff and Inmates," one of the first training programs in the nation addressing staff sexual misconduct that was delivered to all DOCCS employees beginning in 1998. In 2005, DOCCS introduced an additional training program for all employees on the "Prevention of Sexual abuse of Inmates." These training programs are used as part of the agency's curriculum for new employees and for periodic in-service training.

The Department has completed work on a pair of ground breaking comprehensive inmate educational films, Ending Sexual Abuse Behind Walls; an orientation, © addressing sexual safety in confinement. Using PREA Demonstration Project Grant through the US Bureau of Justice Assistance, DOCCS partnered with a private company and film company to develop two orientation films. These films represent a first in the nation approach to sexual safety education by letting current inmates tell new inmates what they wish they knew when they first started serving their sentences. These short films impart essential information about the Department's Zero Tolerance for sexual abuse, how to report, and what to expect when a report is made. The films are in a number of languages and have subtitles. Inmates are shown the film during orientation that is given within a week after they arrive at the facility and repeated during the year.

The DOCCS investigates all reports of sexual abuse, sexual harassment, and retaliation in connection with a sexual abuse or harassment matter. All reports, including third-party and anonymous reports are confidential and are thoroughly investigated. In April 2013, DOCCS created an Associate Commissioner/PREA Coordinator position responsible for developing and implementing policy, and overseeing DOCCS' compliance with the PREA Standards. The PREA Coordinator is a member of the DOCCS' Executive Team, and leads a team of professionals, both in Central Office and in the facilities, dedicated to preventing and responding to incidents of sexual abuse. Today, DOCCS is proud to be a leader in the national efforts to improve correctional practices under the Prison Rape Elimination Act of 2003 (PREA). Marcy Correctional Facility is a well-managed medium/maximum prison housing general population and residential mental health confinement male inmates. Administration has designed, developed, implemented and now are monitoring a comprehensive PREA practice that meets or exceeds all of the required PREA standards.

SUMMARY OF AUDIT FINDINGS

Comparing policies and practice with data received and reviewed, observations, and interviews to the standard requirements began with the pre-audit activity, continued during the site visit and was completed during the post audit summary report stage. There were 7 standards that substantially exceeds requirement of the standard: 115.11 Zero tolerance of sexual abuse and sexual harassment: PREA Coordinator; 115.13 Supervision and monitoring; 115.16 Inmates with disabilities and inmates who are limited English proficient; 115.31 Employee training; 115.33 Inmate education; 115.64 Staff first responder duties; and 115.71 Criminal and administrative agency response. Standards that are non-applicable include: 115.12 Contracting with other entities for the confinement of inmates; 115.14 Youthful inmates; 115.18 Upgrades to facilities and technologies; and 115.52 Exhaustion of administrative remedies. The other 32 standards are compliant.

The auditor, in reviewing and interviewing staff training, noted that there is teamwork exhibited by the facility as a whole and there is an importance placed on professionalism and the efforts in complying with PREA standards, ACA standards and in the daily performance of duties. Random staff interviews, and random inmate interviews also clearly indicated a thorough, and consistent training program that substantially exceeds requirement of training standards. An explanation of the findings related to each standard showing policies, practice, observations and interviews are provided in this report under each standard. The New York Department of Corrections and Community Supervision is a leader in national efforts to improve correctional practices under the Prison Rape Elimination Act of 2003 (PREA). Evidence supports PREA is a priority for the Department and there is exceptionally strong leadership at Marcy Correctional Facility enforcing the Department's PREA policies that were developed using best practices in corrections. The auditor was positively impressed with Marcy Correctional Facility's commitment to the PREA audit process.

Number of standards exceeded:	7
Number of standards met:	32
Number of standards not met:	0
Number of standards not applicable:	4

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

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

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

The auditor reviewed DOCCS Directive #4027A, Sexual Abuse & Intervention – Inmate-on-inmate, 8/16/11-II; Directive #4028A, Sexual Abuse & Intervention Staff-on-Inmate-8/17/11 –II; Employee Manual Section – Rev. 2013-2.19 & 2.20 and confirm policies are in place and enforced to ensure the agency has written policies 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 policies include definitions of prohibited behaviors regarding sexual assault and sexual harassment of inmates with sanctions for those found to have participated in prohibited behaviors. Also, Directives #4027A/4028A Sexual Abuse Prevention & Intervention include the agency strategies and response to reduce and prevent sexual abuse and sexual harassment of inmates.

Interviews with specialty and random selection staff and inmates confirm they have been trained on PREA compliance and know PREA means Safe and Secure Prisons and DOCCS has a zero tolerance toward all forms of sexual abuse and sexual harassment. During the tour of the facility the auditor observed posters regarding DOCCS zero tolerance toward all forms of sexual abuse and sexual harassment strategically place throughout the facility.

In a letter dated 3/14/12 from the DOCCS Commissioner RE: Appointment of Associate Counsel as PREA Coordinator for DOCCS with Duties Description and Email announcement from DOCCS Commissioner, 4/23/13 RE: Associate Commissioner Appointment (PREA) and review of DOCCS Organizational Chart confirms the Commissioner has designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee the agency's efforts to comply with the PREA standards in all of its facilities at all times.

Interview with the PREA Coordinator confirms he is responsible for the DOCCS agency-wide PREA requirements and has sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities. The PREA Coordinator position in the agency's organizational structure is Associate Commissioner (PREA) reporting to the Acting Commissioner. Interview with the PREA Coordinator, observation during the audit and review of DOCCS Organizational Chart confirms his status.

Marcy Correctional Facility is one of many facilities under the direction of DOCCS. Review of Memo: from Deputy Commissioner and Associate Commissioner, 4/4/14, RE: Facility Prison Rape Elimination Act (PREA) and Email announcement from PREA Coordinator, 7/15/14 RE: Assistant Deputy Superintendent/PREA Compliance Manager Appointments with Duties Description confirms the agency operates more than one facility, and has required each facility to designate a PREA Compliance Manager or PREA Point Person with sufficient time and authority to coordinate the facility's efforts to comply with the PREA Standards.

The agency's commitment to PREA is shown in the organizational structure developed. There is a PREA Coordinator responsible for the agency-wide PREA with PREA Compliance Managers responsible for PREA in a number of facilities. If a facility does not have a PREA Compliant Manager located at the facility then the facility Superintendent designates a PREA Compliant Manager/PREA Point Person usually a Captain in the facility. Interviews with the PREA Coordinator, the area PREA Compliance Manager and the Marcy PREA Compliance Manager/ Point Person confirm that the PREA Compliance Manager/Point Person has been designated at Marcy Correctional Facility and he has sufficient time and authority to coordinate the facility's efforts to comply with the PREA Standards. The Marcy PREA Compliant Manager/Point Person is a Captain with direct access to the facility Superintendent.

Review of documentation, observation of zero tolerance posters during tours of facility and interviews with staff and inmates, as described, confirms DOCCS is compliant. The agency's zero tolerance for sexual abuse and sexual harassment is a top priority. Marcy Correctional Facility is committed to operating in compliance with PREA and continues to report all allegations of any form of sexual misconduct to the Office of Special Investigations for review and follow up. The facility has invested the necessary resources and time to educate the inmate population about their rights under PREA and to train security and civilian staff, contract staff, and volunteers concerning their obligation to identify and report knowledge or suspicion of inappropriate activity related to PREA. The agency's strong support for developing, implementing and monitoring the PREA Standards is evident with the policies developed and enforced. The agency's priority commitment

to PREA is evident with three levels of staff beginning with the agency-wide PREA Coordinator, PREA Compliant Managers with multiple facilities and facility (Marcy) PREA Point Person. In conclusion, the auditor finds the facility substantially exceed the requirement for Standard 115.11 Zero Tolerance of Sexual Abuse and Sexual Harassment; PREA Coordinator.

Standard 115.12 Contracting with other entities for the confinement of inmates

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

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

A public agency that contracts for the confinement of its inmates with private agencies or other entities, including other government agencies, shall include in any new contract or contract renewal the entity's obligation to adopt and comply with the PREA standards. Marcy Correctional Facility does not independently contract with any private agencies or other entities; therefore this part of the standard is non-applicable.

Any new contract or contract renewal shall provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards. Marcy Correctional Facility does not independently contract with any private agencies or other entities; therefore this part of the standard is non-applicable.

The auditor conclusion for Standard 115.12 is non-applicable since Marcy Correctional Facility does not independently contract with any private agencies or other entities.

Standard 115.13 Supervision and monitoring

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

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

Review of Marcy Correctional Facility Annual Security Chart/Staffing Review - Report with Recommended Changes to Facility Plot Plan (staffing plan), interviews with Superintendent, PREA Compliance Manager and facility PREA Point Person confirm policies are in place and enforced to ensure Marcy Correctional Facility has developed, documented, and makes its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect inmates against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, Marcy Correctional Facility has taken into consideration: 1) Generally accepted detention and correctional practices; 2) Any judicial findings of inadequacy; 3) Any findings of inadequacy from Federal investigative agencies; 4) Any findings of inadequacy from internal or external oversight bodies; 5) All components of the facility’s physical plant (including “blind-spots” or areas where staff or inmates may be isolated); 6) The composition of the inmate population; 7) The number and placement of supervisory staff; 8) Institution programs occurring on a particular shift; 9) Any applicable State or local laws, regulations, or standards; 10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and 11) Any other relevant factors. Marcy Correctional Facility Staffing Plan was predicated on an average daily number of 1,218 inmates.

Since August 20, 2012 the average daily number of inmates was 1,170 inmates.

Interview with the Superintendent found Marcy Correctional Facility has a staffing plan providing adequate staffing levels to protect inmates against sexual abuse using video surveillance to monitor inmate movement throughout the complex. The staffing plan is: reviewed annually; documented and available with the facility Staffing Lieutenant. According to the Facility PREA Compliant Manager/Point Person the staffing positions are allocated from the staffing plan established by DOCCS. The Staffing Plan is: within generally accepted guidelines and practices; considers all 11 areas in the first paragraph; determined by the facility physical layout and its daily operational needs and is review annually.

The facility provided an example of the Marcy Correctional Facility Post Closure Report showing circumstances: when the staffing plan was not complied with; the facility documents and justifies all deviations from the plan as reviewed; and reasons staffing plan not met. Deviations from the Staffing Plan are documented in reports and include: emergency medical trip; special watches; program closed - holiday and area closed – weather.

The auditor reviewed the Marcy Correctional Facility Annual Staffing Audit Review RE: Consultation with PREA Coordinator confirming the agency, whenever necessary, but no less frequently than once each year, for each facility the agency operates, in consultation with the PREA coordinator required by 115.11, the agency assess, determine, and document whether adjustments are needed to: 1) The staffing plan established pursuant to the first paragraph of this section; 2) The facility's deployment of video monitoring systems and other monitoring technologies; and 3) The resources the facility has available to commit to ensure adherence to the staffing plan. The current average daily staffing level is based on 1,218 inmates with the actual average daily number of inmates since August 20, 2012 being 1,170 inmates. This staffing level is within generally accepted guidelines and practices. Interview with the PREA Coordinator confirmed he is consulted regarding assessments of and adjustments to the staffing plan for Marcy Correctional Facility on an annual basis.

Review of agency's Directive #4001, Facility Administrative Coverage & Supervisory Rounds, 4/7/14 – VI A, C, Pages 4-5, and Form 401 A, Form 4011 B, 8/15 confirm Marcy Correctional Facility has implement a policy and practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Such policy and practice has been implemented for night shifts as well as day shifts. The facility has a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

The auditor reviewed example log book entries: executive team and security supervisor announced/unannounced rounds on tour I, tour II and Tour III; examples of weekly administrative activity report; form 4001 (8/15) tour I, tour II and tour III rounds; and examples of security supervisor report; form 4001 B (8/15) tour I, tour II and tour III rounds. Interviews with the Superintendent, intermediate-level and higher-level supervisors confirm unannounced rounds are being done on all three shifts on a regular basis. Observation while visiting the housing units and reviewing the log books confirm unannounced rounds are being done per Standard 115.13.

In conclusion, based on: review of excellent documentation showing development, review and recommendations for improvement of the staffing plan; observation during tour of the facility and interviews with staff during tours and random selection of staff and inmates this facility is not only compliant but substantially exceed requirements with Standard 115.13 Supervision and Monitoring.

Standard 115.14 Youthful inmates

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

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

A youthful inmate shall not be placed in a housing unit in which the youthful inmate will have sight, sound or physical contact with any adult inmate through use of a shared dayroom or other common space, shower area, or sleeping quarters. Marcy Correctional Facility had 5 youthful inmates prior to the opening of DOCCS Juvenile units last year and the age of inmates now accepted are 18 years or older. Therefore, this standard is non-applicable.

In areas outside of housing units, agencies shall either; 1) maintain sight and sound separation between youthful inmates and adult inmates, or 2) provide direct staff supervision when youthful inmates and adult inmates have sight, sound, or physical contact. Marcy Correctional Facility does not have any youthful inmates so this Standard is non-applicable.

Agencies shall make its best efforts to avoid placing youthful inmates in isolation to comply with this provision. Absent exigent circumstances, agencies shall not deny youthful inmates daily large-muscle exercise and any legally required special education services to comply with this provision. Youthful inmates shall also have access to other programs and work opportunities to the extent possible. Marcy Correctional Facility does not have any youthful inmates so this Standard is non-applicable.

Standard 115.15 Limits to cross-gender viewing and searches

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

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

Review of DOCCS Directive #4910, Control and Search for Contraband, 5/14/14 & Rev. Notice 2/24/15 –III B1b, 5; 3b (3) Note; III G 1b, 5; Attachment’s A, G; HSPM 1.37 Body Cavity, 9/20/95 – Entire; Directive #2230, Guidelines for Assignment of Male and Female Correction Officers, 3/13/15 – I C, II E, , III and Memo dated 5/14/14 from Deputy Commissioner and PREA Coordinator regarding revisions to Directive #4910 confirms the facility does not conduct cross-gender strip searches or cross-gender visual body cavity searches except in exigent circumstances or when performed by medical practitioners.

Interview with random selection of staff and inmates found the facility does not allow cross-gender viewing and searches except in exigent circumstances or when performed by medical practitioners per agency policy. There were zero cross-gender searches or cross-gender visual body cavity searches at Marcy Correctional Facility during the last twelve months. During the tour of housing units the auditor interviewed security staff who confirmed they do not conduct cross-gender strip searches or cross-gender visual body cavity searches.

As of August 20, 2015, or August 20, 2017 for a facility whose rated capacity does not exceed 50 inmates, the facility shall not permit cross-gender pat-down searches of female inmates, absent exigent circumstances. Facilities shall not restrict female inmates’ access to regularly available programming or other out-of-cell opportunities in order to comply with this provision. Marcy Correctional Facility is an all-male facility. Therefore, this part of the Standard is non-applicable.

Review of DOCCS Directive #4910, Control and Search for Contraband, 5/14/14 & Rev. Notice 2/24/15 –III B 3b (3) Note; III G 1b, 5: Attachments A, G and Memo dated 5/14/14 from Deputy Commissioner and PREA Coordinator regarding revisions to Directive #4910 confirm the facility documents all cross-gender strip searches and cross-gender visual body cavity searches, and document all cross-gender pat-down searches of female inmates.

Marcy Correctional Facility is an all-male facility so there were non-cross-gender pat-down searches of female inmates. Interviews with staff confirmed there were no cross-gender strip searches or cross-gender visual body cavity searches during the audit period.

Review of DOCCS Directive #4910, Control and Search for Contraband, 5/14/14 & Rev. Notice 2/24/15 –III B 3b (3) Note; III G 1b, 5: Attachments A, G and Memo dated 5/14/14 from Deputy Commissioner and PREA Coordinator regarding revisions to Directive #4910 confirm the facility has implemented policies and procedures that enable inmates to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breast, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. These policies and procedures require staff of the opposite gender to announce their presence when entering an inmate housing unit.

Interviews with random selection of staff and random selection of inmates from each housing unit confirm that inmates are able to shower, perform bodily functions and change clothing without non-medical staff of the opposite gender viewing them as required by the Standard. Interviews with staff and inmates confirm staff of the opposite gender announces their presence when entering an inmate housing unit.

Observation during the tour of the housing units confirms staff of the opposite gender announces their presence when entering an inmate housing unit.

Review of DOCCS Sexual Abuse Prevention and Response (SAPR) Lesson Plan, Objectives, 4/10/15; Memo dated 5/14/14 from Deputy Commissioner and PREA Coordinator regarding revisions to Directive #4910; confirm policies are in place to ensure the facility not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. If the inmate's genital status is unknown, it may be determined during conversations with the inmate, by reviewing medical records, or, if necessary by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

Interview with a random selection of Correction Officers, Captain, Lieutenants, Sergeants and Correctional Officers confirm they have been trained not to search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. The facility did not have such a search occurring in the past 12 months per policy requirements.

Review of DOCCS Sexual Abuse Prevention and Response (SAPR) Lesson Plan, Objectives 4/10/15; Memo dated 5/14/14 from Deputy Commissioner and PREA Coordinator regarding revisions to Directive #4910; Contraband and Frisk Lesson Plan, Cover Page – December 2001 confirm policies are in place to ensure training security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

Documentation was provided showing that all security staff (100%) have signed a document showing they have received and understand the cross-gender pat-down searches and searches of transgender and intersex inmates. Interviews with random selection of staff confirmed they have received this training in training academy, with initial PREA training and receive in-service PREA training annually.

In conclusion, based on documentation provided and reviewed; observations of showers and toilet areas and interviews with staff and inmates Marcy Correctional Facility is compliant with Standard 115.15 Limits to Cross-Gender Viewing and Searches.

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

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

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

Review of DOCCS Directive #2612, inmates with Sensorial Disabilities, 4/30/15 – I; Memo: from PREA Coordinator, 10/27/14 – RE: "Reasonable Accommodations" confirm the agency has policies in place and enforced to ensure the agency takes appropriate steps to ensure that inmates with disabilities (including, for example, inmates who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps include, when necessary to ensure effective communication with inmates who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, the agency ensures that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities, including inmates who have intellectual disabilities, limited reading skills, or who are blind or have low vision. An agency is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans With Disabilities Act, 28 CFR 35.164.

Interviews with a handicap inmate and limited English speaking inmate confirmed the facility provides information about sexual abuse and sexual harassment that he is able to understand and he is aware additional assistance is available to him. Interview with the Acting Commissioner confirmed that DOCCS has a system-wide language access policy that ensures individuals who require assistance with language can still fully participate in critical functions by using the Language Line services for translation of written documents or interpretation of spoken language. There are CD's and Tape Cassettes that provide visually impaired inmate's information. Ninety percent

of the limited English population at Marcy Correctional Facility is Spanish speaking and all vital documents are translated into Spanish. The agency's Office of Cultural and Language Access Services is responsible for implementing DOCCS' Language Access Plan and ensuring that Limited English Proficient (LEP) individuals can access the Department's programs, services and benefits. Vital documents and PREA informational brochures and inmate education film are available in English, Spanish, Italian, Simplified Chinese, Russian, Korean, Polish and Haitian Creole.

Review of DOCCS Directive #4490 Cultural and Language Access Services, 1/15/16- Entire; Memo: from PREA Coordinator, 12/28/15 – Entire; Sample of pamphlet translations in various language; Language Access Plan, 4/1/15; and Form 115.33 – facility specific example of Spanish version confirm the agency has taken reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

Interview with the Acting Commissioner confirms the agency has procured Interpretation Services for Individuals with Limited English Proficiency that is available over-the-phone Interpretation Services and in-person (consecutive) Interpretation Services. Contracts were awarded on a regional basis so there are different vendor for different geographic areas. Marcy Correctional Facility is in the Oneida HUB with three available vendors.

Review of DOCCS Directive #4490 Cultural and Language Access Service, BI page 4 and Language Access Plan, 4/1/15 and Directive #2612 page 2, Inmates with Sensorial Disabilities, 4/30/15 – I , confirm the agency does not rely, per policy, on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under 115.64, or the investigation of the inmate's allegations.

Interviews with staff confirms that inmate interpreters for sexual abuse and sexual harassment are not allowed and facility approved interpreters are available for inmates if necessary. In the past 12 months there were zero instances where inmate interpreters, readers, or other types of inmate assistants were used.

In conclusion, based on review of policies and procedures; observation of posters placed strategically in the facility and interviews with acting Commissioner, staff and inmates Marcy Correctional Facility has taken more than appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment and is not only compliant but Exceeds in Standard 115.16 Inmates with Disabilities and Inmates who are limited English Proficient.

Standard 115.17 Hiring and promotion decisions

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

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

Review of DOCCS Directive #2216, Fingerprinting/Criminal History Inquiry – New Employees and Contractors, 9/17/15 – I,III, Attachment A; Memo: from Director of Personnel, 4/30/14, RE: Personnel Procedure #407 – Civilian Promotions, Personal Procedure Manual #407A – Security Promotions, 4/29/14 confirm policies are in place and enforced to ensure the agency not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any contractor who may have contact with inmates, who: 1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); 2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or 3) Has been civilly or administratively adjudicated to have engaged in the activity described in the first paragraph (2) of this section.

The interview with the Human Recourse Manager found prior to appointment the facility performs criminal record background checks and considered pertinent civil or administrative adjudication for every candidate selected for an employment, contractor or potential promotional

appointment is conducted as described in the first paragraph. Prior incidents of sexual harassment are considered when determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates.

Review of DOCCS Directive #2216, Fingerprinting/Criminal History Inquiry – New Employees and Contractors, 9/17/15 – I,III, Attachment A; Memo: from Director of Personnel, 4/30/14, RE: Personnel Procedure #407 – Civilian Promotions, Personal Procedure Manual #407A – Security Promotions, 4/29/14 confirm the agency considers any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates.

Review of policies and procedures and interview with Human Resource Manager confirms that incidents of sexual harassment are strongly considered in considering employment, promotions and contractor.

Review of Memo: from Deputy Commissioner and Counsel, 8/18/15, RE: Prison Rape Elimination Act (PREA) – Background Checks – Appendix A and Directive #2216, Fingerprinting/Criminal History Inquiry – New Employees and Contractors, 9/17/15 – I, III, Attachment A confirms before hiring new employees who may have contact with inmates, the agency: 1) Performs a criminal background records check; and 2) Consistent with Federal, State, and local law, makes its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

Review of policies, procedures and forms; random sample of employee files; and interview with the Human Resource Manager confirm the agency perform criminal record background checks. In the past 12 months 148 people who have contact with inmates were hired who had criminal background record checks.

Review of DOCCS Directive #2216, Fingerprinting/Criminal History Inquiry – New Employees and Contractors, 9/17/15 – I, III, Attachment A; confirms the agency performs a criminal background records check before enlisting the services of any contractor who may have contact with inmates.

There were no new contractors hired during the last twelve months.

Standard 115.17 requires the agency either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with inmates or have in place a system for otherwise capturing such information for current employees. Review of Memo: from Deputy Commissioner and Counsel, NY Division of Criminal Justice Service, 8/18/15, RE: Prison Rape Elimination Act (PREA) – Background Checks – Appendix A; Directive #2112, Report of Criminal Charges, 5/5/15 –I; confirm that the agency has in place a system for capturing information for current employees and contractors. The NY Division of Criminal Justice Service will notify DOCCS of subsequent arrests of subject individual unless the Division is prohibited by State statute to do so. Employees, by policy, are required to report any arrest.

Review of policies, procedures and forms and interview with the Human Resource Director confirm the Division of Criminal Justice Service will notify DOCCS of subsequent arrests of the subject individual, unless the Division is prohibited by State statute to do so. The agency requires the employee to complete a “Report of Criminal Charges” if they are charged with the commission of: a felony or misdemeanor; a violation which alleges possession and/or use of a controlled substance; a domestic related incident and/or Order of Protection (current).

Interviews with staff and review of DOCCS Directive #2112, Report of Criminal Charges, 5/5/16 – I Memo: from Deputy Commissioner and Counsel, NY Division of Criminal Justice Service, 8/18/15, RE: Prison Rape Elimination Act (PREA) – Background Checks – Appendix A; Form 1253 – Personal History and Interview Record, 4/13 – Cover, 7a, E b and Facility Specific example: Form 1253 – Sample Derogatory Denial or Approval on Background check, confirm the agency ask all applicants and employees who may have contact with inmates directly about previous misconduct described in the first paragraph of this section in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. The agency imposes upon employees a continuing affirmative duty to disclose any such misconduct.

Review of policies, procedures, forms and employee files and interview with Human Resource Manager confirm applicants and employees complete a Personal History and Interview Record Form answering personnel history questions about sexual abuse and sexual harassment activity.

Review of Form EIU23 – Personal History Questionnaire – (Rev. 8/14) – Cover, 20a & b, 21, 22, 25a, 35, 36 confirm policies and forms are in place to ensure material omissions regarding such misconduct, or the provision of materially false information, are grounds for termination.

Interview with the Human Resource Manger confirm termination for material omissions regarding misconduct or providing false information are grounds for termination.

Review of DOCCS Directive #2012, Release of Employee Personnel and Payroll Information, 8/7/15 -2C 6 a. & b confirms unless

prohibited by law, the agency provides information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

Interview with the Human Resource Manager confirms that release of employee personnel and payroll information is per Directive #2012 9/6/2013, guidelines for release of specified employee personnel information.

In conclusion, based on review of the documentation provided; observation when visiting the Human Resource area; and interviews with Human Resource staff found all elements of this standard in place. The auditor reviewed the list of 148 (110 securities and 38 civilian) new employees hired in the last year and reviewed a random selection of files and confirm compliance with the Standard 115.17 Hiring and Promotion Decisions.

Standard 115.18 Upgrades to facilities and technologies

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

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

When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect inmates from sexual abuse. Marcy Correctional Facility has not acquired a new facility or made a substantial expansion to existing facilities since August 20, 2012 so this part of the Standard 115.18 is non-applicable.

When installing or updating a video monitoring system, or other monitoring technology, the agency shall consider how such technology may enhance the agency's ability to protect inmates from sexual abuse. Marcy Correctional Facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012 so this part of Standard 115.18 is non-applicable.

Marcy Correctional Facility has not designed, acquired or are planning any substantial expansion or modification of existing facility or installed or updated a video monitoring system or other monitoring technology since August 20, 2012. Therefore, Standard 115.18 Upgrades to Facilities and Technology is Non-applicable.

Standard 115.21 Evidence protocol and forensic medical examinations

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

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

Review of Directive #4027B Sexual Abuse Reporting Investigation – Inmate-on-Inmate, 8/16/11 – Attachment B – Appendix 1-5; Operational Guidelines – Office of Special Investigations Immediate Dispatch, Inmate-on-Inmate/Staff –on-Inmate; Sexual Abuse

Prevention and Response (SAPR) Lesson Plan, March 2015; and Statement of Non-Applicability, 5/14/2015 confirm policies are in place and enforced to enable DOCCS the responsibility for investigating allegations of sexual abuse and the agency follows a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. Interviews with medical/mental health staff and investigators and review of specific evidence collection and preservation documentation found DOCCS does not conduct on-site forensic medical examinations. When evidentiary or medical appropriate, a victim of sexual abuse shall be transported to an outside hospital and is provided treatment and services as required by the laws, regulations, standards and policies established by State of New York and administered by the New York State Department of Health. This includes but is not limited to, minimum standards and the uniform evidence protocol adopted by the Department of Health. The evidence protocol includes sufficient technical detail to aid responders in obtaining useable physical evidence.

Department of Health Protocol for the Acute Care for the Adult Patient Reporting Sexual Assault – Revised October 2008; and Statement of Non-Applicability, 5/14/2015; confirm policies are in place to ensure the protocol is developmentally appropriate for youth where applicable, and, as appropriate, is adapted from or otherwise based on the most recent edition of the U.S. Department of Justice’s Office on Violent Against Women publication, “A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,” or similarly comprehensive and authoritative protocols developed after 2011.

Marcy is an all-male adult facility for inmates 18 years and older. Therefore, this part of the standard is non-applicable.

Review of HSPM 1.60 – Sexual Assault, 5/20/14 –II, III A 1 C confirm there are policies are in place and enforced to ensure the agency offers all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiary or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practioner. The agency documents its efforts to provide SAFEs or SANEs.

Interviews with staff from Vera House found they have a contract with three hospitals in the area to provide SANE/SAFE forensic medical examinations with the service available 24/7. Should a SANE/SAFE not be available through Vera House the inmate would be seen by medical staff in the emergency room. Interview with facility medical staff confirm the service is available without financial cost to the inmate. There were zero forensic medical exams conducted during the past 12 months.

Review of DOCCS Operational Guidelines – Office of Special Investigations Immediate Dispatch, Inmate-on-Inmate/Staff –on-Inmate confirm DOCCS has polices in place and enforced to ensure the agency attempts to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the agency makes available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member. Agency documents efforts to secure services from rape crisis centers. For the purpose of this standard, a rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g(b)(2)(c), to victims of sexual assault of all ages. The agency may utilizes a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services.

Interviews with PREA Compliance Manager/Point Person, facility medical staff and Vera House staff confirm rape crisis center staff is made available to provide victim advocate services. The agency had a grant for a contract to include victim advocate services that expired December 31, 2015. Attempts are being made to seek additional grant monies to extend the service and documentation of such attempt has been provided.

Review of DOCCS Operational Guidelines – Office of Special Investigations Immediate Dispatch, Inmate-on-Inmate/Staff -on-Inmate confirm that policies are in place and enforced to ensure as requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member accompany and support the victim through the forensic medical examination process and investigatory interviews and provide emotional support, crisis intervention, information, and referrals.

Interviews with PREA Compliance Manager/Point Person, facility medical/mental health staff and Vera House staff confirm that policies are in place to ensure victim advocate services are available. However, there were zero forensic medical exams conducted during the past 12 months.

Review of Letter to Superintendent NY State Police, 5/2/14 RE: Implementation of the PREA Standards, Entire confirm policies are in place to ensure the NY State Patrol follows the requirements of all paragraphs of this section. The Standard requires to the extent the agency itself is not responsible for investigating allegations of sexual abuse, the agency shall request that the investigating agency follow the requirements of all paragraphs of this section.

The agency is responsible for administrative and criminal investigations and works cooperatively with NY State Police (NYSP), Bureau of Criminal Investigation (BCI). Therefore, this part of Standard 115.21 is non-applicable.

The requirements of all paragraphs of this section shall also apply to: 1) Any State entity outside of the agency that is responsible for investigating allegations of sexual abuse in prisons or jails; and 2) Any Department of Justice Component that is responsible for investigating allegations of sexual abuse in prisons or jails.

The agency is responsible for administrative and criminal investigations. Therefore, this part of Standard 115.21 is non-applicable.

For the purposes of this section, a qualified agency staff member or a qualified community-based staff member shall be an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general.

The agency is responsible for administrative and criminal investigations. Therefore, this part of Standard 115.21 is non-applicable.

In conclusion, based on documentation reviewed and interviews with medical, mental health staff and Vera House staff DOCCS is responsible for administrative and criminal investigations, forensic medical examinations are available to victims at no cost and victim advocate services are available to inmate victims of sexual abuse. Marcy Correctional Facility is compliant with Standard 115.21 Evidence Protocol and Forensic Medical Examinations.

Standard 115.22 Policies to ensure referrals of allegations for investigations

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

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

Review of Directive #4027B, Sexual Abuse Reporting & Investigation – Inmate-on-Inmate, 8/16/11 – V II B; Attachment A; Directive #4028B, Sexual Abuse Reporting & Investigation – Staff-on-Inmate, 8/17/11 – VI B; Attachment A confirm policies are in and enforced place to ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.

Interview with the Acting Commissioner found in accordance with his authority under Section 112 of the New York State Correction Law, he has designated the Department's Office of Special Investigation (OSI) as the Department's investigative branch to investigate allegations of serious misconduct in the facilities. The Office of Special Investigations conducts criminal and administrative investigations of all allegations of sexual abuse. Allegations of sexual harassment are reviewed by OSI and may either be investigated by OSI or by the facility subject to OSI review. During the last twelve months 17 allegations of sexual abuse and sexual harassment were received. The allegations sent to administrative investigation were 5 with 12 referred for criminal investigation. At the time of the audit 6 were unfounded; 5 unsubstantiated and 6 ongoing. The auditor reviewed the files and found they had been processed according to policy.

Reviews of Directive #0700, Office of Special Investigations, 10/23/14 – I; III. D.; IV, A; Directive #4027A, Sexual Abuse Prevention & Intervention – Inmate-on Inmate, 8/16/11 – II; and Directive # 4028A, Sexual Abuse Prevention & Intervention – Staff-on-Inmates, 8/17/11 – II; confirm policies are in place and enforced to ensure allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. The agency publishes such policy on its website or, if it does not have one, makes the policy available through other means. The agency documents all such referrals. Review of the New York DOCCS website found: the PREA Policy; History of Combating Sexual Abuse; Report Sexual Abuse; all having valuable additional information available by clicking on the area desired.

Interview with Investigative staff confirm all allegations of sexual abuse or sexual harassment are immediately referred for investigation. Review of New York Department of Correction and Community Supervision's website found: the PREA Policy; History of Combating Sexual Abuse; Report Sexual Abuse; all having valuable additional information available by clicking on the link desired.

If a separate entity is responsible for conducting criminal investigations, such publication shall describe the responsibilities of both the agency and the investigating entity.

According to the DOCCS Statement of Non-Applicability, 5/15/15 the Acting Commissioner of DOCCS has delegated the authority to
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conduct administrative and criminal investigation to the Office of Special Investigations (OSI) who works cooperatively with NY State Police (NYSP), Bureau of Criminal Investigation (BCI) in the investigation of reported incidents of staff-on-inmate and inmate-on-inmate sexual abuse that may involve criminal conduct. Department of Corrections and Community Supervision are responsible for criminal investigations. Therefore, DOCCS has not relinquished this authority to any separate entity and this part of Standard 115.22 is non-applicable for DOCCS.

Any State entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in prisons or jails shall have in place a policy governing the conduct of such investigations.

According to the DOCCS Statement of Non-Applicability, 5/15/15 the Acting Commissioner of DOCCS has delegated the authority to conduct administrative and criminal investigation to the Office of Special Investigations (OSI) in accordance with Correction Law 112 and Directive #0700 "Office of Special Investigations. This part of Standard 115.22 is non-applicable.

Any Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in prisons or jails shall have in place a policy governing the conduct of such investigations.

According to the DOCCS Statement of Non-Applicability, 5/15/15 The Department of Justice is not responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in NY DOCCS facilities. Therefore, this part of the standard is non-applicable.

In conclusion, based on the interview with investigators for Marcy Correctional Facility they confirmed the policies are in place to ensure all allegations of sexual abuse, sexual threats and retaliation concerning an incident of sexual abuse is thoroughly investigated. Other interviews with random staff and specialty staff confirm that all allegations of sexual abuse, sexual harassment and retaliation are immediately investigated. Review of documents including files, observations during tour, and interviews with staff and inmates the facility is compliant with Standard 115.22 Policies to Ensure Referrals of Allegations for Investigations.

Standard 115.31 Employee training

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

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

Review of DOCCS Training Manual Subject 0.100 – Frequency Training Chart and Training Bulletins, 9/23/15 – Entire (1-10 areas on pages 17-18, 19-28, 30-34, 35-40, 55-56, 58-68, 69-73); Memo: from Deputy Commissioner and PREA Coordinator, 4/8/15 – RE: Sexual Abuse Prevention and Response Training; Sexual Abuse Prevention and Response Lesson Plan, March 2015, Report of Training Form: Sexual Abuse Prevention and Response (PREA) RTF – PREA (2/2015) confirm DOCCS has policies in place and enforced to ensure training all employees who may have contact with inmates on: 1) Its zero-tolerance policy for sexual abuse and sexual harassment; 2) How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures; 3) Inmates' rights to be free from sexual abuse and sexual harassment; 4) The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment; 5) The dynamics of sexual abuse and sexual harassment in confinement; 6) The common reactions of sexual abuse and sexual harassment victims; 7) How to detect and respond to signs of threatened and actual sexual abuse; 8) How to avoid inappropriate relationships with inmates; 9) How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates; and 10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Interviews with random sample of staff, specialty staff and executive staff, and review of employee signed training rosters confirm that the PREA training has been given to: each new employee; all current staff within one year of the effective date of PREA and PREA training is including in the annual in-service training. The training records show that all employees signed they have received and understood their responsibilities under PREA.

Review of Sexual Abuse Prevention and Response Lesson Plan, March 2015, Report of Training Form: Sexual Abuse Prevention and Response (PREA) RTF – PREA (2/2015); Training Manual Subject: 6.500 – Facility Familiarization confirm policies are in place and enforced to ensure that DOCCS training is tailored to the gender of the inmates at the employee’s facility. The employee shall receive additional training if the employee is reassigned from a facility that houses only female inmates, or vice versa.

Familiarization training policy review confirm all Department employee who have been newly transferred from one facility to another receive familiarization on compliance with PREA and the Department’s Sexual Abuse Prevention and Response Procedures. Such familiarization training is tailored to the gender of the inmate at the facility. Marcy Correctional Facility is an all-male facility and by facility policy staff is trained tailored to male inmates. Staff interviews confirm they have received training tailored to male inmates.

Review of DOCCS Training Manual Subject: 6.500 – Facility Familiarization; Training Manual Subject 0.100 – Frequency Training Chart and Training Bulletins, 9/23/15 – Entire; confirm all current employees who have not received such training were trained within one year of the effective date of the PREA standards, and the agency provided each employee with refresher training every two years to ensure that all employees know the agency’s current sexual abuse and sexual harassment policies and procedures. In years in which an employee does not receive refresher training, the agency shall provide refresher information on current sexual abuse and sexual harassment policies.

Interviews with the PREA Compliance Manager/Point Person, random staff, specialty staff and executive staff, and review of employee signed training rosters confirm that the PREA training has been given to: each new employee; all current staff within one year of the effective date of PREA Standards and PREA training is including in the annual in-service training. As at the date of the audit the number of staff employed by the facility, which may have contact with inmates who were trained or retrained on the PREA requirements was 581 Marcy Correctional Staff.

Review of DOCCS Sexual Abuse Prevention and Response Lesson Plan, March 2015, Report of Training Form: Sexual Abuse Prevention and Response (PREA) RTF – PREA (2/2015) and DOCCS Training Manual Subject: 6.500 – Facility Familiarization confirm policies are in place and enforced to ensure documents, through employee signature or electronic verification, that employees understand the training they have received.

Interviews with staff and review of documentation shows staff has received the PREA training and understands the training they have received.

In conclusion, based on the excellent PREA employee training curriculum developed including training tailored to the gender of the inmates at the employee’s facility, and tracking program in place to confirm all employees who have contact with inmates have received and understand their responsibilities under PREA and interviews with specialty, security and non-security staff and observations and questions answered during tour the facility substantially exceeds the requirements of Standard 115.31 Employee Training.

Standard 115.32 Volunteer and contractor training

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

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

Review of DOCCS Directive #4027A, Sexual Abuse Prevention & Intervention, Inmate-on- Inmate, 8/16/11 – IV A 2 and Directive #4028A, Sexual Abuse Prevention & Intervention, Staff-on-Inmate, 8/17/11 – V A 2 confirm the agency ensure that all volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency’s sexual abuse and sexual harassment prevention, detection, and response policies and procedures.

Interviews with the PREA Compliance Manager and volunteers and contractors who have contact with inmates confirm they have received PREA training on their responsibilities under the agency’s sexual abuse and sexual harassment prevention, detection, and response policies and procedures.

Review of Directive #4750, Volunteer Services Program, 3/7/13 – IV C 4 and Memo: from Acting Commissioner, 9/4/13, RE: Policy on the Prevention of Sexual Abuse of Offenders (revised) to all Employees, Contractors, Volunteers and Interns confirm policies are in place to ensure the level and type of training provided to volunteers and contractors is based on the services they provide and level of contact they have with inmates, but all volunteers and contractors who have contact with inmates are notified of the agency’s zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

Interviews with PREA Compliance Manager and volunteers and contractors who have contact with inmates found they have been notified of the agency’s zero-tolerance policy on sexual abuse and sexual harassment as well as informed about how to report such incidents. Interview with the individual who supervises volunteers confirmed volunteers receive training based on the level of contact they have with inmates with all volunteers trained in the agency’s zero tolerance policy.

Review of DOCCS Directive #4750, Volunteer Services Program, 3/7/13 – IV C 4 and Facility Specific Example: completed Division of Ministerial, Family, and Volunteer Services 2015 – Form REV:3/18/14 confirms the facility maintains documentation confirming that volunteers and contractors understand the training they have received.

Sample PREA Volunteer and Contractors Training Forms signed by the volunteers and contractors were reviewed showing they had received and understood their responsibilities from the PREA training. There were 77 volunteers who have contact with inmates who were trained in agency policies and procedures regarding sexual abuse/harassment prevention, detection,, and response.

In conclusion, based on: documentation reviewed; interviews with PREA Compliant Manager and volunteers; reviewing volunteer signed rosters; and observations during tour and response to questions Marcy Correctional Facility is compliant with Standard 115.32 Volunteer and Contractor Training.

Standard 115.33 Inmate education

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

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

Review of DOCCS Directive #4021, Offender Reception/Classification, 3/20/13 – II A 9, B 11; Memo: from Deputy Commissioner for Program Services and PREA Coordinator, 6/18/15, RE: PREA: Inmate Orientation Film Implementation; Memo: from PREA Coordinator, 12/28/15, RE: New and Updated PREA Materials and General Confinement/other: The Prevention of Sexual Abuse in Prison; “What Inmates Need to Know” confirm policies are in place and enforced to ensure during the intake process, inmates receive information explaining the agency’s zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.

Interview with intake staff confirm inmates are provided with information about the Department’s zero-tolerance policy and how to report incidents or suspicions of sexual abuse or sexual harassment immediately when they arrive at the facility during intake. Interviews with random sample of inmates confirm they receive the valuable PREA information verbally and in writing. The auditor observed arrival of new inmates to the facility and saw the PREA packets given to the inmates. There were 1,278 inmates admitted during the past 12 months who were given PREA information at intake

Review of DOCCS Directive #4027A, Sexual Abuse Prevention & Intervention, Inmate-on-Inmate, 8/16/11 – IV A 2 and Memo: from PREA Coordinator, 12/28/15, RE: New and Updated PREA Materials confirm policy is in place and enforced to ensure within 30 days of intake, the agency provides comprehensive education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents.

During the interview with intake staff the Sergeant advised he meets every inmate privately on the day of their arrival to the facility and addresses their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and

regarding agency policies and procedures for responding to such incidents. This process was confirmed with interview of random sample of inmates.

Review of Memo: from Deputy Commissioner for Program Services and PREA Coordinator, 6/18/15, RE: PREA: Inmate Orientation Film Implementation and Inmate Orientation Outline – 6/15/15 confirms policies are in place to ensure current inmates who have not received such education are educated within one year of the effective date of the PREA standards, and shall receive education upon transfer to a different facility to the extent that the policies and procedures of the inmate’s new facility differ from those of the previous facility.

According to the interview with the Sergeant responsible for intake all inmates in the facility have been educated in PREA and their inmates transferred in from another facility receive the PREA information upon arriving at the facility with formal PREA during orientation which is given within 7 day from arriving at the facility. Interviews with transfer-in inmates confirm they receive PREA information at intake and PREA education at the orientation.

Review of Memo: from PREA Coordinator, 10/27/14 RE: Reasonable Accommodations PREA Information; Memo: from PREA Coordinator, 12/28/15, RE: New and Updated PREA Materials confirm the agency has policies that require they provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, otherwise disabled, as well as to inmates who have limited reading skills.

Copies of New and Updated PREA Materials and PREA: Inmate Orientation Film Implementation was reviewed and confirms PREA material is available in a variety of languages with interpretation services provided in accordance with the Department’s Language Access Policy. In the event that an inmate has difficulty understanding the written material due to a disability or limited reading skills then appropriate staff provides assistance. The agency developed new male and female PREA inmate orientation films, “Ending Sexual Abuse Behind the Walls: An Orientation” . The project was funded by a Bureau of Justice Assistance PREA Demonstration Project Grant. The film is available in eight languages and has subtitles. The auditor reviewed the films and found them to be excellent content and of professional quality. The films are shown to all inmates during the reception, classification and facility inmate orientation process. Interview with the PREA Compliant Manager confirms the Reasonable Accommodations PREA Information ensures reasonable accommodations for inmates with Sensorial Disabilities provides equal access to all information provided to general population.

Review of Memo: from Deputy Commissioner for Program Services and PREA Coordinator, 6/18/15, RE: PREA: Inmate Orientation Film Implementation and Inmate Orientation Outline – 6/15/15 confirm the agency policy requires maintaining documentation of inmate participation in these education sessions.

Interviews with random sample of inmates confirmed they had received PREA written information and participated in PREA educational sessions and documented in writing their receipt and understanding of the material the day they receive the training. The intake supervising Sergeant also confirmed inmates sign a form when receiving material and training.

Review of Memo: from PREA Coordinator, 12/28/15, RE: New and Updated PREA Materials confirm in addition to providing such education, the agency ensures that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats.

Observations during the tour of the facility found PREA posters, telling inmates of their right to be free of sexual abuse and how to report incidents of sexual abuse, are strategically placed throughout the facility. Each inmate receives an Inmate Orientation Handbook and The Prevention of Sexual Abuse in Prison: What Inmates Need to Know brochures.

In conclusion, based on all inmates arriving at the facility receiving PREA information on day of arrival; inmates receiving complete PREA education training within 7 days of arrival at the facility; professional written PREA materials developed; PREA films available in 8 languages with subtitles and inmates signing acknowledgement forms documenting training received the auditor finds the facility substantially exceeds requirement of Standard 115.33 Inmate Education.

Standard 115.34 Specialized training: Investigations

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

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance

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

Review of DOCCS Office of Special Investigations Policy and Procedure – Training Requirements for Sex Crimes Investigators, 9/1/15 – Entire and Power Point Presentation Excerpt: PREA Specialized Training: Investigations, September 16, 2015 confirm policies are in place and enforced that ensure that in addition to the general training provided to all employees pursuant to 115.31, DOCCS ensures that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.

Interview with investigative staff found they received training specific to conducting sexual abuse investigations in confinement settings beginning with a three week investigations school and then on-the-job-training with a seasoned investigator. Additionally they have completed the NIC course “Investigating Sexual Abuse in a Confinement Setting” a course on interview, interrogation, and evidence collection.

Review of DOCCS Office of Special Investigations Policy and Procedure – Training Requirements for Sex Crimes Investigators, 9/1/15 – Entire; Power Point Presentation Excerpt: PREA Specialized Training: Investigations, September 16, 2015 and National Institute of Corrections Training (Section Overview) PREA; Investigating Sexual Abuse in Confinement Settings (DOCCS Course Code #17072); Power Point Presentation Excerpt: Sexual Abuse Investigations and PREA – 2014 Update, June 19, 2014 confirm policies are in place and enforced to ensure specialized training includes techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.

Interviews with investigative staff found the specialized training for investigators included: Techniques for interviewing sexual abuse victims; Proper use of Miranda and Garrity warnings; Sexual abuse evidence collection in confinement settings; and Criteria and evidence required to substantiate a case for administrative or prosecution referral. Review of training logs confirmed training received.

Review of DOCCS Office of Special Investigations Policy and Procedure – Training Requirements for Sex Crimes Investigators, 9/1/15 – Entire; Power Point Presentation Excerpt: PREA Specialized Training: Investigations, September 16, 2015; KHRT Training Report for Course #17072, National Institute of Corrections Training – PREA: Investigating Sexual Abuse in Confinement Settings; Report of Training Form for PREA Specialized Training: Investigations, August 5, 2015 and Report of Training Form for Sexual Abuse Investigations and PREA – 2014, updated, June 19, 2014 confirm DOCCS has policies in place and maintains documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations.

Training reports are on record and reviewed by the auditor confirming the 24 investigators currently employed by DOCCS have completed the required specialized training for investigators.

Any State entity or Department of Justice component that investigates sexual abuse in confinement setting shall provide such training to its agents and investigators who conduct such investigations.

There is no Department of Justice component. The NY State Police assist DOCCS with criminal investigations. Review of Electronic mail from Major, New York State Police, Bureau of Criminal Investigation regarding Bureau of Criminal Investigation members statewide have completed the DOCCS PREA training.

In conclusion, based on review of policies, procedures and training records, and interviews with investigators: investigators have received special training in conducting investigations in confinement settings, received specialized training and signed forms documenting they have received the training resulting in substantial compliance for Standard 115.34 Specialized Training: Investigations.

Standard 115.35 Specialized training: Medical and mental health care

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

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance

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

Review of Power Point Presentation: PREA: Medical and Mental Health Care HSPM 1.60 and PREA Standards; Training manual Subject 6.600, Mandatory Initial Training, Non-Security Staff at Facilities , 2/19/15 (Mandatory) and Email: PREA – Office of Mental Health Memorandum of Understanding To: All Superintendents (Interim MOU between OMH and DOCCS), 6/18/14 confirm DOCCS ensures that all full-and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in: 1) How to detect and assess signs of sexual abuse and sexual harassment; 2) How to preserve physical evidence of sexual abuse; 3) How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and 4) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

Interviews with medical and mental health staff confirm that full-and-part medical and mental health care practitioners have received training as described in 1-3 in the first paragraph. Medical and mental health care practitioners who work regularly at the facility are 73 with 72 receiving the required training for 98.6%. The one individual not receiving the training was on vacation during the training and has been scheduled to receive the training.

If medical staff employed by the agency conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations. Review of Power Point Presentation: PREA: Medical and Mental Health Care HSPM 1.60 and PREA Standards confirms DOCCS does not train medical staff to conduct forensic medical exams as this policy directs medical staff to send inmate victims to an outside hospital emergency department for evaluation by a certified Sexual Assault Forensic Examiner (SAFE) or certified Sexual Assault Nurse Examiner (SANE).

Interviews with medical staff confirm they do not perform forensic medical exams as the inmate is taken to a medical facility that has SAFE and SANE service 24/7. Therefore, DOCCS is non-applicable for this part of Standard 115.35.

Review of Facility Specific KHRT – Medical/Mental Health Training; OMH Staff RTF03 for Medical/Mental Health Training; and Facility Specific Example – Division of Health Service Form for Directive #4750 confirm DOCCS maintains documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere. (c)

Review of Training manual Subject 6.600, Mandatory Initial Training, Non-Security Staff at Facilities , 2/19/15 (Mandatory); Email: PREA – Office of Mental Health Memorandum of Understanding To: All Superintendents (Interim MOU between OMH and DOCCS), 6/18/14; Directive #4750 – Volunteer Services Program, Division of Health Services acknowledgement form; Training Manual Subject – 7.100.40 - Hour Orientation Program for Full-time, Non-security Staff at Facilities – 8/25/15 (Mandatory) confirm DOCCS policies are in place and enforced to ensure medical and mental health care practitioners receive the training mandated for employees under 115.31 or for contractors and volunteers under 115.32, depending upon the practitioner’s status at the agency.

Interviews with medical and mental health confirm they receive PREA training mandated for employees under 115.31. Review of train records indicate that all medical and mental health staff sign showing they received and understand the PREA training.

In conclusion, based on review of policies, procedures, training records; interviews with medical and mental health staff and observations during the tour of the medical and mental health area of the facility meets the requirements of and is compliant with Standard 115.35 Specialized Training: Medical and Mental Health Care.

Standard 115.41 Screening for risk of victimization and abusiveness

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

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

Review of Directive 4027A, Sexual Abuse Prevention & Intervention Inmate-on-Inmate, 8/16/11 – IV B 1, ,2; and Memo: from Carl J. Koenigsmann, M.D. Deputy Commissioner/Chief Medical Officer, 3/16/15 RE: Health Screening Forms 3278RC and 3278TR confirm the policy is in place and enforced that ensures all inmates are assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates.

Interview with the Sergeant who performs screening for risk of victimization and abusiveness confirms that he screens inmates upon admission to the facility and transfer from another facility for risk of sexual abuse victimization or sexual abusiveness toward other inmates per DOCCS policies. Interviews of random sample of inmates confirm they received the screening as described.

Review of Directive 4027A, Sexual Abuse Prevention & Intervention Inmate-on-Inmate, 8/16/11 – IV B 1,2 confirms policy is in place and enforced ensuring intake screening ordinarily take place within 72 hours of arrival at the facility.

Interview with the Sergeant who performs the screening at the facility is by DOCCS policy that the initial assessment must include a preliminary review by Security, Health Services and Classification staff within 24 hours of an inmate's arrival at the reception facility. The sending facility senior correction counselor advises the receiving facility and each in-transit facility, via electronic mail to the watch commander, of any such history. Upon each transfer, any inmate so identified will be screened by a security supervisor within 24 hours of arrival at the facility for any indication of current sexual vulnerability or sexually aggressive behavior. Information from the screening process, the initial assessment, quarterly reviews, and inmate disciplinary history, will be reviewed and considered for purposes of classification, housing assignments and programming, etc. During the last 12 months 1,278 inmates entering the facility were screened for risk of sexual victimization or risk of sexually abusing other inmates within 72 hours of their entry into the facility.

Review of DOCCS PREA Intake Screening Form 115.41 (09/15) confirms that assessments are being conducted using an objective screening instrument.

Interview with the PREA Compliance Manager and review of the Intake Screening Form 115.41 meet the requirement of using objective screening instrument.

Review of DOCCS PREA Intake Screening Form 115.41 (09/15) confirms that the objective screening instrument used during intake screening considers, at a minimum, the following criteria to assess inmates for risk of sexual victimization: 1) Whether the inmate has a mental, physical, or developmental disability; 2) The age of the inmate; 3) The physical build of the inmate; 4) Whether the inmate has previously been incarcerated; 5) Whether the inmate's criminal history is exclusively nonviolent; 6) Whether the inmate has prior convictions for sex offenses against an adult or child; 7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; 8) Whether the inmate has previously experienced sexual victimization; 9) The inmate's own perception of vulnerability; and 10) Whether the inmate is detained solely for civil immigration purposes. (d) Note each item prescribed by the PREA standard that is missing from the facility's risk screening instrument; note each item not prescribed in the PREA standards that is included in the facility's instrument.

Interview with the Sergeant performing the screening process confirmed that the initial risk screening considers: consideration of any inmate disabilities; inmate age; physical build; previous incarceration; criminal history exclusively nonviolent; inmate criminal history; perceived sexual orientation; previous sexual victimization; inmate perception of vulnerability and whether detention is related to civil immigration.

Review of DOCCS PREA Intake Screening Form 115.41 (09/15) Confirms policies and forms are in place to ensure the initial screening considers prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in assessing inmates for risk of being sexually abusive.

Interview with the Sergeant performing the screening process confirmed that the initial risk screening includes assessments including: prior acts of sexual abuse, prior convictions for violent offenses and history of prior institutional violence or sexual abuse, as known to the agency, to assess the inmate for risk of being sexually abusive. Review of the PREA Intake Screening Form 115.41 (09/15) confirms all of the screening areas identified by the Sergeant performing the screening appear on this form.

Memo: from Carl J. Koenigsmann, M.D. Deputy Commissioner/Chief Medical Officer, 3/16/15 RE: Health Screening Forms 3278RC and 3278TR; and Memo: Deputy Commissioners, 8/4/2005, RE: New Procedure Necessitated by Directive #4027A, "Sexual Abuse Prevention & Intervention- Inmate-on-Inmate" confirms DOCCS policies are in place to ensure within a set time period, not to exceed 30 days from the inmate's arrival at the facility, the facility will reassess the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.

Interview with the Sergeant performing the screening process confirmed that the facility reassess the inmate's risk of victimization or abusiveness within 30 days per DOCCS policy. Interviews with random sample of inmates confirm the reassessment process occurs as

required. During the last 12 months 1,278 inmates entering the facility were reassessed for their risk of sexual victimization or risk of sexually abusing other inmates within 30 days of their entry into the facility.

Review of Form 3150 DOCCS Mental Health Referral (12/2014) confirms policy is in place and enforced to ensure an inmate's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness.

Interview with the Sergeant performing the screening process confirm an inmate's risk level is reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness

Review of Memo: from PREA Coordinator and Assistant Commissioner, 10/27/14, RE: New/Revised Other Security Characteristics regarding Sexual Orientation and Gender Identity (SOGI) confirms policy is in place and enforced to ensure inmates are not disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked about: whether the inmate has a mental, physical, or developmental disability; whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; whether the inmate has previously experienced sexual victimization; and the inmate's own perception of vulnerability.

Interview with the Sergeant performing the screening process confirm that inmates are not disciplined for refusing to answer, or for not disclosing complete information in response to questions asked. Interview with specialty staff and PREA Compliant Manager also confirm inmates are not disciplined for these four areas of this section.

Review of Memo: from PREA Coordinator and Assistant Commissioner, 10/27/14, RE: New/Revised Other Security Characteristics regarding Sexual Orientation and Gender Identity (SOGI); and Employee Manual Sections 2.20 & 4.2 (Revision 2013) confirm DOCCS has policies in place to ensure the department implements appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates.

According to interviews with the PREA Coordinator, PREA Compliant Manager/Point Person and the Sergeant responsible for screening the agency outlines who should have access to an inmate's risk assessment within the facility in order to protect sensitive information from exploitation and those including only those with a "need to know" allowed to have access. Apart from reporting to designated supervisions or officials, staff does not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in Agency policy, to make treatment, investigation, and other security and management decisions.

In conclusion, based on review of policies and forms; interviews with PREA Coordinator, PREA Compliant Manager/Point Person and the Sergeant responsible for screening; and observations when visiting the screening process for inmates the facility is considered compliant with Standard 115.41 Screening for Risk of Victimization and Abusiveness.

Standard 115.42 Use of screening information

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

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

Review of Directive #4027A, Sexual Abuse Prevention & Intervention, Inmate-on- Inmate, 8/16/11 – IV B1,2 confirms DOCCS has a policy in place showing how use of information from the risk screening required by 115.41 is limited to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

According to the interviews with the Sergeant responsible for screening and the PREA Compliance Manager/Point Person the agency information from the risk screening during intake is reviewed and assessed with the PREA Compliant Manager/Point Person, security and medical/mental health staff. Information is used to inform housing, bed, work, education and program assignments.

Review of Directive #4027A, Sexual Abuse Prevention & Intervention, Inmate-on- Inmate, 8/16/11 – IV B1,2 confirms DOCCS policies are in place to ensure the agency makes individualized determinations about how to ensure the safety of each inmate.

Interviews with the Sergeant responsible for screening inmates and the PREA Compliant Manager/Point Person found the facility uses the intake screening information to make individualized determinations to ensure inmate safety.

Review of Memo: from Deputy commissioners, 8/4/2005, RE: New Procedure Necessitated by Directive #4027A – Sexual Abuse Prevention & Intervention –Inmate-on-Inmate; and Memo: from PREA Coordinator and Associate Commissioner, 10/27/14, RE: New/Revised Other Security Characteristics Regarding Sexual Orientation and Gender Identity (SOGI) confirm policy is in place to ensure in deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the agency considers on a case-by-case basis whether a placement would ensure the inmate’s health and safety, and whether the placement would present management or security problems.

According to the interview with PREA Compliance Manager/Point Person, transgender or intersex inmates goes through SOGI and PREA risk assessment with the information gained from the correction counselor interview the basis for determining the inmate’s initial housing assignment. This housing assignment may be changed after the inmate is further evaluated by the appropriate staff. According to interviews with transgender inmates staff asked them about their safety with housing and programmatic decisions of when and where education, work and exercise would occur. The transgender inmates said they had not been put in housing area only for transgender inmates and they had not been search for the sole purpose of determining their genital status. The transgender inmates stated they are treated with respect by security and non-security staff and feel safe in the facility.

Review of Directive #4401, Guidance & Counseling Services – 2/11/13-III B 1a, b, c, d, 2a confirm DOCCS policies ensure placement and programming assignments for each transgender or intersex inmate be reassessed at least twice each year to review any threats to safety experienced by the inmate.

According to interviews with PREA Compliance Manager/Point Person and Sergeant responsible for screening inmates, placement and programming assignments for each transgender or intersex inmate is reassessed to review any threat to safety quarterly with ORC and offender rehabilitation coordinator and Sergeant responsible for screening inmates.

Review of Memo: from PREA Coordinator and Associate Commissioner, 10/27/14, RE: New/Revised Other Security Characteristics Regarding Sexual Orientation and Gender Identity (SOGI) A transgender or intersex inmate’s own view with respect to his or her own safety shall be given serious consideration.

According to interviews with PREA Compliance Manager/Point Person and Sergeant responsible for screening inmates, transgender and intersex inmates’ views of his safety are given serious consideration in placement and programming assignments. Interviews with transgender inmates confirm staff asks them questions about their safety and they responded they feel very safe at the facility.

Review of FOM on Transgender/Intersex shower and Example of shower permit or other documentation providing a transgender or intersex inmate with separate showers confirm a policy is in place to ensure transgender and intersex inmates are given the opportunity to shower separately from other inmates.

According to interviews with PREA Compliance Manager/Point Person and Sergeant responsible for screening inmates, transgender and intersex inmates are given the opportunity to shower separately from other inmates by requesting separate shower time. Interviews with transgender inmates confirm they are given the opportunity to shower separately from other inmates.

The agency shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

The agency does not have any dedicated facilities, units, or wings solely for lesbian, gay, bisexual, transgender, or intersex inmates. Therefore, this part of Standard 115.41 is non-applicable.

In conclusion, based on; review of policies and procedures; interviews with PREA Compliance Manager/Point Person and Sergeant responsible for screening inmates; interviews with transgender inmates; the facility is compliant with Standard 115.42 Use of Screening Information.

Standard 115.43 Protective custody

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

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

Review of Directive #4948, Protective Custody Status, 3/13/15 – Entire and Forms 2168A, 2170A and 4948A confirm the agency has a policy in place and enforced to ensure inmates at high risk for sexual victimization shall are not placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If a facility cannot conduct such an assessment immediately, the facility may hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment.

According to interview with the facility superintendent agency policy prohibits placing inmates at high risk for sexual victimization or has alleged sexual abuse in involuntary segregated housing in lieu of other housing areas, unless an assessment has determined there are no available alternative means of separation from potential abusers (last resort). During the last 12 months zero inmates at risk of sexual victimization were held in involuntary segregated housing.

Review of Directive #4948, Protective Custody Status, 3/13/15 – Entire and Forms 2168A, 2170A and 4948A confirm the agency has a policy to ensure inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document: 1) The opportunities that have been limited; 2) The duration of the limitation; and 3) The reasons for such limitations.

According to interview with staff who supervises inmates in segregated housing for protection from sexual abuse or after having alleged sexual abuse they have access to: programs; privileges; and education. They do not have access to work opportunities. The auditor observed and confirmed no inmates were in protective custody for protection from sexual abuse during the tour of the housing units. The facility has not placed an inmate in involuntary or voluntary protective custody due to being high risk for sexual victimization during the last 12 months. Since no inmates were placed in protective custody due to being high risk for sexual victimization the auditor was not able to interview an inmate.

Review of Directive #4948, Protective Custody Status, 3/13/15 – Entire and Forms 2168A, 2170A and 4948A confirm the agency has a policy ensuring the facility assigns such inmates to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days.

According to interviews with the facility superintendent and staff supervising inmates in segregated housing, inmates at high risk for sexual victimization or who have alleged sexual abuse are placed in involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged and is used as a last resort and for a time of less than 30 days. Since no inmates were assigned to segregate housing for high risk for sexual victimization up to 30 days the auditor was not able to interview an inmate.

Review of Directive #4948, Protective Custody Status, 3/13/15 – Entire and Forms 2168A, 2170A and 4948A confirm the agency has a policy ensuring if an involuntary segregated housing assignment is made pursuant to the first paragraph of this section, the facility shall clearly document: 1) The basis for the facility’s concern for the inmate’s safety; and 2) The reason why no alternative means of separation can be arranged.

According to interviews with the facility superintendent, PREA Compliant Manager/Point Person and staff supervising inmates in segregated housing policies are in place to identify and document the basis for the facility’s concern for the inmate’s safety and the reason why no alternative means of separation can be arranged. However, since zero inmates at risk of sexual victimization were held in involuntary segregated housing in the past 12 months there were no inmate files to review.

Review of Directive #4948, Protective Custody Status, 3/13/15 – Entire and Forms 2168A, 2170A and 4948A confirm the agency has a policy ensuring every 30 days, the facility affords each such inmate a review to determine whether there is a continuing need for separation from the general population.

According to interviews with the facility superintendent, PREA Compliant Manager/Point Person and staff supervising inmates in

segregated housing policies are in place to ensure review of the inmate every 30 days to determine whether there is a continuing need for separation from the general population. However, since zero inmates at risk of sexual victimization were held in involuntary segregated housing in the past 12 months there were no inmates to interview.

Marcy Correctional Facility has not placed an inmate in involuntary or voluntary Protective Custody solely due to being a high risk for sexual victimization. In conclusion, based on interviews with the facility superintendent, PREA Compliant Manager/Point Person and staff supervising inmates in segregated housing; observations during tour of housing units the facility is compliant with Standard 115.43 Protective Custody.

Standard 115.51 Inmate reporting

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

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

Review of Directive #4027A, Sexual Abuse Prevention & Intervention Inmate-on-Inmate, 8/16/11 –IV C; Directive #4028A Sexual Abuse & Intervention Staff-on-Inmate, 8/17/11 – VB; Employee Manual Section – 2.20; Sexual Abuse Prevention and Response (SAPR) Lesson Plan, March 2015, Pages 65-66; General Confinement: The Prevention of Sexual Abuse in Prison: “What Inmates Need to Know” Pamphlet (English and Spanish); confirms the agency has policies in place and enforced ensuring multiple internal ways for inmates to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.

According to interviews with random sample of staff, an inmate may report an incident of sexual abuse, sexual threats or any act of retaliation verbally or in writing, anonymously and from third parties. Verbal reports are promptly documented. Interviews with random sample of inmates confirm that they are very aware of the many ways they can report sexual abuse and how to do so privately. Observations and answers to questions during the tour showed complete inmate knowledge of PREA and reporting opportunities available to them.

Review of Letter to Acting Commissioner from State Commission of Corrections, 4/8/14, RE: Inmate and Resident reporting; Sexual Abuse Prevention and Response (SAPR) Lesson Plan, March 2015, Pages 65-66; General Confinement: The Prevention of Sexual Abuse in Prison: “What Inmates Need to Know” Pamphlet (English and Spanish); confirm the agency has policies in place that ensures the agency provides at least one way for inmates to report abuse or harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials, allowing the inmate to remain anonymous upon request. Inmates are not detained solely for civil immigration purposes so this part of the standard is non-applicable.

According to interview with PREA Compliance Manager and review of Chairman of State of New York – Executive Department, State of Commission of Correction letter dated 4/9/14 to Acting Commissioner DOCCS, the New York State Commission of Correction (SCOC), the policy is in place to ensure SCOC agrees to receive all written inmate and resident reports containing sexual abuse and sexual harassment allegations and then immediately forward them to department officials. SCOC will comply with any inmate or resident request to remain anonymous. Observations during facility tour found posters strategically posted throughout the facility and responses to questions confirm staff and inmates understand how to report abuse or harassment to a public or private entity or office that is not part of the agency.

Review of Directive #4027A, Sexual abuse & Intervention Inmate-on-Inmate, 8/16/11 –IV C; Directive #4028A Sexual Abuse & Intervention Staff-on-Inmate, 8/17/11 – VB; Employee Manual Section – 2.20; Sexual Abuse Prevention and Response (SAPR) Lesson Plan, March 2015, Pages 65-66; General Confinement: The Prevention of Sexual Abuse in Prison: “What Inmates Need to Know” Pamphlet (English and Spanish); confirm the agency has policies directing staff accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document an verbal reports.

According to interviews with random sample of staff when an inmate alleges sexual abuse or sexual harassment he can do so verbally, in writing, anonymously, and from third parties. Verbal reports are documented immediately. Interviews with random sample of inmates confirm they have received, read and understand the pamphlet “The Prevention of Sexual Abuse in Prison: What Inmates Need to know” and are aware of these opportunities to report sexual abuse or sexual harassment.

Review of Directive #4027A, Sexual abuse & Intervention Inmate-on-Inmate, 8/16/11 –IV C; Directive #4028A Sexual Abuse & Intervention Staff-on-Inmate, 8/17/11 – VB confirm DOCCS has policies in place to ensure and provide a method for staff to privately report sexual abuse and sexual harassment of inmates. (d)

According to interviews with random samples of staff, employees may privately report any suspicion of sexual abuse or sexual harassment of an inmate by contacting the Office of Special Investigation directly. Staff is informed of this reporting procedure by policy and Sexual Abuse Prevention and Response training.

In conclusion, based on: development, implementation and monitoring of policies and procedures, interviews with random sample of staff and inmates; observations and answers to questions regarding inmate reporting during tour of housing units; and the distribution of a new updated pamphlet “The Prevention of Sexual Abuse in Prison: What Inmates Need to know” the auditor finds the facility is compliant with Standard 115.51 Inmate Reporting.

Standard 115.52 Exhaustion of administrative remedies

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

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

An agency shall be exempt from this standard if it does not have administrative procedures to address inmate grievances regarding sexual abuse.

The Department of Corrections and Community Supervision is exempt from this Standard in accordance with Directive #4040, Inmate Grievance Program, 7/12/06 & Rev. Notice 5/15/14- 702.2 (i) Correction Law, Section 139, 9 NYCRR Part 7695. Any inmate grievance filed regarding a complaint of sexual abuse or sexual harassment is immediately reported by IGP Supervisor to the Watch Commander for future handling in according with agency policy. The facility is exempt from this standard making Standard 115.52 non-applicable.

Standard 115.53 Inmate access to outside confidential support services

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

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

Review of Directive #4423 - Inmate Telephone Calls, 1/15/14 – III C and VIII C 2; Directive #4404, Inmate Legal Visits – 1/6/15 –II A & E, IV J; Directive #4421, Privileged Correspondence, 113/14 – II a 4, III A 2, C; Memo: from PREA Coordinator to all Superintendents, 4/4/14 – RE: Just Detention International Resource Guide; confirm policies are in place and enforced to provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and, for persons

detained solely for civil immigration purposes, immigrant services agencies. The facility shall enable reasonable communication between inmates and these organizations and agencies in as confidential a manner as possible.

According to interviews with random sample of inmates they are aware of and have access to victim advocates for emotional support services available outside the facility for dealing with sexual abuse, if needed. The inmates confirmed the facility gives them mailing addresses and telephone numbers for the outside services. The facility did not have a toll free number (hot line) at the time of the audit and expects to have a toll free number installed in the near future. The auditor was not able to interview an inmate who reported a sexual abuse since there was not one in the facility at the time of the audit. There were 17 reports of sexual abuse or harassment during the last 12 months and the inmates were released or transferred to another facility.

Review of Directive #4404, Inmate Legal Visits – 1/6/15 –II A & E, IV J; Directive #4421, Privileged Correspondence, 113/14 – II a 4, III A 2, C; Memo: from PREA Coordinator to all Superintendents, 4/4/14 – RE: Just Detention International Resource Guide; confirm policies are in place to ensure the facility informs inmates, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.

According to interviews with random sample of inmates they are aware the facility informs them prior to giving them access to outside support services, the extent to which communications will be monitored and the mandatory reporting rules governing privacy, confidentiality, and/or privilege that apply to disclosures of sexual abuse made to outside victim advocates, including any limits to confidentiality under relevant federal, state, or local law. The auditor was not able to interview an inmate who reported a sexual abuse since there was not one in the facility at the time of the audit. There were 17 reports of sexual abuse or harassment during the last 12 months and the inmates were released or transferred to another facility.

Review of contract extension between DOCCS and designated rape crisis program 9/23/14-9/15/15 and Email from PREA Coordinator, 9/9/15 RE: PREA Funding Extension Through December 2015 confirms the agency maintains or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide inmates with confidential emotional support services related to sexual abuse. The agency shall maintain copies of agreements or documentation showing attempts to enter into such agreements.

According to interview with PREA Compliance Manager/Point Person, DOCCS had a contract with the Sexual Assault and Crime Victims Assistance Program at Samaritan Hospital of Troy, New York to provide services through the end of December 2015. The agreement was funded by a grant with the Bureau of Justice Assistance and the agency is working on extending the agreement and provided documentation of the extension request. Until an agreement is reached, inmates are furnished with name, address and telephone number for victim advocate service through Just Detention International New York Resource Guide.

In conclusion, based on: policies and procedures providing inmates with access to outside victim advocates for emotional support services; informing inmates, prior to giving them access, of the extent to which such communications will be monitored and documented attempts to renew an agreement with Samaritan Hospital of Troy, NY to provide inmates with confidential emotional support services the facility is compliant with Standard 115.53 Inmate Access to Outside Confidential Support Services.

Standard 115.54 Third-party reporting

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

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

Review of DOCCS PREA Policy Web Page – Entire and Facility Specific Example of Third party report confirm the agency has established a Web Page that establishes a method to receive third-party reports of sexual abuse and sexual harassment and distribute publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate.

According to interviews with the PREA Compliance Manager/Point Person and facility Superintendent the agency has established a PREA Audit Report

Webpage that gives a link to process a third-party report of sexual abuse and sexual harassment. The auditor reviewed the Website for DOCCS and found the information available by clicking on the appropriate link. Marcy Correctional Facility has not had a third party PREA report.

In conclusion, based on: review of policies; interviews with staff and viewing the DOCCS website the facility is in compliance with Standard 115.54 – Third-party Reporting.

Standard 115.61 Staff and agency reporting duties

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

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

Review of Directive #4027A, Sexual Abuse Prevention & Intervention – Inmate-on-Inmate, 8/16/11 – IV C; Directive #4028A, Sexual Abuse Prevention Intervention – Staff-on-Inmate, 8/17/11 – V B; Employee Manual – Rev. 2013 – 2.20 confirms policies are in place and enforced to ensure the agency shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility whether or not it is part of the agency; 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.

According to interviews with random sample of staff the agency requires all staff, regardless of title, to report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility; 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. Staff is required to immediately notify his or her immediate supervisor, who immediately notifies the Watch Commander. The employee is required to report the specific details, in writing, to the Watch Commander immediately after verbal notification.

Review of Directive #4027A, Sexual Abuse Prevention & Intervention – Inmate-on-Inmate, 8/16/11 – IV C; Directive #4028A, Sexual Abuse Prevention Intervention – Staff-on-Inmate, 8/17/11 – V B; Employee Manual – Rev. 2013 – 2.20 confirms agency policy requires apart from reporting to designated supervisors or officials, staff does not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions.

According to interviews with the facility PREA Compliance Manager/Point Person and random sample of staff the agency requires all employees be aware of the sensitive nature of a situation where an inmate reports sexual abuse or sexual threats and reports are confidential and information, including but not limited to the identity of the victim is only to be shared with essential employees involved in the reporting investigation, discipline and treatment process, or as otherwise required by law.

Review of Directive #4027A, Sexual Abuse Prevention & Intervention – Inmate-on-Inmate, 8/16/11 – IV C; Directive #4028A, Sexual Abuse Prevention Intervention – Staff-on-Inmate, 8/17/11 – V B; Employee Manual – Rev. 2013 – 2.20 confirms policy is in place unless otherwise precluded by Federal, State, or local law, medical mental health practitioners shall be required to report sexual abuse pursuant to the first paragraph of this section and to inform inmates of the practitioner’s duty to report, and the limitations of confidentiality, at the initiation of services.

According to interviews with the facility medical and mental health staff at the initiation of services to an inmate they disclose the limitations of confidentiality and their duty to report. Staff reported they are required, and have reported, to report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment to a designated supervisor or official immediately upon learning of it. The auditor reviewed medical and mental health files for inmates and confirm documentation of incidents and activity.

If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, the agency shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws.

Marcy Correctional Facility does not house any inmates under the age of 18. Therefore, this part of Standard 115.61 is non-applicable.

Review of Directive #4027A, Sexual Abuse Prevention & Intervention – Inmate-on-Inmate, 8/16/11 – IV C; Directive #4028A, Sexual Abuse Prevention Intervention – Staff-on-Inmate, 8/17/11 – V B; Employee Manual – Rev. 2013 – 2.20; Directive #0700, Office of Special Investigations, 10/23/14 – III D; and Memo: from Deputy Commissioner, 6/27/14 – RE: Sexual Abuse Response and Containment Checklist anonymous reports, to the facility’s designated investigators. (e)

According to interview with the facility Superintendent all allegations of sexual abuse and sexual harassment including those from third-party and anonymous sources are reported directly to designated facility investigators. The auditor reviewed inmate files with investigators and confirm all allegations are investigated. The Facility PREA Compliance Manager reported Marcy Correctional Facility has not received an anonymous PREA letter to date.

In conclusion, based on review of policies and procedures; interviews with the facility Superintendent, PREA Compliance Manager/Point Person, medical and mental health staff and random sample of staff the facility is compliant with Standard 115.61 Staff and Agency Reporting Duties.

Standard 115.62 Agency protection duties

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

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

Review of Directive #4040, Inmate Grievance Program, 7/12/06 – 701.2 Definitions, (m) and Directive #4948, Protective Custody Status, 3/13/15 – IIA, C III D 1 – Form 2168 confirm policy is in place and enforced when the agency learns that an inmate is subject to a substantial risk of imminent sexual abuse, it takes immediate action to protect the inmate.

According to interview with the Acting Commissioner and facility Superintendent and random sample of staff, when learning that an inmate is subject to a substantial risk of imminent sexual abuse each case is evaluated by the facility or Office of Special Investigations based upon the nature of the report and the potential harm. Supervisory rounds will be increased as appropriate; inmate at risk or potential predator may be moved to another housing unit or transferred. If no other options are available temporarily protective custody until other steps can be taken may be considered. During the past 12 months there were zero times the facility determined that an inmate was subject to a substantial risk of imminent sexual abuse.

In conclusion, based on review of policies; interview with the Acting Commissioner and facility Superintendent and random sample of staff; and observations and answers to questions when touring the facility, Marcy Correctional Facility is compliant with Standard 115.62 Agency Protection Duties.

Standard 115.63 Reporting to other confinement facilities

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

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion

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

Review of Memo: from PREA Coordinator RE: PREA Standard 115.63; PREA Standard 115.63/263, 8/24/15 – Entire, Form 115.63 Report of Sexual Abuse, 8/20/15, Jail Administrators contact information confirm policy is in place and enforced where upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.

According to interview with PREA Compliance Manager/Point Person, upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation must notify the head of the facility or appropriate office of the agency or facility where the sexual abuse is alleged to have occurred. Marcy Correctional Facility received one notification during the last 12 months of an allegation of sexual abuse the facility received from another facility.

Review of Memo: from PREA Coordinator RE: PREA Standard 115.63; PREA Standard 115.63/263, 8/24/15 – Entire, Form 115.63 Report of Sexual Abuse, 8/20/15, Jail Administrators contact information confirms policy is in place showing such notification provided as soon as possible, but no later than 72 hours after receiving the allegation.

According to interview with PREA Compliance Manager/Point Person, upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation must notify the head of the facility or appropriate office of the agency or facility where the sexual abuse is alleged to have occurred no later than 72 hours after receiving the allegation. Marcy Correctional Facility received one notification during the last 12 months of an allegation of sexual abuse the facility received from another facility. The notification was sent to the Marcy Correctional Facility within the 72 hour timeframe and OSI is investigating the allegations.

Review of Memo: from PREA Coordinator RE: PREA Standard 115.63; PREA Standard 115.63/263, 8/24/15 – Entire, Form 115.63 Report of Sexual Abuse, 8/20/15, Jail Administrators contact information confirm policy is in place that the facility document that it has provided such notification.

According to interview with PREA Compliance Manager/Point Person, upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation must notify the head of the facility or appropriate office of the agency or facility where the alleged sexual abuse occurred and the notification is documented. Review of inmate files confirm the notification is documented.

Review of Memo: from PREA Coordinator RE: PREA Standard 115.63; PREA Standard 115.63/263, 8/24/15 – Entire, Form 115.63 Report of Sexual Abuse, 8/20/15, Jail Administrators contact information confirm the policy is in place with the agency office that receives such notification ensuring that the allegation is investigated in accordance with these standards.

According to interview with Acting Commissioner allegations received at one facility involving a different facility are forwarded to the Superintendent of the facility where the abuse allegedly occurred, with a copy of the notification to the Office of Special Investigations. Allegations from other agencies are typically received by the Office of Special Investigations or the Associate Commissioner/PREA Coordinator. Interview with PREA Compliance Manager/Point Person, upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation ensures that the allegation is investigated in accordance with these standards. Interview with the facility Superintendent advises when the allegation is received it is logged in and referred to OSI and monitored.

In conclusion, based on: review of policies; interviews with Acting Commissioner, Superintendent and PREA Compliance Manager/Point Person; and review of documentation; the facility is compliant with Standard 115.63 Reporting to other Confinement Facilities.

Standard 115.64 Staff first responder duties

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

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion

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

Review of Directive #4027B, Sexual Abuse Reporting & Investigation – Inmate-on-Inmate, 8/16/11 – V; Directive #4028B, Sexual Abuse Reporting & Investigation – Staff-on-Inmate, 8/17/11-V; Memo from Deputy Commissioner and PREA Coordinator, 6/27/14 RE: Sexual Response and Containment Checklist; Memo: from Deputy Commissioner M.D, Deputy Commissioner/Chief Medical Officer and PREA Coordinator, 10/1/15 – RE: Response to Inmate Sexual Activity; and Sexual Abuse Prevention and Response (SAPR) Lesson Plan, March 2015, Pages 61, 62, 64 confirm policies are in place and enforced so upon learning of an allegation that an inmate was sexually abused, the first security staff member to respond to the report shall be required to: 1) separate the alleged victim and abuser; 2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence; 3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any action that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and 4) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating defecating, smoking, drinking or eating.

According to interview with PREA Compliance Manager/Point Person the agency has a first responder policy for allegations of sexual abuse and first responders are required to follow 1-4 in the first paragraph. In the past 12 months there were 17 allegations of sexual abuse and sexual harassment. Of these allegations the number times security or non-security staff member was able to perform first responder action was zero. Since there were no first responder incidents the auditor was not able to interview security or non-security staff responders. However, interviewing random sample of staff found they were very informed about their requirements in being a first responder.

Review of Directive #4027B, Sexual Abuse Reporting & Investigation – Inmate-on-Inmate, 8/16/11 – V; Directive #4028B, Sexual Abuse Reporting & Investigation – Staff-on-Inmate,8/17/11-V; Memo from Deputy Commissioner and PREA Coordinator, 6/27/14 RE: Sexual Response and Containment Checklist; and Sexual Abuse Prevention and Response (SAPR) Lesson Plan, March 2015, Pages 61, 62, 64 confirm policies are in place and enforced if the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.

According to interviews with PREA Compliance Manager/Point Person and random sample of staff, the agency has a first responder policy (security and non-security staff) for allegations of sexual abuse and first responders are required to follow 1-4 in the first paragraph In the past 12 months there were 17 allegations of sexual abuse and sexual harassment. Of these allegations the number times security or non-security staff member was able to perform first responder action was zero. Since there were no first responder incidents the auditor was not able to interview security or non-security staff responders. However, interviews with random sample of staff and review of the curriculum for first responder training provided for staff found the agency and facility consider this standard a priority and are prepared, by policy to respond per the requirements of this standard.

The agency and the facility have further emphasized first responder duties by distributing cards and handouts on sexual assault/harassment to include steps to take if a sexual assault/harassment occurs. Each employee has carries a laminated card that has the PREA Compliance Means Safe and Secure Prisons on one side and First Responder instructions on the other side.

In conclusion, based on: review of policies; interviews with PREA Compliance Manager/Point Person; random sample of staff; and observations and questions answered during tour of facility; the facility substantially exceeds requirements of Standard 115.64 Staff First Responder Duties.

Standard 115.65 Coordinated response

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

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

Review of HSPM 1.60 Sexual Assault, 8/3/15 – Entire, SAFE/SANE Hospital Listing; Memo: from Deputy Commissioner and PREA Coordinator, 6/27/14 RE: Sexual Response and Containment Checklist; Email: PREA – Office of Mental Health Memorandum of Understanding to: All Superintendents (Interim MOU between OMH and DOCCS), 6/18/14 – Entire; Office of Special Investigations Sex Crimes Division, Inmate Inmate-on-Inmate and Staff-on-Inmate, Dispatch and Operational Guidelines; and Sexual Abuse Prevention and Response (SAPR) and Marcy Correctional Facility FOM 47.02 Coordinated Response Plan to an Incident of Inmate Sexual Abuse confirms policies are in place and enforced to ensure the facility develops a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners investigators, and facility leadership.

According to interviews with the facility Superintendent and the PREA Compliance Manager/Point Person the facility has established and set forth clear facility-specific guidelines to coordinate actions taken in response to incidents of inmate sexual abuse among facility leadership, staff first responders, investigators, and facility medical and mental health practitioners.

In conclusion, based on review of Marcy Correctional Facility’s specific Coordinated Response Plan to an Incident of Inmate Sexual Abuse; interviews with the facility Superintendent and the PREA Compliance Manager/Point Person; and observations and questions answered when touring the facility the auditor finds the facility meets the requirements of Standard 115.65 Coordinated Response

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

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

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

Review of Directive #2110, Employee Discipline-Suspension from Duty During the Continuation of Disciplinary Proceedings, 4/27/15 – III; Directive #2114, Functions of the Bureau of Labor Relations, 6/11/14 – IV I, K confirm policies are in place and enforced to ensure neither the agency or any other governmental entity responsible for collective bargaining on the agency's behalf enters into or renew any collective bargaining agreement or other agreement that limits the agency’s ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

According to interview with the Acting Commissioner the agency, or any governmental entity responsible for collective bargaining on the agency’s behalf, has not entered into or renewed any collective bargaining agreements or other agreements since August 20, 2012. Requirements of the standard are covered by policy and enforced by the agency.

Nothing in this standard shall restrict the entering into or renewal of agreements that govern: 1) The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of 115.72 and 115.76; or 2) Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member’s personnel file following a determination that the allegation of sexual abuse is not substantiated.

The state has state union contracts with: New York State Governor’s Office of Employee Relations (GOER); Administrative Services Unit (ASU); Operational Services Unit (OSU); Institutional Services Unit (ISU); Professional, Scientific and Technical Services Unit (PS&T); Security Services Unit (SSU) and Security Supervisors Unit (SSPU). The state union contracts allow removing alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

In conclusion, based on review of documents; interview with random sample of staff; and observations during the tour of the facility confirm the requirements of the standard are in place and followed. Standard 115.66 Preservation of Ability to Protect Inmates from Contact with Abusers is compliant.

Standard 115.67 Agency protection against retaliation

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

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

Review of Employee Manual – 2.19 – Rev. 2013; Memo: from PREA Coordinator RE: Agency Protection against Retaliation, PREA Standard 115.67/267, 8/20/15 Retaliation Monitoring Form 115.67 (8/2015), Form 115.67A (8/2015); confirm policy is in place and enforced to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff, and shall designate which staff members or departments are charged with monitoring retaliation.

According to interview with the facility Superintendent the agency Retaliation Policy is in place and enforced and the PREA Compliance Manager/Point Person a Captain in the Security Department at the facility has been designated the Retaliation Monitoring Manager.

Review of Memo: from PREA Coordinator RE: Agency Protection against Retaliation, PREA Standard 115.67/267, 8/20/15 Retaliation Monitoring Form 115.67 (8/2015), Form 115.67A (8/2015); The agency shall employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

According to interview with Acting Commissioner inmates and staff are protected from retaliation from sexual abuse or sexual harassment allegations based on decisions on protective measures made on a case-by-case basis. Both the facility administration and the Office of Special Investigations consider whether the present housing placement is appropriate and, if no, consider whether a move to another housing unit or a transfer to another facility is appropriate. With respect to access to emotional support services, information on Just Detention International is provided along with other available support services.

Interview with PREA Compliance Manager/Point Person advises as the retaliation monitor multiple protection measures are considered: housing changes; transfers for inmate victims or abusers; removal of alleged staff or inmate abusers from contact with victims; ad emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

Review of Memo: from PREA Coordinator RE: Agency Protection against Retaliation, PREA Standard 115.67/267, 8/20/15 Retaliation Monitoring Form 115.67 (8/2015), Form 115.67A (8/2015); For at least 90 days following a report of sexual abuse, the agency shall monitor the conduct and treatment of inmates or staff who reported the sexual abuse and inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff, and acts promptly to remedy any such retaliation. Items the agency should monitor include any inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The agency shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.

Interviews with facility Superintendent and Retaliation Manager confirm the facility for at least 90 days following a report of sexual abuse or sexual harassment monitors the conduct and treatment of: an inmate or employee who reported an incident; and an inmate who was reported to have suffered sexual abuse or sexual harassment. Monitoring will be for all areas in previous paragraph and will continue beyond 90 days is needed. The number of times an incident of retaliation occurred in the past 12 months was zero.

Review of Memo: from PREA Coordinator RE: Agency Protection against Retaliation, PREA Standard 115.67/267, 8/20/15 Retaliation Monitoring Form 115.67 (8/2015), Form 115.67A (8/2015); In the case of inmates, such monitoring shall also include periodic status checks.

Interviews with Retaliation Manger and random sample of staff confirms in case of inmates monitoring includes periodic in-person status checks approximately every 30 days. In-person status checks are also encouraged for any staff who reported an incident of sexual abuse or sexual harassment.

Review of Employee Manual – 2.19 – Rev. 2013; Memo: from PREA Coordinator RE: Agency Protection against Retaliation, PREA Standard 115.67/267, 8/20/15 Retaliation Monitoring Form 115.67 (8/2015), Form 115.67A (8/2015); If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation.

According to interview with the Acting Commissioner, all inmates, parolees and staff who report sexual abuse or sexual harassment, or who cooperate with sexual abuse or sexual harassment investigations are protected from retaliation by other inmates or staff. Retaliation monitoring includes review of any inmate disciplinary reports, housing or program changes, or any negative performance reviews or reassignments of staff. The Department’s protocols for retaliation monitoring are initiated for any individual who cooperates with an investigation and expresses a fear of retaliation. Monitoring for signs of retaliation is conducted by the Assistant Deputy Superintendent/PREA Compliance Manager or, where one is not assigned, by a designated staff person such as the Captain who is designated as the PREA Point Person. Any complaint or evidence of retaliation is referred to the Office of Special Investigations, Sex Crimes Division for investigation and to be promptly remedied.

Review of Memo: from PREA Coordinator RE: Agency Protection against Retaliation, PREA Standard 115.67/267, 8/20/15 Retaliation Monitoring Form 115.67 (8/2015), Form 115.67A (8/2015); Facility specific example: Retaliation Monitoring Form 115.67 (8/2015) and Facility specific example: Monitoring Form 115.67A Staff (8/2015) and Form 115.67A confirm a policy is in place ensuring the agency’s obligation to monitor shall terminate if the agency determines that the allegation is unfounded.

In conclusion, based on: review of policies; interviews with the Acting Commissioner, facility Superintendent, retaliation manager and random sample of staff; and observations and questions answered during tour of the facility Marcy Correctional Facility is compliant with Standard 115.67 Agency Protection against Retaliation.

Standard 115.68 Post-allegation protective custody

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

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

Review of Directive #4948, Protective Custody Status, 3/13/15 – II C, III D, Form 2168A and Facility Specific: Case of inmates put into involuntary protected custody due to victimization confirm policy is in place and enforced to ensure any use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse is subject to the requirements of 115.43.

Interviews with the facility Superintendent and staff who supervise inmates in segregated housing found the policies are in place to allow use of segregated housing to protect an inmate. However, it is a last resort and if use it will be for less than 30 days. The number of inmates who allege to have suffered sexual abuse who were held in involuntary segregated housing in the past 12 month for either 24 hours or 30 days was zero.

In conclusion, the facility is compliant with this standard, based on: review of policies; interviews with facility Superintendent and staff who supervise inmates in segregated housing; observations and questions answered when visiting segregated housing; the facility is found compliant with Standard 115.68 Post-allegation Protective Custody.

Standard 115.71 Criminal and administrative agency investigations

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

relevant review period)

- Does Not Meet Standard (requires corrective action)

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

Review of Directive #0700, Office of Special Investigations, 10/23/14 – Entire; OSI Policy & Procedure: Training Requirements for Sex Crimes Investigators, 9/1/15; Office of Special Investigations Sex Crimes Unit: Inmate-on-Inmate Dispatch and Operational Guidelines – Entire; Office of Special Investigations Sex Crimes Unit: Staff-on-Inmate Dispatch and Operational Guidelines – Entire; confirm policies are in place and enforces to ensure when the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, it does so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.

The two investigators interviewed reported the investigations are done promptly, thoroughly and objectively for all allegations. The length of time it takes to initiate an investigation following an allegation of sexual abuse or sexual harassment depends on the nature of the allegations, a case may be initiated immediately (call that an immediate dispatch). This would involve an allegation of recent sexual abuse or a case where evidence may only exist for a short time. Where an allegation involves misconduct that occurred many weeks or even months before the report, or where the allegation concerns harassment, it may take several days before an investigation is initiated. According to the investigators they follow all of the same investigative steps for anonymous or third-party reports of sexual abuse or sexual harassment, but they start by interviewing the alleged victim. He/she would be taken to medical and, if medically indicated, the hospital after he/she confirms that the report is correct.

Review of OSI Policy & Procedure: Training Requirements for Sex Crimes Investigators, 9/1/15; confirm policies are in place to ensure where sexual abuse is alleged; the agency uses investigators who have received special training in sexual abuse investigations pursuant to 115.34.

Interviews with two investigators confirm they receive multiple training specific to conducting sexual abuse investigations in confinement setting. When joining the Office of Special Investigations they participate in a 3 week investigations school and the OJT with a seasoned investigator. They have had (one, two, several) trainings conducted by the agency's PREA Coordinator around: PREA; a victim-centered approach to investigations; legal issues including Miranda, Garrity; and burdens of proof; DOCCS medical response policies; individualized credibility assessments; understanding trauma; working with victim advocates; and other factors. They have completed the NIC course "Investigating Sexual Abuse in a Confinement Setting" a course on interview and interrogation, and evidence collection courses.

Review of OSI Policy & Procedure: Training Requirements for Sex Crimes Investigators, 9/1/15 confirm policies are in place to ensure investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.

Interviews with two investigators found the first steps in initiating an investigation depend on the nature of the investigation. In an immediate dispatch situation, the investigator initiate a coordinated response by making contact with the facility Watch Commander or higher ranking supervisor and instruct the facility to contact the New York State Police Bureau of Criminal Investigations and report the allegation(s). The investigator confirms that the facility has initiated the sexual abuse response protocols and ensures the inmate/victim is evaluated by medical and a mental health referral is completed. If the incident was perpetrated by staff and occurred within the present shift the involved employee is escorted to the Superintendent, isolated from further interaction with staff or inmates, and placed under constant supervision.

The investigator assess the case to identify any crime scene, ensures the crime scene(s) are properly secured, and ensure that a Crime Scene Attendance Log is being maintained of all persons that have contact with the alleged crime scene. Evidentiary materials associated with the reported crime scene are secured. The property and cell of all involved inmates are secured. If there is video surveillance, steps are taken to secure that as well. If the inmate is being taken to a hospital for a forensic rape exam the investigator goes to the hospital. To the extent possible the investigator speaks with the SANE and the victim advocate. If the inmate is able to participate in an interview he is interviewed there with the advocate present. In these situations the investigator often cannot conduct a full interview that soon after the incident, he will often just find out what he can and conduct a follow-up interview a few days later. If the inmate is returning to a facility from the hospital the investigator confirm that he/she will be place in an infirmary upon return. If the inmate remained at the facility a cell move may be requested or other action necessary to separate the inmate from the abuser.

According to the investigators the process typically starts with the search for evidence to corroborate the information received in the initial

report. That includes interviewing the victim; interviewing random inmates who were in the area around the time of the incident; interviewing potential staff witnesses (but they do not interview the suspect at this juncture); conducting forensic testing through the State Police Lab of any physical evidence collected; review of surveillance, phone records, documents, commissary records, package records, financial records and any other circumstantial evidence that may be consistent with what is called an unauthorized relationship. They also review the background of both the victim and the alleged perpetrator, including prior cases, for any similar past conduct that interview to avoid Garrity issues, unless the case does not involve a possible crime and the DA's Office advises them that they can go forward with the interview or formal interrogation.

The investigators described any direct and circumstantial evidence they are responsible for gathering in an investigation of an incident of sexual abuse as including: clothing worn by the victim and the perpetrator at the time of the abuse; any trace DNA collected at the crime scene (identified with an Alternate Light Source); any object that may have been use in the act (like a baton); statements of the victim; witnesses and perpetrator; video surveillance; recorded calls on the inmate telephone system; letters; contraband; store receipts or surveillance for contraband items; inmate account records; controlled phone calls; etc. If probed about prior complaints – they would look at prior complaints to help identify patterns of misconduct and perhaps point them to sources of evidence for the current complaint.

Review of OSI Policy & Procedure: Training Requirements for Sex Crimes Investigators, 9/1/15; confirm policies are in place to ensure when the quality of evidence appears to support criminal prosecution, the agency conducts compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

Interviews with investigators found when they discover evidence that a prosecutable crime may have taken place they consult with prosecutors before they conduct compelled interviews.

Review of Memo: from PREA Coordinator to Superintendent, New York State Police – RE: Implementation of the Prison Rape Elimination Act Standards, 5/2/14 page 2; confirms policy is in place to ensure the credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as inmate or staff. No agency shall 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 investigators interviewed reported they judge the credibility determinations of an alleged victim, suspect, or witness are based on: the individual – how they present during interviews; past dealings with them; how the evidence obtained matches up with their version of events; the motives they may have to lie and other verbal and nonverbal cues. The investigators said they would not under any circumstances, require an inmate who alleges sexual abuse to submit to a polygraph examination or truth-telling device as a condition for proceeding with an investigation as it is against state law to ask a victim of sexual abuse to take a polygraph.

Review of Office of Special Investigations Sex Crimes Unit: Inmate-on-Inmate Dispatch and Operational Guidelines – Entire; confirm policies are in place to ensure administrative investigations: 1) Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and 2) Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

Interviews with the investigators reported the efforts they make during an administrative investigation to determine whether staff actions or failures to act contributed to sexual abuse included, during the investigation they follow-up on any statements or documentary evidence that shows a staff member may have been on notice of the abuse and failed to act, took some action to facilitate the abuse, or otherwise violated Department policy in connection with the incident.

Review of Office of Special Investigations Sex Crimes Unit: Inmate-on-Inmate Dispatch and Operational Guidelines – Entire; confirm policies are in place to ensure criminal investigations are documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.

According to the investigators criminal investigations are documented and their reports contain a description of the allegation; description of victim; witness and perpetrator interviews; description of DNA; physical, documentary and other evidence; and the cases closing summary. The file contains copies of all the witness statements, documents, reports and other evidence.

Review of OSI Policy & Procedure: Training Requirements for Sex Crimes Investigators, 9/1/15; Office of Special Investigations Sex Crimes Unit: Inmate-on-Inmate Dispatch and Operational Guidelines – Entire; confirm policies are in place to ensure substantiated allegation of conduct that appears to be criminal shall be referred for prosecution.

Interviews with the investigators reported they refer cases for prosecution any time there appears to be evidence that an incident of sexual abuse occurred. They will conference the case with the State Police Investigator or directly with the District Attorney's Office to evaluate whether or not there is enough evidence to pursue criminal charges, or to get direction on any further investigative steps. There were no substantiated allegations of conduct that appeared to be criminal that was referred for prosecution since August 20, 2012.

Review of Memo: from PREA Coordinator to Superintendent, New York State Police – RE: Implementation of the Prison Rape Elimination Act Standards, 5/2/14; and OSI Intake and Case management Unit; Complaint Processing & Case File Management, 2/5/16 page 6; confirms policy is in place to ensure the agency shall retain all written reports referenced in paragraphs 14 and 16 of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.

Interview with PREA Compliance Manager/Point Person confirm the agency retains all written reports with OSI in storage location as long as the alleged abuser is incarcerated or employed by the agency plus a minimum of seven years. Oversight of these files is the responsibility of the ICM Unit.

Review of Memo: from PREA Coordinator to Superintendent, New York State Police – RE: Implementation of the Prison Rape Elimination Act Standards, 5/2/14 page 3; confirms policy is in place to ensure the departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.

Interviews with investigators report they continue their investigations when a staff member alleged to have committed sexual abuse terminates employment prior to a completed investigation into his/her conduct and, if there is sufficient evidence to prosecute, they present the case to the State Police or the district Attorney’s Office for possible prosecution. Also they continue the investigation when a victim who alleges sexual abuse or sexual harassment or an alleged abuser leaves the facility prior to a completed investigation into the incident. Sometimes one of the other SCD investigators will assist with interviews if the inmate is a considerable distance away.

Review of Letter to Superintendent York State Police, 5/2/14 RE: Implementation of the PREA Standards; confirm policy is in place to ensure any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.

The DOCCS is responsible for all administrative and criminal investigations, with assistance from the State Police when required, who follow all the requirements of this Standard. There is no Department of Justice involvement.

Review of Letter to Superintendent York State Police, 5/2/14 RE: Implementation of the PREA Standards When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

Interview with facility Superintendent, PREA Coordinator, PREA Compliance Manager/Point Person and Investigative Staff report never had a case investigated by an outside agency. Sometimes the State Police BCI Investigators work with the DOCCS investigators.

In conclusion, the auditor finds the facility substantially exceeds requirements, based on: review of policies and procedures; interviews with facility Superintendent, PREA Coordinator, PREA Compliance Manager/Point Person and Investigative Staff; observations and questions answered during tour of facility. The facility substantially exceeds requirements for Standard 115.71 Criminal and Administrative Agency Investigations.

Standard 115.72 Evidentiary standard for administrative investigations

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

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

Review of Memo: from Deputy Chief of Investigations, 7/29/15 – RE: Sex Crimes Division (SCCD) Close Out Procedures and Sexual Abuse Prevention and Response Lesson Plan, 8/4/15 confirm policies are in place and enforced to ensure the agency imposes no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

Interviews with investigators that responded to the standard of evidence they require to substantiate allegations of sexual abuse or sexual harassment is a preponderance of the evidence, that is, when the weight of the evidence indicates that the allegation is more likely to be true

than not true.

In conclusion, the facility is compliant with this standard, based on: review of policies; interviews with investigators and staff the facility. The facility is compliant with Standard 115.72 Evidentiary Standards for Administrative.

Standard 115.73 Reporting to inmates

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

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

Review of Memorandum from Chief, Office of Special Investigations, 9/14/15, RE: notification of Investigative Determination; Memo: from Deputy Chief, Office of Special Investigations, 7/29/1, RE: Sex Crimes Division (SCD) Close Out Procedures confirm policies are in place and enforced to ensure following an investigation into an inmate's allegation that he or she suffered sexual abuse in an agency facility, the agency informs the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

Interviews with facility Superintendent and investigative staff confirm agency procedures require that an inmate who makes an allegation of sexual abuse must be informed as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigations. The number of criminal and/administrative investigations of alleged inmate sexual abuse that were completed by the agency/facility in the past 12 months were 6 and all of the inmates received notification verbally with documentation or in writing of the results of the investigation.

If the agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate.

The agency is responsible for conducting administrative and criminal investigations. Therefore, this part of Standard 115.73 is non-applicable.

Review of Memo: from Deputy Chief, Office of Special Investigations, 7/29/1, RE: Sex Crimes Division (SCD) Close Out Procedures confirm policies are in place and enforced to ensure following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the agency subsequently informs the inmate (unless the agency has determined that the allegation is unfounded) whenever: 1) The staff member is no longer posted within the inmate's unit; 2) The staff member is no longer employed at the facility; 3) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or 4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

Interview with the PREA Compliance Manager/Point Person confirms the agency informs the inmate (unless the agency has determined that the allegation is unfounded) whenever the staff member: is no longer posted within the inmate's unit; no longer employed by the facility; agency learns staff member indicted on a charge related to sexual abuse within the facility; or agency learns staff member has been convicted on a charge related to sexual abuse within the facility. Interviews with inmates confirm they were notified per policy.

Review of Memo: from Deputy Chief, Office of Special Investigations, 7/29/1, RE: Sex Crimes Division (SCD) Close Out Procedures confirm policies are in place to ensure following an inmate's allegation that he or she has been sexually abused by another inmate, the agency subsequently informs the alleged victim whenever: 1) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or 2) The agency learns that the alleged abuser has been convicted on charge related to sexual abuse within the facility.

Interview with PREA Compliance Manager/Point Person confirmed that following an inmate's allegation that he or she has been sexually abused by another inmate, the agency informs the alleged victim whenever: agency learns alleged abuser has been indicted on a charge related to sexual abuse within the facility or the agency learns the alleged abuser has been convicted on charge related sexual abuse in the facility.

Review of Memo: from Deputy Chief, Office of Special Investigations, 7/29/1, RE: Sex Crimes Division (SCD) Close out Procedures confirms policies are in place to ensure all such notifications or attempted notifications are documented.

Interview with facility Superintendent and PREA Compliance Manager/Point Person confirm all notifications or attempted notification are documents showing the date and time of the notification in case chronology. If the inmate refused to discuss the outcome, it is noted the date and time of the attempted notification and the fact that the inmate refused. During the last 12 months 9 inmates were provided notifications that were documented.

Review of Memo: from Deputy Chief, Office of Special Investigations, 7/29/1, RE: Sex Crimes Division (SCD) Close Out Procedures confirm policies are in place and enforced to ensure the agency's obligation to report under this standard shall terminate if the inmate is released from the agency's custody.

Interview with facility Superintendent and PREA Compliance Manager/Point Person confirmed that there is no obligation to report the case outcome to the reported victim inmate after he or she is released from the Department's custody however doing so may be appropriate depending on the circumstances of the case.

In conclusion, the facility is compliant with this standard, based on: review of policy, procedures and forms; interviews with facility Superintendent and PREA Compliance Manager/Point Person and observations and questions answered during tour; the facility is compliant with Standard 115.73 Reporting to Inmates.

Standard 115.76 Disciplinary sanctions for staff

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

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

Review of Directive #4028B, Sexual Abuse Reporting & Investigation – staff-on-Inmate, 8/17/11 –II; confirms policies are in place and enforced to ensure staff is subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.

Interviews with PREA Compliance Manager and Human Resource Manager confirm staff is subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. Marcy Correctional Facility has not had an employee terminated due to an incident of sexual harassment or sexual misconduct incident.

Review of Memo: from Deputy Commissioner for Administrative Service to Director of Labor Relations RE: Prison Rape Elimination Act – Presumptive Disciplinary Sanction for Staff Sexual Misconduct, 2/5/2016 confirms policies are in place and enforced to ensure termination is the presumptive disciplinary sanction for staff who have engaged in sexual abuse.

Interviews with PREA Compliance Manager and Human Resource Manager confirm that termination is the presumptive disciplinary sanction for staff who has engaged in sexual abuse of an inmate. Accordingly, any Notice of Discipline implementing disciplinary action based upon substantiated charges of staff sexual misconduct committed by an employee regardless of bargaining unit shall seek termination of employment as the penalty. Marcy Correctional Facility has one staff who violated agency sexual abuse or sexual harassment policies who was disciplined, short of termination. The facility has not had an employee terminated due to an incident of sexual harassment or sexual misconduct incident.

Review of Directive #2111, Report of Employee misconduct, 2/26/14 –I, II, III., A, 3 & 4; confirm policies are in place to ensure disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) are commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

Interviews with PREA Compliance Manager and Human Resource Manager confirms disciplinary sanctions for violations of agency policies related to sexual abuse or sexual harassment are commensurate with the nature and circumstances of the act committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. The Director of Labor Relations reviews reports of employee misconduct and considers appropriate actions. In the past 12 months 1 staff from the facility has been disciplined, short of termination,, for violation of agency sexual abuse or sexual harassment policies.

Review of Directive #4028B, Sexual Abuse Reporting & Investigation – staff-on-Inmate, 8/17/11 –II; confirm policies are in place to ensure all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, are reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

Interviews with PREA Compliance Manager and Human Resource Manager confirm terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, are reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies. Marcy Correctional Facility in the last 12 months had zero staff from the facility that have been reported to law enforcement or licensing boards following their termination (or resignation prior to termination) for violating agency sexual abuse or sexual harassment policies.

In conclusion, the facility is compliant with this standard, based on: review of policies, forms and files; interviews with PREA Compliance Manager and Human Resource Manager; and observations and questions answered during tour the facility is compliant with Standard 115.76 Disciplinary Sanctions for Staff.

Standard 115.77 Corrective action for contractors and volunteers

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

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

Review of Directive #4750, Volunteer Services Program, 3/7/13 – IV C 4a; Memo: from Acting Commissioner, 9/4/13, RE: Policy on the Prevention of Sexual abuse of Offenders (revised) Office of Ministerial, Family and Volunteer Services 2015 – Signature Form; Division of Ministerial, Family and Volunteer Services Volunteer Information Packet, Rev. 6/10/14, Page 20 and Facility specific example of : Acknowledgement of Orientation for New Volunteer or Contractor; confirms policies are in place and enforced to ensure any contractor or volunteer, who engages in sexual abuse is prohibited from contact with inmates and is reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

Interviews with PREA Compliance Manager confirms under Section 130.05 of the Penal Law, an offender is incapable of consent to any sexual act with an employee where that employee performs duties in a state correctional facility in which the victim is confined at the time of the offense consisting of providing custody, medical or mental health services, counseling services, educational programs, vocational training, institutional parole services or direct supervision to inmates. The law also applies to any contract employee or volunteer who regularly provides services to inmates. Any contractor or volunteer, who engages in sexual abuse is prohibited from contact with inmates and is reported to law enforcement agencies, unless the activity was not criminal, and to relevant licensing bodies. In the past 12 months zero contractors or volunteers were reported to law enforcement for engaging in sexual abuse of inmates.

Review of Memo: from Acting Commissioner, 9/4/13, RE: Policy on the Prevention of Sexual abuse of Offenders (revised) Office of Ministerial, Family and Volunteer Services 2015 – Signature Form; Division of Ministerial, Family and Volunteer Services Volunteer Information Packet, Rev. 6/10/14, Page 20 confirms policies are in place and enforced to ensure the facility takes appropriate remedial measures, and considers whether to prohibit further contact with inmates, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

Interviews with PREA Compliance Manager confirms the facility takes appropriate remedial measures, and considers whether to prohibit

further contact with inmates, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

Interviews with volunteers and contractors confirm they have been trained in their responsibilities regarding sexual abuse and sexual harassment prevention, detection, and response, per agency policy and procedure. They confirmed they have: attended PREA training; received written material; viewed video; understand the agency's zero tolerance policy; and signed forms saying they have received and understand the PREA training.

In conclusion, based on: review of policies, procedures and forms; interviews with PREA Compliance Manager, and volunteers and contractors; and observation and questions answered during tour; the facility is compliant with Standard 115.77 Corrective Action for Contractors and Volunteers.

Standard 115.78 Disciplinary sanctions for inmates

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

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

Review of Memo: from Deputy Commissioner, 7/22/14 RE: Disciplinary Disposition Guidelines; confirm policies are in place and enforced to ensure inmates are subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse.

Interviews with PREA Compliance Manager confirms having a consistent, fair and reasonable disciplinary process is the Department's most valuable tool to address inmate misconduct, while ensuring the safety of all employees and inmates and the security of the facility. In the past 12 months the numbers of administrative findings of inmate-on inmate sexual abuse that have occurred at the facility were zero. During the last 12 months there have been zero findings of guilt for inmate-on-inmate sexual abuse that have occurred at the facility.

Review of Memo: from Deputy Commissioner, 7/22/14 RE: Disciplinary Disposition Guidelines; Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories.

Interviews with facility Superintendent the disciplinary sanctions inmates are subject to following an administrative or criminal finding that the inmate engaged in inmate-on-inmate sexual abuse are progressive disciplinary system based on guidelines. The sanctions are proportionate to the nature and circumstances of the abuses committed, the inmates' disciplinary histories, and the sanctions imposed for similar offenses by other inmates with similar histories. Mental disability and mental illness are considered when determining sanctions.

Review of Memo: from Deputy Commissioner, 7/22/14 RE: Disciplinary Disposition Guidelines; The disciplinary process shall consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.

Interviews with the facility Superintendent and PREA Compliance Manager/Point Person confirms mental disability and mental illness are considered when determining sanctions.

Review of Sex Offender Counseling and Treatment Program Guidelines, November 2008: E Form referral: on-Sex Offense referral Sex Offender Counseling and Treatment Program confirm policies are in place to ensure if the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility considers whether to require the offending inmate to participate in such interventions as a condition of access to programming or other benefits.

Interviews with PREA Compliance Manager and medical and mental health staff confirm the facility offers therapy, counseling and other intervention services designed to address and correct the underlying reasons or motivations for sexual abuse and offers these services to the

offending inmate. The facility does not require an inmate's participation as a condition of access to programming or other benefits.

Review of Standards of Inmate Behavior All Institutions – 101 series and Facility Specific Example of Misbehavior Report for 101 series violations confirm policies are in place to ensure the agency may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

An interview with PREA Compliance Manager confirms an inmate may be disciplined for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

Review of Directive #4027A, Sexual Abuse Prevention & Intervention – Inmate-on-Inmate, 8/16/11 – II, IV D; Directive #4028A, Sexual Abuse Prevention & Intervention – Staff-on-Inmate, 8/17/11 – V B 5 confirm the policies are in place and enforced to ensure for the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred does not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

An interview with PREA Compliance Manager confirms no reprisals of any kind shall be taken against an inmate or employee for good faith reporting of sexual abuse or sexual threats.

Review of Directive #4027A, Sexual Abuse Prevention & Intervention – Inmate-on-Inmate, 8/16/11 – II, IV D confirm policies are in place to ensure that the agency may, in its discretion, prohibit all sexual activity between inmates and may discipline inmates for such activity. An agency may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

Interviews with PREA Compliance Manager confirm the agency prohibits all sexual activity between inmates and disciplines inmates for such activity, the agency deems such activity to constitute sexual abuse only if it determines that the activity is coerced.

In conclusion, the facility is compliant with this standard, based on: review of policies, procedures and forms; interviews with the facility Superintendent and PREA Compliance Manager; and observation and questions answered during tour; the facility is compliant with Standard 115.78 Disciplinary Sanctions for Inmates.

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

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

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

Review of Directive #4301 – Mental Health Satellite Services and Commitments to CYPC, 8/18/15 – IV, DOCCS – Mental Health Referral Form 3150; and Memo: from Deputy Commissioner/Chief Medical Officer, 3/16/15 RE: Health Screening Forms 3278RC/3278TR Attachment B, Attachment C; confirm that policies are in place and enforced to ensure if the screening pursuant to 115.41 indicates that a prison/jail inmate has experienced prior sexual victimization, whether it occurred in an instructional setting or in the community, staff ensures that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.

Interview with the Sergeant who is responsible for risk screening confirms that if a screening indicates that an inmate previously perpetrated sexual abuse, the facility offer a follow-up meeting with a mental health practitioner. There was no inmate who disclosed sexual victimization at risk screening in the facility for the auditor to interview. The auditor interviewed medical and mental health staff who confirmed that the follow-up meeting is offered within 7 days.

Review of Directive #4301 – Mental Health Satellite Services and Commitments to CYPC, 8/18/15 – IV, DOCCS – Mental Health Referral Form 3150; and Memo: from Deputy Commissioner/Chief Medical Officer, 3/16/15 RE: Health Screening Forms 3278RC/3278TR Attachment B, Attachment C; confirm that policies are in place and enforced to ensure if the screening pursuant to 115.41 indicates that a prison inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff ensures that

the inmate is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.

Interview with the Sergeant who is responsible for risk screening confirms if a screening indicates that an inmate previously perpetrated sexual abuse they are offered a follow-up meeting with a medical health practitioner to be held immediately. In the past 12 months, 100 percent of inmates who have previously perpetrated sexual abuse, as indicated during the screening, were offered a follow up with a mental health practitioner. Mental health staff maintain secondary materials (e.g. form, log) documenting compliance with the requirements of this standard. The auditor reviewed inmate files in the medical and mental health departments and found follow-up meetings were held, documented, logged and completed per agency policy.

Review of Directive #4301 – Mental Health Satellite Services and Commitments to CYPC, 8/18/15 – IV, DOCCS – Mental Health Referral Form 3150; and Memo: from Deputy Commissioner/Chief Medical Officer, 3/16/15 RE: Health Screening Forms 3278RC/3278TR Attachment B, Attachment C and Email: PREA – Office of Mental Health Memorandum of Understanding to: All Superintendents (Interim MOU between OMH and DOCCS), 6/18/14 confirms policies are in place and enforced to ensure if the screening pursuant to 115.41 indicates that a prison/jail inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff ensures that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.

Interview with the Sergeant who is responsible for risk screening confirms that if a screening indicates that an inmate has experienced prior sexual victimization, whether in an institutional setting or in the community the facility offer a follow-up meeting with a medical and/or mental health practitioner. There was no inmate who disclosed sexual victimization at risk screening in the facility for the auditor to interview. The auditor interviewed medical and mental health staff who confirmed that the follow-up meeting is offered within 7 days.

Review of Memo: from Deputy Commissioner/Chief Medical Officer, 3/16/15 RE: Health Screening Forms 3278RC/3278TR Attachment B, Attachment C and Email: PREA – Office of Mental Health Memorandum of Understanding to: All Superintendents (Interim MOU between OMH and DOCCS), 6/18/14 confirm that policies are in place to ensure any information related to sexual victimization or abusiveness that occurred in an institutional setting is strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, program assignments, or as otherwise required by Federal, State, or local law.

Interviews with the Sergeant who is responsible for risk screening, medical and mental health staff and PREA Compliance Manager confirms information related to sexual victimization or abusiveness that occurred in an institutional setting is not strictly limited to medical and mental health practitioners. The information shared with other staff is strictly limited to informing security and management decisions, including treatment plans, housing, bed, work, education, and program assignments, or as otherwise required by federal, state, or local law.

Review of Memo: from Deputy Commissioner/Chief Medical Officer, 3/16/15 RE: Health Screening Forms 3278RC/3278TR Attachment B, Attachment C; confirm policies are in place and enforced to ensure medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18.

Interview with PREA Compliance Manager/Point Person and medical and mental health staff confirm medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18. The auditor reviewed inmate files in medical and mental health that had copies of the signed consent forms.

In conclusion, based on: review of policies, procedures, forms and inmate files; interviews with PREA Compliance Manager/Point Person and medical and mental health staff; and observations and questions answered during tour of intake/screening and medical and mental health department the facility is compliant with 115.81 Medical and Mental Health Screenings: History of Sexual Abuse.

Standard 115.82 Access to emergency medical and mental health services

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

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion

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

Review of Directive #4027B, 8/16/11 – V C 3; and HSPM 1.60 – Sexual Assault, 8/3/15 – II, III b, c, B SAFE/SANE Hospitals confirm that policies are in place and enforced to ensure inmate victims of sexual abuse receive timely unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.

Interviews with medical and mental health staff and PREA Compliance Manager confirm inmates' victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services. Medical and mental health staff maintain secondary materials (e.g., form, log) documenting the timeliness of emergency medical treatment and crisis intervention services that were provided; the appropriate response by non-health staff in the event health staff are not present at the time the incident is reported; and the provision of appropriate and timely information and services concerning contraception and sexually transmitted infection prophylaxis. The auditor reviewed inmate files in medical and mental health and found documentation of all meetings were documented and per policy.

Review of Directive #4028B, 8/17/11 – V C 3 confirms policies are in place and enforced to ensure if no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim pursuant to 115.62 and immediately notify the appropriate medical and mental health practitioners.

Interviews with security staff and non-security staff first responders found during the past 12 months there was no activity requiring first responder activity. However, security staff and non-security staff are all prepared to act as a first responder if required. Interviews with security and non-security staff carry a card with instructions on being a first responder and are very prepared.

Review of HSPM 1.60 – Sexual Assault, 8/3/15 – II, III b, c, B SAFE/SANE Hospitals confirm policies are in place and enforced to ensure inmate victims of sexual abuse while incarcerated are offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.

Interviews with medical and mental health staff confirm that inmate victims of sexual abuse while incarcerated are offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis in accordance with professionally accepted standards of care, where medically appropriate. Medical and mental health staff maintain secondary materials (e.g. form, log) documenting the timeliness of emergency medical treatment and crisis intervention services that were provided; the appropriate response by non-health staff in the event health staff are not present at the time the incident is reported; and the provision of appropriate and timely information and services concerning contraception and sexually transmitted infection prophylaxis. The auditor reviewed files in the medical and mental health departments and found the services were offered, documented and per agency policy.

Review of HSPM 1.60 – Sexual Assault, 8/3/15 – II, III b, c, B SAFE/SANE Hospitals confirm policies are in place to ensure treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

Interview with PREA Compliance Manager/Point Person and medical and mental health staff confirm that treatment services are provided to the victim without financial cost regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

In conclusion, based on: review of policies, procedures, forms and files; interviews with PREA Compliance Manager/Point Person, security and non-security staff and medical and mental health staff; and observations and questions answered during tour find the facility compliant with Standard 115.82 Access to Emergency Medical and Mental Health Services

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

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

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion

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

Review of HSPM 1.60 – Sexual Assault, 8/3/15 – Entire and Email: PREA – Office of Mental Health Memorandum of Understanding to: All Superintendents (Interim MOU between OMH and DOCCS), 6/18/14 confirm policies are in place and enforced to enable offering medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.

Interviews with PREA Compliance Manager/Point Person and medical and mental health staff confirm the facility offers medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.

Review of HSPM 1.60 – Sexual Assault, 8/3/15 – Entire and Email: PREA – Office of Mental Health Memorandum of Understanding to: All Superintendents (Interim MOU between OMH and DOCCS), 6/18/14 confirm policies are in place and enforced that ensure the evaluation and treatment of such victims include, as appropriate, follow-up services, treatment plans, and , when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.

Interviews with PREA Compliance Manager/Point Person and medical and mental health staff confirm evaluation and treatment of inmates who have victimized includes treatment services including: follow-up services; treatment plans; treatment groups; and when necessary referrals for continued care after leaving the facility. The auditor reviewed inmate files in medical and mental health and found documentation of treatment plans for inmates that have victimized.

Review of HSPM 1.60 – Sexual Assault, 8/3/15 – Entire and Email: PREA – Office of Mental Health Memorandum of Understanding to: All Superintendents (Interim MOU between OMH and DOCCS), 6/18/14 confirm policies are in place and enforced to ensure the facility provides such victims with medical and mental health services consistent with the community level of care. (c)

Interviews with PREA Compliance Manager/Point Person and medical and mental health staff confirm the medical and mental health services offered at the facility are consistent with community level of care.

Inmate victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.

Marcy Correctional Facility is an all-male facility. Therefore, this part of Standard 115.83 is non-applicable

If pregnancy results from the conduct described in paragraph of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.

Marcy Correctional Facility is an all-male facility. Therefore, this part of Standard 115.83 is non-applicable

Review of HSPM 1.60 – Sexual Assault, 8/3/15 – Entire and Email: PREA – Office of Mental Health Memorandum of Understanding to: All Superintendents (Interim MOU between OMH and DOCCS), 6/18/14 and HSPM 1.12B Inmate Blood borne Pathogens Significant Exposure Protocol, 12/11/14 – 1, 2, 3 confirm policies are in place to ensure inmate victims of sexual abuse while incarcerated are offered test for sexually transmitted infections as medically appropriate.

Interviews with PREA Compliance Manager/Point Person and medical and mental health staff confirm inmate victims of sexual abuse while incarcerated are offered test for sexually transmitted infections as medically appropriate. The auditor reviewed files of inmates that were victims of sexual abuse while incarcerated and were offered treatment. The treatments were as per policy and documented.

Review of HSPM 1.60 – Sexual Assault, 8/3/15 – Entire and Email: PREA – Office of Mental Health Memorandum of Understanding to: All Superintendents (Interim MOU between OMH and DOCCS), 6/18/14 confirm policies are in place to ensure treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

Interviews with PREA Compliance Manager/Point Person and medical and mental health staff confirm treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

Review of HSPM 1.44 – Health Screening of Inmates, 12/2/13 – I confirm policies are in place and enforced to ensure all prisons attempt to conduct a mental health evaluation of all know inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

Interviews with PREA Compliance Manager/Point Person and medical and mental health staff confirm mental health conducts a mental health evaluation of all known inmate-on inmate abusers and offer treatment if appropriate. This mental health evaluation is conducted within 60 days of learning of such abuse history.

In conclusion, the facility is compliant with this standard, based on: review of policies, procedures, forms and files; interviews with PREA Compliance Manager/Point Person, and medical and mental health staff; and observations and questions answered during tour find the facility compliant with Standard 115.83 Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers.

Standard 115.86 Sexual abuse incident reviews

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

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

Review of Memo: from Deputy Commissioner and PREA Coordinator, 5/9/14 RE: Prison Rape Elimination Act Procedural Enhancements Sexual Abuse Response and Containment Checklist, Sexual Abuse Incident Reviews and Security Staffing Audits – Entire; Memo: from Director of Operations, 4/27/15 RE: Sexual Abuse Incident Review Information (SAIRI) Form and Sexual Abuse Incident Review Checklist, 8/15/14 – Entire; and copies of all completed Sexual Abuse Incident Reviews for 12 months preceding the submission of the Pre-Audit Questionnaire confirm policies are in place and enforced to ensure the facility conducts a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.

Interviews with PREA Compliance Manager/Point Person the facility conducts a sexual abuse incident review at the conclusion of every criminal or administrative sexual abuse investigation, unless the allegation has been determined to be unfounded. In the past 12 months, one criminal and/or administrative investigations of alleged sexual abuse completed at the facility, excluding only “unfound.”

Review of Memo: from Deputy Commissioner and PREA Coordinator, 5/9/14 RE: Prison Rape Elimination Act Procedural Enhancements Sexual Abuse Response and Containment Checklist, Sexual Abuse Incident Reviews and Security staffing Audits – Entire; confirm policies are in place and enforced to ensure such review shall ordinarily occur within 30 days of the conclusion of the investigation.

An interview with PREA Compliance Manager/Point Person confirms the facility ordinarily conducts a sexual abuse incident review within 30 days, excluding “unfounded” incidents. In the past 12 months there have been zero criminal and/or administrative investigations of alleged sexual abuse completed at the facility that were followed by a sexual abuse incident review within 30 days, excluding only “unfounded” incidents.

Review of Memo: from Deputy Commissioner and PREA Coordinator, 5/9/14 RE: Prison Rape Elimination Act Procedural Enhancements Sexual Abuse Response and Containment Checklist, Sexual Abuse Incident Reviews and Security staffing Audits – Entire; confirms policies are in place to ensure the review team include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioner.

An interview with PREA Compliance Manager/Point Person and review of documentation confirms the sexual abuse incident review team includes upper-level management officials and allows for input from line supervisors, investigators, and medical or mental health practitioners.

Review of Memo: from Deputy Commissioner and PREA Coordinator, 5/9/14 RE: Prison Rape Elimination Act Procedural Enhancements Sexual Abuse Response and Containment Checklist, Sexual Abuse Incident Reviews and Security staffing Audits – Entire, confirms policies are in place and enforced to ensure the review team: 1) Considers whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; 2) Considers whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was

motivated or otherwise caused by other group dynamics at the facility; 3) Examines the area in the facility where the incident allegedly offered to assess whether physical barriers in the area may enable abuse; 4) Assess the adequacy of staffing levels in that area during different shifts; 5) assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and 6) Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1)-(d)(5) of this section, and any recommendations for improvement and submit such report to the facility head and PREA compliance manager.

Interviews with PREA Compliance Manager/Point Person confirms the facility prepares a report of its findings from sexual abuse incident reviews, including but not necessarily limited to determinations made pursuant to above paragraph 1-6 of this section and any recommendations for improvement, and submits such report to the facility Superintendent and PREA Compliance Manager/Point Person.

Review of Memo: from Deputy Commissioner and PREA Coordinator, 5/9/14 RE: Prison Rae Elimination Act Procedural Enhancements Sexual Abuse Response and Containment Checklist, Sexual Abuse Incident Reviews and Security staffing Audits – Entire; confirms policies are in place and enforced to ensure the facility shall implement the recommendations for improvement, or shall document its reasons for not doing so.

Interviews with PREA Compliance Manager/Point Person confirm that the facility implements the recommendations for improvement or documents its reasons for not doing so. The review is intended to identify any gaps in policy, practice, or protocol, and recommend improvements when appropriate. The review examines whether policies were followed and whether they need to be changed; whether physical plant and staffing are appropriate to minimize the risk of sexual abuse; whether gang and other group dynamics were a factor in the reported incident, as well as other factors. A form has been developed to capture the review and any recommendations of the review team and includes documentation as to reasons for not enforcing the recommendations.

In conclusion, the facility is compliant with this standard, based on: review of policies, procedures, forms and files; interviews with PREA Compliance Manager/Point Person; and observations and questions answered during tour; find the facility compliant with Standard 115.86 Sexual Abuse Incident Reviews.

Standard 115.87 Data collection

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

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

Review of Office of Program Planning Research and Evaluation: PREA Data Collection, Review, Retention and Publication Manual , 8/18/15 (revised) – Entire; Directive #4027A, Sexual Abuse Reporting & Investigation – Inmate-on-Inmate, VII, B and Attachment A, Form 2103SAII; Directive #4028A, Sexual Abuse Reporting & Investigation – Staff-on-Inmate, VII B and Attachment A, Form 2103 SASI and Facility Specific Examples of Form 2103SAII and 2103SASI; confirm the policies are in place and enforced to ensure the agency collects accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.

An interview with the PREA Compliance Manager/Point Person and review of the DOCCS Annual Report On Sexual Victimization 2013-2014 confirm the agency collects accurate uniform data using a standardized instrument and set of definitions. The incident-based data collected includes, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence (SSV) conducted by the Bureau of Justice Statistics. This includes, but is not limited to Office of Special Investigations, Sex Crime Division data, sexual abuse incident review information, unusual incidents, personnel records, confidential security information, inmate records, disciplinary data, and the inmate locator system. Including reports, investigation files, and sexual abuse incident reviews and ensures that the resulting data are securely retained. As a result of comprehensive data collection and review, the PREA Analyst maintains separate incident based data from all available incident-based documents. Definitions are found in Appendix B of the DOCCS Annual Report on Sexual Victimization 2013-2014.

Review of Office of Program Planning Research and Evaluation: PREA Data Collection, Review, Retention and Publication Manual, 8/18/15 (revised) – Entire; confirm policies are in place and enforced to ensure the agency aggregates the incident-based sexual abuse data at least annually.

An interview with PREA Compliance Manager/Point Person confirms the agency aggregates the incident-based sexual abuse data at least annually. After preliminary review and preparation of all Office of Special Investigations Sex Crimes Division allegations, sexual abuse data is extracted, coded and prepared for a secondary review with a SCD investigator. The reconciled data is aggregated for a final review to include, but is not limited to, substantiated incidents of sexual abuse. A final review team consisting of the Associate Commissioner/PREA Coordinator, the chief of the Office of Special Investigations, the Deputy Chief of Investigations of the Sex Crimes Division and the PREA Analyst meet annually to review substantiated PREA allegations prior to submission of data to the Bureau of Justice Statistics. All confidential information is securely retained by the Office of Special Investigations and the PREA Analyst.

Review of Office of Program Planning Research and Evaluation: PREA Data Collection, Review, Retention and Publication Manual, 8/18/15 (revised) – Entire; confirm policies are in place and enforced to ensure the incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.

Interviews with PREA Compliance Manager/Point Person confirms the agency maintains, reviews and collects data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident review. The PREA Analyst prepares and aggregates data collected in coordination with the Sexual Abuse Prevention & Education Office and the Office of Special Investigations Sex Crimes Division in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices and training throughout the year. The incident-based data collected includes, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence (SSV) conducted by the Bureau of Justice Statistics.

Review of Office of Program Planning Research and Evaluation: PREA Data Collection, Review, Retention and Publication Manual , 8/18/15 (revised) – Entire; and Data Dictionary: defines data elements collected by the Office of Program, Planning, Research and Evaluation from all available incident-based documents including reports, investigation files and sexual abuse incident reviews confirm policies are in place to ensure the agency maintains, reviews, and collects data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.

Interviews with PREA Compliance Manager/Point Person confirms the agency maintains, reviews, and collects data as needed from all available incident-based documents, including reports, investigation files and sexual abuse incident reviews. As a result of comprehensive data collection and review, the PREA Analyst maintains separate incident based data from all available incident-based documents,

Review of Data Dictionary: Defines data elements collected by the Office of Program, Planning, Research and Evaluation from all available incident-based documents including reports, investigation files and sexual abuse incident reviews confirm policies are in place and enforced to ensure the agency obtains incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates.

Marcy Correctional Facility does not contract for the confinement of its inmates. Therefore, this part of the standard is non-applicable. An interview with PREA Compliance Manager/Point Person confirms the facility does not contract for the confinement of its inmates.

Review of Data Dictionary: Defines data elements collected by the Office of Program, Planning, Research and Evaluation from all available incident-based documents including reports, investigation files and sexual abuse incident reviews confirm policies are in place and enforced to ensure upon request, the agency provides all such data from the previous calendar year to the Department of Justice no later than June 30.

An interview with PREA Compliance Manager/Point Person confirms the agency provided data from the previous calendar year, as requested, to the Department of Justice. A final review team consisting of the Associate Commissioner/PREA Coordinator, the chief of the Office of Special Investigations, the Deputy Chief of Investigations of the Sex Crimes Division and the PREA Analyst meet annually to review substantiated PREA allegations prior to submission of data to the Bureau of Justice Statistics in a timely manner and as required.

In conclusion, the facility is compliant with this standard, based on: review of policies, procedures, forms and files; interviews with PREA Compliance Manager/Point Person; and observations and questions answered during tour; find the facility compliant with Standard 115.87 Data Collection and Review.

Standard 115.88 Data review for corrective action

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

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

Review of Office of Program Planning Research and Evaluation; PREA Data Collection, Review Retention and Publication Manual, 8/18/15 (revised) – Entire and The “Annual Report on Sexual Victimization 2013-2014” confirm policies are in place to ensure the agency reviews data collected and aggregated pursuant to 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: 1) Identifying problem areas; 2) Taking corrective action on an ongoing basis; and 3) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.

Interview with the Acting Commissioner advises the agency uses incident-based sexual abuse data to assess and improve sexual abuse prevention, detection, and response policies, practices and training with incident-based data primarily used to identify facilities or locations within facilities that have recurring reports of abuse. The research office has a researcher dedicated to work full-time on PREA matters. She works directly with the Associate Commissioner/PREA Coordinator in an effort to identify patterns and trends including common characteristics of victim prone inmates, common characteristics of inmate abusers, and any other trends that may be addressed through training or policy changes. The data also plays a key role in keeping the Department’s training on sexual abuse prevention and response current.

Interview with the Associate Commissioner/PREA Coordinator confirms the agency reviews data collected and aggregated pursuant to Standard 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies by utilizing 3 program research specialist who assist in identifying ways to improve. Corrective action is taken and an example is a female facility that had substantiated incidents reduced when additional video cameras were added based on recommendation from reviewing data, making recommendations and implementing the recommendations.

Interviews with PREA Compliance Manager/Point Person confirms the agency reviews data collected and aggregated pursuant to Standard 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies and training, including: identifying problem areas; taking corrective action on an ongoing basis; and preparing an annual report of its findings from its data review and any corrective actions for each facility, as well as the agency as a whole.

Review of Office of Program Planning Research and Evaluation; PREA Data Collection, Review Retention and Publication Manual, 8/18/15 (revised) – Entire and The “Annual Report on Sexual Victimization 2013-2014” confirm policies are in place to ensure such report include a comparison of the current year’s data and corrective actions with those from prior years and shall provide an assessment of the agency’s progress in addressing sexual abuse.

Interviews with PREA Compliance Manager/Point Person confirms the annual report includes a comparison of the current year’s data and corrective actions with those from prior years and the annual report provides an assessment of the agency’s progress in addressing sexual abuse.

Review of Office of Program Planning Research and Evaluation; PREA Data Collection, Review Retention and Publication Manual, 8/18/15 (revised) – Entire; DOCCS Website Annual Report on Sexual Victimization Link and The “Annual Report on Sexual Victimization 2013-2014” confirm policies are in place to ensure the agency’s report is approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means.

Interviews with the Acting Commissioner and PREA Compliance Manager/Point Person confirm the Acting Commissioner approves the agency’s report and the agency makes its annual report readily available to the public at least annually through its website

Review of Office of Program Planning Research and Evaluation; PREA Data Collection, Review Retention and Publication Manual, 8/18/15 (revised) – Entire and The “Annual Report on Sexual Victimization 2013-2014” confirm policies are in place to ensure the agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.

Interviews with Associate Commissioner/PREA Coordinator and PREA Compliance Manager/Point Person confirms before making aggregated sexual abuse data publicly available the agency removes all personal identifiers.

In conclusion, the facility is compliant with this standard, based on: review of policies, procedures, forms and files; interviews with PREA Compliance Manager/Point Person; and observations and questions answered during tour; find the facility compliant with Standard 115.88 Data Review for Corrective Action.

Standard 115.89 Data storage, publication, and destruction

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

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

Review of Office of Program Planning Research and Evaluation; PREA Data Collection, Review, Retention and Publication Manual, 8/18/15 (revised) – Entire; confirm policy is in place and enforced so the agency ensures that data collected pursuant to 115.87 are securely retained.

An interview with Associate Commissioner/PREA Coordinator and PREA Compliance Manager/Point Person confirms the agency ensures that incident-based and aggregate data are securely retained in the agency office with 3 program research specialist.

Review of Office of Program Planning Research and Evaluation; PREA Data Collection, Review, Retention and Publication Manual, 8/18/15 (revised) – Entire; confirm policy is in place and enforced to ensure the agency makes all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one through other means.

An interview with PREA Compliance Manager/Point Person confirms the agency policy requires that aggregated sexual abuse data from facilities under its direct control are made readily available to the public annually through its website.

Review of Office of Program Planning Research and Evaluation; PREA Data Collection, Review, Retention and Publication Manual, 8/18/15 (revised) – Entire; confirm policy is in place and enforced to ensure before making aggregated sexual abuse data publicly available, the agency removes all personal identifiers.

An interview with PREA Compliance Manager/Point Person confirms before making aggregated sexual abuse data publicly available the agency removes all personal identifiers.

Review of Office of Program Planning Research and Evaluation; PREA Data Collection, Review, Retention and Publication Manual, 8/18/15 (revised) – Entire; confirm policy is in place and enforced to ensure the agency maintains sexual abuse data collected pursuant to 115.87 for at least 10 years after the date of the initial collection unless federal, state, or local law requires otherwise.

Interviews with PREA Compliance Manager/Point Person confirms the agency maintains sexual abuse data collected pursuant to Standard 115.87 for at least 10 years after the date of initial collection, unless federal, state, or local law requires otherwise.

In conclusion, the facility is compliant with this standard, based on: review of policies, procedures, forms and files; interviews with PREA Compliance Manager/Point Person; and observations and questions answered during tour; find the facility compliant with Standard 115.89 Data Storage, Publication, and Destruction.

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.

Marilyn M McAuley

April 2, 2016

Auditor Signature

Date