

## Prison Rape Elimination Act (PREA) Audit Report Adult Prisons & Jails

Interim       Final

**Date of Report**    June 23, 2018

### Auditor Information

<b>Name:</b> Debra D. Dawson	<b>Email:</b> dddawsonprofessionalaudits@gmail.com
<b>Company Name:</b> American Correctional Association (ACA)	
<b>Mailing Address:</b> P.O. Box 5825	<b>City, State, Zip:</b> Greenwood, FL 32443
<b>Telephone:</b> 850-209-4878	<b>Date of Facility Visit:</b> March 7 - 9, 2018

### Agency Information

<b>Name of Agency:</b> New York State Department of Corrections and Community Supervision		<b>Governing Authority or Parent Agency (If Applicable):</b> State of New York	
<b>Physical Address:</b> 1220 Washington Avenue		<b>City, State, Zip:</b> Albany, NY 12226-2050	
<b>Mailing Address:</b>		<b>City, State, Zip:</b>	
<b>Telephone:</b> (518) 457-8126		<b>Is Agency accredited by any organization?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<b>The Agency Is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
<b>Agency mission:</b> To improve public safety by providing a continuity of appropriate treatment services in safe and secure facilities where all inmates' needs are addressed and they are prepared for release, followed by supportive services for all parolees under community supervision to facilitate a successful completion of their sentence.			
<b>Agency Website with PREA Information:</b> <a href="http://www.docs.ny.gov/PREA/PREAinfo.html">http://www.docs.ny.gov/PREA/PREAinfo.html</a>			

### Agency Chief Executive Officer

<b>Name:</b> Anthony J. Annucci	<b>Title:</b> Acting Commissioner
<b>Email:</b> commissioner@doccs.ny.gov	<b>Telephone:</b> (518) 457-8134

### Agency-Wide PREA Coordinator

<b>Name:</b> Jason D. Effman	<b>Title:</b> Associate Commissioner
<b>Email:</b> Jason.effman@doccs.ny.gov	<b>Telephone:</b> (518) 457-3955
<b>PREA Coordinator Reports to:</b> Acting Commissioner, Anthony J. Annucci	<b>Number of Compliance Managers who report to the PREA Coordinator</b> 15

### Facility Information

<b>Name of Facility:</b> Downstate Correctional Facility												
<b>Physical Address:</b> 121 Red Schoolhouse Road, Fishkill, NY 12524												
<b>Mailing Address (if different than above):</b> P.O. Box 445, Fishkill, NY 12524-0445												
<b>Telephone Number:</b> (845) 832-6600												
<table border="1" style="width: 100%;"> <tr> <td><b>The Facility Is:</b></td> <td><input type="checkbox"/> Military</td> <td><input type="checkbox"/> Private for profit</td> <td><input type="checkbox"/> Private not for profit</td> </tr> <tr> <td><input type="checkbox"/> Municipal</td> <td><input type="checkbox"/> County</td> <td><input checked="" type="checkbox"/> State</td> <td><input type="checkbox"/> Federal</td> </tr> <tr> <td><b>Facility Type:</b></td> <td><input type="checkbox"/> Jail</td> <td colspan="2"><input checked="" type="checkbox"/> Prison</td> </tr> </table>	<b>The Facility Is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Private not for profit	<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal	<b>Facility Type:</b>	<input type="checkbox"/> Jail	<input checked="" type="checkbox"/> Prison	
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### Warden/Superintendent

<b>Name:</b> Morton I. Robert	<b>Title:</b> Superintendent
<b>Email:</b> Robert.Morton@doccs.ny.gov	<b>Telephone:</b> (845) 831-6600

### Facility PREA Compliance Manager

<b>Name:</b> Lucy Buther	<b>Title:</b> Assistant Deputy Superintendent/PREA
<b>Email:</b> Lucy.Buther@doccs.ny.gov	<b>Telephone:</b> (845) 831-6600

### Facility Health Service Administrator

<b>Name:</b> Dr. Mario Malvarosa	<b>Title:</b> Medical Health Director
<b>Email:</b> Mario.Malvarosa@doccs.ny.gov	<b>Telephone:</b> (845) 831-6600

### Facility Characteristics

<b>Designated Facility Capacity:</b> 1221	<b>Current Population of Facility:</b> 1144
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Number of inmates admitted to facility during the past 12 months		10,280	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:		1,072	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:		5,425	
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:		33	
Age Range of Population:	Youthful Inmates Under 18: 0	Adults: 18-69	
Are youthful inmates housed separately from the adult population?		<input type="checkbox"/> Yes	<input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Number of youthful inmates housed at this facility during the past 12 months:		0	
Average length of stay or time under supervision:		21 days Reception Center/24 months Cadre	
Facility security level/inmate custody levels:		Maximum	
Number of staff currently employed by the facility who may have contact with inmates:		750	
Number of staff hired by the facility during the past 12 months who may have contact with inmates:		17	
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:		2	
<b>Physical Plant</b>			
Number of Buildings: 13		Number of Single Cell Housing Units: 30	
Number of Multiple Occupancy Cell Housing Units:		0	
Number of Open Bay/Dorm Housing Units:		3	
Number of Segregation Cells (Administrative and Disciplinary):		36	
Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.):			
The facility utilizes a video monitoring system. Multiple recording cameras are positioned in areas of Draft, Bus Sally port, and Special Housing Unit with continuous monitoring and a retention period of 30 days. Live viewing is available in the Forensic Diagnosis Unit, the mental health observation unit.			
<b>Medical</b>			
Type of Medical Facility:		Care level 1 medical facility with an infirmary and 24 hour coverage	
Forensic sexual assault medical exams are conducted at:		St. Frances Hospital	
<b>Other</b>			
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:		77 Volunteers 10 Contractors	
Number of investigators the agency currently employs to investigate allegations of sexual abuse:		32	

# Audit Findings

## Audit Narrative

The Prison Rape Elimination Act (PREA) Certification Audit for the Downstate Correctional Facility, New York State Department of Corrections and Community Supervision (NY-DOCCS) was conducted on March 7 – 9, 2018. The PREA Certification Audit was coordinated through the New York State Department of Corrections and Community Supervision and the American Correctional Association (ACA) Alexandria, Virginia. Department of Justice (DOJ) Certified PREA Auditors Debra Dawson and Charlotte Owens were assigned to conduct the audit. Debra Dawson served as the Lead Auditor. The PREA certification audit began immediately following the conclusion of an ACA reaccreditation audit on March 7, 2018, at approximately 11:00 a.m. An entrance meeting was held with both auditors, Superintendent Robert Morton; Deputy Superintendent Tracy O’Bryan, First Deputy Superintendent Thomas McGuinness; Deputy Superintendent of Security Jerome Inniss; Duty Superintendent of Reception/Classification Betsy Smith; Assistant Deputy Superintendent/PREA Compliance Manager Lucy Buther, and Captain Daniel Carey in attendance.

The Assistant Deputy Superintendent/PREA Compliance Manager provided the auditors with the facility’s Pre-Audit Questionnaire (PAQ), and appropriate policies, procedures, and facility documentation related to each standard for review prior to the site visit. Deputy Superintendent of Security Jerome Inniss, Captain Daniel Carey, and Assistant Deputy Superintendent/PREA Lucy Buther provided assistance during audit process. The Associate Commissioner/Agency-wide PREA Coordinator Jason Effman was present on the third day of the site visit to provide guidance on the agency-wide policies pertaining to NY-DOCCS PREA Program. The site visit consisted of conducting a full tour of the facility, a thorough review of documentation, and formal and informal interviews with staff and inmates during the three day visit. Areas visited during the tour included all inmate housing areas, maintenance, commissary, draft (intake), kitchen, laundry, recreation, control, administration, all program areas, medical and mental health. PREA posters and notification of PREA audit visit was observed posted in inmate housing units, program areas, draft and throughout the facility in both English and Spanish. The notification of the PREA audit visit was documented as posted on January 9, 2018, well in excess of the six week required notification period.

Auditors were provided rosters of staff for each shift that were selected for random interview. There was 750 staff during the audit with 573 security staff and 177 non-security staff. Eighteen random staff was selected from various departments and from each security shift. The random staff selected for interviews included union official, mail room staff, security staff, supervisors, civilian staff that included food service staff, administrative staff, safety personnel, and education staff. The Specialized staff was selected for interview by the auditors by their assigned specialized PREA responsibilities. There was 24 specialized staff interviews conducted. Those specialized staff included: (1) Grievance Supervisor; (1) Incident Review Team Member; (1) Medical; (1) Mental Health; (2) Intermediate or higher supervisor; (2) Staff who perform screening for risk of victimization and abusiveness; (2) Investigative Staff; (1) Staff who supervise inmates in segregated housing; (1) Designated staff member charged with monitoring retaliation; (2) Security staff and non-security staff who have acted as first responder;

(2) Volunteers; (2) Contractors; (1) Human Resource Administrator; (1) Associate Commissioner/Agency Wide PREA Coordinator; (1) Acting Commissioner; (1) SANE/SAFE Nurse; (1) Superintendent; (1) Intake Staff.

The Assistant Deputy Superintendent/PREA Compliance Manager provided the auditors with alphabetical and bed assignment rosters. A random number of bed assignments were chosen for the selection of random inmate interviews. A list of inmates identified for targeted inmates were provided to the auditors. The auditors conducted 32 random inmate interviews and 14 targeted inmate interviews conducted during the tour. The target inmate interviews consisted of (1) Inmate with cognitive disability; (1) Inmate with a physical disability; (1) Inmate who are LEP; (2) Inmates who identify as gay; (2) Inmates who are hard of hearing; (4) Inmates who reported sexual victimization during risk screening; and (3) Inmates who identify as Transgender. The auditors conducted 14 informal inmate interviews. The auditor received one inmate correspondence prior to the site visit. There were no inmates assigned at Downstate Correctional Facility under the targeted groups of youthful inmates, inmates in segregated housing for high risk of sexual victimization, or inmates who reported sexual abuse during the audit site visit.

## Facility Characteristics

*The auditor's description of the audited facility should include details about the facility type, demographics and size of the inmate, resident or detainee population, numbers and type of staff positions, configuration and layout of the facility, numbers of housing units, description of housing units including any special housing units, a description of programs and services, including food service and recreation. The auditor should describe how these details are relevant to PREA implementation and compliance.*

Downstate Correctional Facility is located at 121 Red Schoolhouse Road, Fishkill, NY., and is 60 miles north of New York City and 90 miles south of Albany. The Downstate Correctional Facility is classified as a maximum security correctional facility. The Downstate Correctional Facility was built in February 1979, to provide maximum separation of inmates. However the mission of the facility changed in 1980 and the facility was designated as a Reception/Classification Center and the general confinement of males 18 years of age and older. Downstate Correctional Facility is the largest of three Reception/Classification Centers for male inmates operated by the New York State Department of Corrections and Community Supervision. The Reception Center receives, classifies, assesses programmatic needs, establishes permanent records and provides orientation to both new commitments and parole violators. The facility has a designed capacity of 1221. The count on the first day of the site visit was 1144.

The facility consists of 13 buildings with four Complexes. Thirty individual housing units are spread amongst these four complexes. Each of the complexes consists of a core building with offices, interview and recreation areas, and is surrounded by the individual housing units. Complex 1, Complex 2, and Complex 3 are identical in the physical layout with eight individuals housing units and 36 single cells in each. Complex 1 is designated as the special needs classification unit, special housing unit and the forensic diagnostic unit. Complex 4 is designed as the Cadre housing unit. There are six individual housing and all have 36 cells. Five of these housing units have 12 cells that are doubled bunked for a total of 48 beds in this unit. The sixth housing unit in Complex 4 has the Puppies Behind Bars

Program. This unit has 36 cells and there is no double bunking in this unit. Thirteen dogs were in the program at the time of the site visit.

Complex five contains offices, visiting, medical services, main control room, and the reception area. Complex six is the maintenance area which is located adjacent to the rear traffic gate. Tunnels connect Complexes one, two, three to Complex five. Complex four is similar in design except it has six housing units and a larger recreation and program services area.

The infirmary consists of 15 beds. The Infirmary consists of six regular rooms, two are double and four are single. There are three isolation rooms. The cells are designated to forensic/observation activities. Medical staff provides 24 hour coverage. Contracts services are provided within the medical department by Bio-Reference for Phlebotomists and White Glove, Inc., who provides agency nurses.

Downstate Correctional Facility is one of two correctional facilities in the state of New York with a Federal Court House inside the facility. Hearings are conducted for immigration court within this Federal Court House.

## Summary of Audit Findings

*The summary should include the number of standards exceeded, number of standards met, and number of standards not met, **along with a list of each of the standards in each category.** If relevant, provide a summarized description of the corrective action plan, including deficiencies observed, recommendations made, actions taken by the agency, relevant timelines, and methods used by the auditor to reassess compliance.*

**Number of Standards Exceeded:** 4

115.16; 115.17; 115.33; 115.81

**Number of Standards Met:** 41

115.11; 115.12; 115.13; 115.14; 115.15; 115.18; 115.21; 115.22; 115.31; 115.32; 115.34; 115.35; 115.41; 115.42; 115.43; 115.51; 115.52; 115.53; 115.54; 115.61; 115.62; 115.63; 115.64; 115.65; 115.66; 115.67; 115.68; 115.71; 115.72; 115.73; 115.76; 115.77; 115.78; 115.82; 115.83; 115.86; 115.87; 115.88; 115.89; 115.401; 115.403

**Number of Standards Not Met:** 0

## Summary of Corrective Action (if any)

NYDOCCS was placed in corrective action period for 100 days in regards to standards 115:67 and 115.86.

115.67 A corrective action period was required to ensure the treatment of inmates and staff who reported the sexual abuse and/or sexual harassment is monitored in accordance is policy and as noted within this standard to monitor any changes that may suggest possible retaliation by inmates or staff toward the reporting staff and/or inmate. The corrective action period will be effective for 100 days to ensure monitoring continues to a minimum of 90 days, even if the inmate is transferred. Staff demonstrated the practice and procedure of providing the offender's receiving correctional facility that the offender was be monitored for retaliation. Nine notifications were provided to the auditor during the corrective action period that supports the determination that Downstate Correctional Facility has practice and procedures in place to meet the mandate of this standard.

115.86 A corrective action period was required due to the facility not receiving input from mental health and medical staff and/or documenting participation of a third party supervisor appointed by Superintendent as members of the incident review during the incident review process of completed PREA investigative cases. During the corrective action period, Downstate Correctional Facility Downstate provided copies of 5 investigations in which appropriate staff served as members of the incident review team.

## PREVENTION PLANNING

### Standard 115.11: Zero tolerance of sexual abuse and sexual harassment; PREA coordinator

All Yes/No Questions Must Be Answered by The Auditor to Complete the Report

#### 115.11 (a)

- Does the agency have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment?  Yes  No
- Does the written policy outline the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment?  Yes  No

#### 115.11 (b)

- Has the agency employed or designated an agency-wide PREA Coordinator?  Yes  No
- Is the PREA Coordinator position in the upper-level of the agency hierarchy?  Yes  No
- Does the PREA Coordinator have sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities?  
 Yes  No

### 115.11 (c)

- If this agency operates more than one facility, has each facility designated a PREA compliance manager? (N/A if agency operates only one facility.)  Yes  No  NA
- Does the PREA compliance manager have sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards? (N/A if agency operates only one facility.)  Yes  No  NA

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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

In accordance with Directive 4027A Sexual Abuse Prevention and Intervention Inmate-on-Inmate; Directive #4028A Sexual Abuse Prevention and Intervention Staff-on-Inmate/Staff-on-Parolee; Memorandums of appointment and duties of Agency-Wide PREA Coordinator, Facility PREA Compliance Manager and PREA Point Person; and NYDOCCS Organization Chart, it was determined Downstate Correctional Facility meets the mandate of this standard. NYDOCCS and Downstate Correctional Facility and the agency has written policies and procedures in place to support the agency's mission, and goal of maintaining a zero tolerance of sexual abuse and sexual harassment. The policies provide an outline of required practice in the agency's approach to preventing, detecting, and responding to the conduct of such. The policy includes definitions of prohibited behaviors regarding sexual assault and sexual harassment of inmates with sanctions for those found to have participated in these prohibited behaviors.

Policies identify the Agency's strategies and responsibilities to detect, reduce and prevent sexual abuse and sexual harassment of inmates. During interviews with the selection of random staff and specialty staff, each confirmed receiving PREA training and was knowledgeable of their responsibilities. PREA training is provided to staff during initial training and bi-annually as outline in policy. Those individuals interviewed shared their understanding of the agency's zero tolerance in sexual abuse and sexual harassment within the guidelines of the PREA standards. PREA posters and literature describing the

agency's zero tolerance of sexual abuse and sexual harassment were observed by the auditors strategically located and accessible throughout the facility for staff and inmate awareness.

The Agency PREA Coordinator is a position assigned by the NYDOCCS to the Associate Commissioner to coordinate the Agency's statewide compliance with PREA. In an interview with the Agency-wide PREA Coordinator, he confirmed his time is almost exclusively devoted to PREA compliance and the prevention of sexual abuse and sexual harassment. He has fifteen (15) Assistant Deputy Superintendent (ADS) PREA Compliance Managers. In addition, each of the 54 facilities has a Captain or staff member with equivalent responsibilities designated as the PREA Point Person. He interacts with the Assistant Deputy Superintendent PREA Compliance Managers routinely and conducting weekly conference calls to discuss policy updates, new initiatives and to discuss any issues. An open line of communication is maintained in addition to annual training programs which are often in conjunction with the Office of Special Investigations, Sex Crimes Division staff where information is shared and guidance is provided. The ADS PREA Compliance Managers and the designated PREA Point Persons will frequently deal with a Correctional Facility Operations Specialists (CFOS) from his Office. During circumstances in which an issue of complying with a PREA standard is discovered, the matter is reviewed with members of the Central Office or facility Executive Team to determine whether the issue is with the policy or implementation of the policy. He would then either issue a revised policy, work with the proper Deputy Commissioner to prepare a policy revision, or provide clarifying direction as appropriate. For significant issues, the matter would be brought to the attention of the Acting Commissioner and the Department's Executive Team.

**Corrective Action**

None required

**Standard 115.12: Contracting with other entities for the confinement of inmates**

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

**115.12 (a)**

- If this agency is public and it contracts for the confinement of its inmates with private agencies or other entities including other government agencies, has the agency included the entity's obligation to comply with the PREA standards in any new contract or contract renewal signed on or after August 20, 2012? (N/A if the agency does not contract with private agencies or other entities for the confinement of inmates.)  Yes  No  NA

**115.12 (b)**

- Does any new contract or contract renewal signed on or after August 20, 2012 provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards? (N/A if the agency does not contract with private agencies or other entities for the confinement of inmates OR the response to 115.12(a)-1 is "NO".)  Yes  No  NA

## Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

## Instructions for Overall Compliance Determination Narrative

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

NYDOCCS does not contract with other entities for the confinement of inmates. NYS Correction Law § 121 provides “the private operation or management of a correctional facility ... or a local correctional facility ..., the private ownership or operation of a facility for housing state or local inmates or the private ownership or operation of a facility for the incarceration of other state’s inmates is prohibited.” New York State is not permitted to enter into contracts for the confinement of inmates. Therefore, the Agency meets the mandate of this standard.

### Corrective Action

None required

## Standard 115.13: Supervision and monitoring

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.13 (a)

- Does the agency ensure that each facility has developed a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse?  Yes  No
- Does the agency ensure that each facility has documented a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse?  Yes  No
- Does the agency ensure that each facility’s staffing plan takes into consideration the generally accepted detention and correctional practices in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility’s staffing plan takes into consideration any judicial

findings of inadequacy in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No

- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from Federal investigative agencies in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from internal or external oversight bodies in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration all components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated) in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the composition of the inmate population in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the number and placement of supervisory staff in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the institution programs occurring on a particular shift in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No  NA
- Does the agency ensure that each facility's staffing plan takes into consideration any applicable State or local laws, regulations, or standards in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the prevalence of substantiated and unsubstantiated incidents of sexual abuse in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No

#### 115.13 (b)

- In circumstances where the staffing plan is not complied with, does the facility document and justify all deviations from the plan? (N/A if no deviations from staffing plan.)  
 Yes  No  NA

#### 115.13 (c)

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The staffing plan established pursuant to paragraph (a) of this section?  Yes  No
- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The facility's deployment of video monitoring systems and other monitoring technologies?  Yes  No
- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The resources the facility has available to commit to ensure adherence to the staffing plan?  Yes  No

#### 115.13 (d)

- Has the facility/agency implemented a policy and practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment?  Yes  No
- Is this policy and practice implemented for night shifts as well as day shifts?  Yes  No
- Does the facility/agency have a policy prohibiting staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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

In accordance with a review of: Annual Supervision and Monitoring Plan Review; NYDOCCS Employee Manual Directive #4001, Facility Administrative Coverage & Supervisory Rounds Staffing Plan; Charts; Log Books Entries; Executive Staff and Security Supervisor announced / unannounced rounds; Weekly Administrative Activity Report and Interviews with Supervisory Staff, it was determined Downstate Correctional Facility meets the mandate of this standard. Downstate Correctional Facility has established a staffing plan which provides for adequate levels of staffing and where applicable, they use direct monitoring to protect inmates against sexual abuse. Copies of the staffing plan (plot

plan) were provided for review by an auditor. The facility's video monitoring capabilities are limited to areas that include Draft, Bus Sally Port, Forensic Diagnostic Unit (mental health observation unit) and do not exist in the housing units. Review of video monitoring confirmed the inmates' privacy for showering, use of toilet, change of clothes and performance of bodily functions was maintained during a review of video monitoring by the auditor. The facility is a designated for adult males inmates. Inmates who require constant visual supervision in the mental health unit are placed under monitoring status by male security staff. An interview with the Superintendent verified the staffing plan was developed considering the generally acceptable correctional practices; any judicial findings, any findings of inadequacy from federal investigative agencies, any findings of inadequacy from internal or external oversight bodies, all components of the physical plant, the inmate population, the number and placement of supervisory staff, institutional programs and the shifts they occur on applicable state or local laws or regulations, the prevalence of substantiated and unsubstantiated incidents of sexual abuse and any other relevant information. The annual review of the staffing plan took place on November 30, 2017. Documentation also confirmed a previous review of the staffing plan on March 30, 2017. There were no deviations noted to have occurred upon review of the daily chart created from the Plot Plan. Per Supervisory staff and the Superintendent, overtime is always paid in lieu of vacating a required security post. However, any deviations from the staffing plan are required to be documented and the reasons for the deviation. A review of log book entries, Weekly Administrative Activity Reports and the Daily Security Supervisors Reports confirmed Intermediate and higher level staff is making unannounced rounds as required. In addition to Directive #4001, supervisory staff confirmed staff is prohibited from notifying other staff that supervisory rounds are being conducted.

**Corrective Action**

None required

**Standard 115.14: Youthful inmates**

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

**115.14 (a)**

- Does the facility place all youthful inmates in housing units that separate them from sight, sound, and physical contact with any adult inmates through use of a shared dayroom or other common space, shower area, or sleeping quarters? (N/A if facility does not have youthful inmates [inmates <18 years old].)  Yes  No  NA

**115.14 (b)**

- In areas outside of housing units does the agency maintain sight and sound separation between youthful inmates and adult inmates? (N/A if facility does not have youthful inmates [inmates <18 years old].)  Yes  No  NA
- In areas outside of housing units does the agency provide direct staff supervision when youthful inmates and adult inmates have sight, sound, or physical contact? (N/A if facility does not have youthful inmates [inmates <18 years old].)  Yes  No  NA

**115.14 (c)**

- Does the agency make its best efforts to avoid placing youthful inmates in isolation to comply with this provision? (N/A if facility does not have youthful inmates [inmates <18 years old].)  
 Yes  No  NA
- Does the agency, while complying with this provision, allow youthful inmates daily large-muscle exercise and legally required special education services, except in exigent circumstances? (N/A if facility does not have youthful inmates [inmates <18 years old].)  Yes  No  NA
- Do youthful inmates have access to other programs and work opportunities to the extent possible? (N/A if facility does not have youthful inmates [inmates <18 years old].)  
 Yes  No  NA

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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

In accordance with the review of Directive #0069, Downstate Correctional Facility, the facility meets the mandate of this standard. The Downstate Correctional Facility is classified as a maximum security correctional facility. The facility is used as a reception/classification center and is responsible for the classification and general confinement of males 18 years of age and older.

#### Corrective Action

None required

## Standard 115.15: Limits to cross-gender viewing and searches

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.15 (a)

- Does the facility always refrain from conducting any cross-gender strip or cross-gender visual body cavity searches, except in exigent circumstances or by medical practitioners?  
 Yes  No

#### 115.15 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female inmates in non-exigent circumstances? (N/A here for facilities with less than 50 inmates before August 20, 2017.)  Yes  No  NA
- Does the facility always refrain from restricting female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision? (N/A here for facilities with less than 50 inmates before August 20, 2017.)  Yes  No  NA

#### 115.15 (c)

- Does the facility document all cross-gender strip searches and cross-gender visual body cavity searches?  Yes  No
- Does the facility document all cross-gender pat-down searches of female inmates?  Yes  No

#### 115.15 (d)

- Does the facility implement a policy and practice that enables inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks?  Yes  No
- Does the facility require staff of the opposite gender to announce their presence when entering an inmate housing unit?  Yes  No

#### 115.15 (e)

- Does the facility always refrain from searching or physically examining transgender or intersex inmates for the sole purpose of determining the inmate's genital status?  Yes  No
- If an inmate's genital status is unknown, does the facility determine genital status during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner?  Yes  No

#### 115.15 (f)

- Does the facility/agency train security staff in how to conduct cross-gender pat down searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs?  Yes  No

- Does the facility/agency train security staff in how to conduct searches of transgender and intersex inmates in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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

In accordance with a review of Directive #4910 Control and Search for Contraband; Directive #2230 Guidelines for Assignment of Male and Female Correction Officers; Directive #4001 Facility Administrative Coverage & Supervisory Rounds; Memorandum from Associate Commissioner noting Revisions to Directive #4910; HSPM 1.37 Body Cavity Search; HSPM 1.19 Health Appraisal; Interviews with Random Staff, Random and Targeted Inmates, Downstate Correctional Facility meets the mandate of this standard. Downstate Correctional Facility is a male facility and does not house female offenders. The facility is prohibited from conducting cross-gender strip searches or cross gender visual body cavity searches except in exigent circumstances or when performed by medical practitioners. All visual searches must be authorized by a supervisor and documented. The facility has policies and procedures that allow the inmate population to shower, perform bodily functions, and change clothing while not allowing staff of the opposite gender viewing their buttocks, or genitalia, except when such viewing is incidental to routine checks. Individual shower stalls are in each of the 30 housing units and appropriate shower curtains are installed at each for required privacy. Toilets are within each cell. Interviews with random and targeted inmates each confirmed they have never been naked in full view of female staff (not including medical staff such as doctors, nurses). Staff confirmed during the interview process their thorough understanding of conducting cross-gender pat-down searches and searches of transgender and intersex inmates. Staff confirmed these searches of transgender or intersex inmates, must be conducted in a professional and respectful manner, while in the least intrusive manner possible, consistent with security needs. Interviews with three transgender inmates confirmed staff utilization of proper search procedures during these searches.

### Corrective Action

None required

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

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

### 115.16 (a)

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are deaf or hard of hearing?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are blind or have low vision?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have intellectual disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have psychiatric disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have speech disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Other (if "other," please explain in overall determination notes)?  Yes  No
- Do such steps include, when necessary, ensuring effective communication with inmates who are deaf or hard of hearing?  Yes  No
- Do such steps include, when necessary, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary?  Yes  No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Have intellectual disabilities?  Yes  No

- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Have limited reading skills?  Yes  No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Are blind or have low vision?  Yes  No

#### 115.16 (b)

- Does the agency take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient?  Yes  No
- Do these steps include providing interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary?  Yes  No

#### 115.16 (c)

- Does the agency always refrain from relying on inmate interpreters, inmate readers, or other types of inmate assistance except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under §115.64, or the investigation of the inmate's allegations?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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In accordance with a review of Language Access Plan For LEP Individuals; Draft Form 4021A; Contract Agreement Between New York State and Language Line Services, INC; Directive #4490 Cultural and Language Access Services; Directive #2612 Inmates with Sensorial Disabilities; Associate Commissioner Memorandums to include "Reasonable Accommodations"; Form 4021A Draft Receipts; Utilization of Language Access Line, PREA Pamphlets; PREA Sexual Abuse Brochures; Interviews with Draft (Intake) Sergeants, Downstate Correctional Facility exceeds in meeting the mandate of this

standard. Downstate Correctional Facility takes steps and has policies that ensure 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. Downstate Correctional Facility provides inmates with materials which are available in a variety of languages to include English, Spanish, Haitian-Creole, Russian, Polish, Italian, Chinese, and Korean. The Language Access Line was made available to an auditor to translate the interview with the LEP inmate from English into the appropriate Chinese dialect. PREA posters and educational materials are provided in English and Spanish. Inmates who are deaf are provided PREA information thru written form, i.e. PREA guidelines, Education Brochures and Videos with subtitles. Inmates who are blind are provided an audio version in either English or Spanish. PREA Video "Ending Sexual Abuse Behind the Walls: An Orientation", are available in English and in seven additional languages with subtitles as well to include Spanish, Haitian-Creole, Chinese, Russian, Italian, Polish, and Korean. Interviews with random staff confirmed the facility does not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise an inmate's safety, the performance of first responder duties, or the investigation of an inmate's allegations. The Downstate Correctional Facility does a phenomenal job in providing PREA education material to all inmates upon their arrival to the facility by providing it in a variety of languages the meets the language need of the inmate population. The facility's ability to provide the PREA education material in the various languages is extremely beneficial to the agency as the is a Reception Facility and the agency can assure a language barrier does not hamper the inmate's understanding of PREA.

#### **Corrective Action**

None required

### **Standard 115.17: Hiring and promotion decisions**

#### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

##### **115.17 (a)**

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)?  Yes  No
- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse?  Yes  No
- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above?  Yes  No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)?  Yes  No

- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse?  Yes  No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above?  Yes  No

#### 115.17 (b)

- Does the agency consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates?  Yes  No

#### 115.17 (c)

- Before hiring new employees, who may have contact with inmates, does the agency: perform a criminal background records check?  Yes  No
- Before hiring new employees, who may have contact with inmates, does the agency: consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse?  Yes  No

#### 115.17 (d)

- Does the agency perform a criminal background records check before enlisting the services of any contractor who may have contact with inmates?  Yes  No

#### 115.17 (e)

- Does the agency either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with inmates or have in place a system for otherwise capturing such information for current employees?  Yes  No

#### 115.17 (f)

- Does the agency ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions?  Yes  No
- Does the agency ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in any interviews or written self-evaluations conducted as part of reviews of current employees?  Yes  No

- Does the agency impose upon employees a continuing affirmative duty to disclose any such misconduct?  Yes  No

#### 115.17 (g)

- Does the agency consider material omissions regarding such misconduct, or the provision of materially false information, grounds for termination?  Yes  No

#### 115.17 (h)

- Does the agency provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work? (N/A if providing information on substantiated allegations of sexual abuse or sexual harassment involving a former employee is prohibited by law.)  Yes  No  NA

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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In accordance with a review of Directive #2012 Release of Employee Personnel and Payroll Information; Directive #2112 Report of Criminal Charges; Directive # 2216 Fingerprinting/Criminal History Inquiry New Employees and Contractors; Memorandum from the Deputy Commissioner and Counsel, Division of Criminal Justice Services; Reference PREA Background Checks, Interviews with Superintendent, and Human Resource Manager; and additional memorandums and personnel forms provided, Downstate Correctional Facility meets the mandate of this standard. Downstate Correctional Facility does not hire or promote any individual who has engaged in sexual abuse in any prison, jail or lockup. Nor do they hire or promote any persons who have been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force or threats or intimidation. NYDOCCS and Downstate Correctional Facility make its best effort to contact all prior institutional employers for information on any substantiated allegations of sexual abuse or harassment. Initial Background checks are conducted by the NYDOCCS Employee Investigations Unit. NYDOCCS has an agreement with the New York State Division of Criminal Justice Services to notify the agency of any arrest of an employee,

contract staff or volunteer unless the Division is prohibited by State statute to do so. This process is immediate and continuous. Additionally, all employees and contractors are required to report any subsequent arrest to their immediate supervisor before reporting for duty. Thus, the Downstate Correctional Facility and the Employee Investigations are notified immediate and continuous; this process exceeds the requirement of background checks every five years. Interviews with two OSI Investigators confirmed staff who are terminated based on or resign during a PREA allegation are placed on a no rehire list and will not be considered for rehire.

### Corrective Action

None required

## Standard 115.18: Upgrades to facilities and technologies

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.18 (a)

- If the agency designed or acquired any new facility or planned any substantial expansion or modification of existing facilities, did the agency consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not acquired a new facility or made a substantial expansion to existing facilities since August 20, 2012, or since the last PREA audit, whichever is later.)  
 Yes    No    NA

#### 115.18 (b)

- If the agency installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology, did the agency consider how such technology may enhance the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012, or since the last PREA audit, whichever is later.)  
 Yes    No    NA

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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In accordance with a review of Directive #3053 Alterations and Construction Request, Form 1612; Downstate Correctional Facility Alteration and Construction Request:1612 Form, request to install toilet partition in holding pens; Draft Renovation Construction Closeout Report dated December 2, 2016, and interview with Superintendent, Downstate Correctional Facility meets the mandate of this standard. Downstate Correctional construction began in 1975, and received the first inmates on February 20, 1979. Modifications to the facility were completed on December 2, 2016. These modifications consisted of installing toilets stalls and doors in holding cells with seven side panels in the Draft (Intake) area. The renovation project was in accordance will all New York Department of Corrections and Community Supervision directives. During the reconstruction of the Draft area, a camera was placed at each of the three visual search areas. However, the view has been obstructed to prevent viewing and/or recording of inmate's genitalia and/or buttocks.

**Corrective Action**

None required

**RESPONSIVE PLANNING**

**Standard 115.21: Evidence protocol and forensic medical examinations**

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

**115.21 (a)**

- If the agency is responsible for investigating allegations of sexual abuse, does the agency follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)  
 Yes    No    NA

**115.21 (b)**

- Is this protocol developmentally appropriate for youth where applicable? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)  Yes  No  NA
- Is this protocol, as appropriate, adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)  Yes  No  NA

#### 115.21 (c)

- Does the agency offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate?  Yes  No
- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible?  Yes  No
- If SAFEs or SANEs cannot be made available, is the examination performed by other qualified medical practitioners (they must have been specifically trained to conduct sexual assault forensic exams)?  Yes  No
- Has the agency documented its efforts to provide SAFEs or SANEs?  Yes  No

#### 115.21 (d)

- Does the agency attempt to make available to the victim a victim advocate from a rape crisis center?  Yes  No
- If a rape crisis center is not available to provide victim advocate services, does the agency make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member?  Yes  No
- Has the agency documented its efforts to secure services from rape crisis centers?  Yes  No

#### 115.21 (e)

- As requested by the victim, does the victim advocate, qualified agency staff member, or qualified community-based organization staff member accompany and support the victim through the forensic medical examination process and investigatory interviews?  Yes  No
- As requested by the victim, does this person provide emotional support, crisis intervention, information, and referrals?  Yes  No

#### 115.21 (f)

- If the agency itself is not responsible for investigating allegations of sexual abuse, has the agency requested that the investigating entity follow the requirements of paragraphs (a) through (e) of this section? (N/A if the agency/facility is responsible for conducting criminal AND administrative sexual abuse investigations.)  Yes  No  NA

#### 115.21 (g)

- Auditor is not required to audit this provision.

#### 115.21 (h)

- If the agency uses a qualified agency staff member or a qualified community-based staff member for the purposes of this section, has the individual been screened for appropriateness to serve in this role and received education concerning sexual assault and forensic examination issues in general? [N/A if agency attempts to make a victim advocate from a rape crisis center available to victims per 115.21(d) above.]  Yes  No  NA

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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In accordance with a review of Reviewed Directive #4027B Sexual Abuse Reporting & Investigation Inmate – on – Inmate; HSPM 1.60 – Sexual Assault; Operational Guidelines Office of Special Investigations, Immediate Dispatch: Inmate – on – Inmate/Staff – on – Inmate; Department of Health Protocol for the Acute Care of Adult Patient Reporting Sexual Assault; New York State Police Superintendent Letter - RE: Implementation of the PREA Standards; Power Point Presentation Excerpt: PREA Specialized Training: Investigations; Interviews with Medical Staff, Investigative Staff, SANE/SAFE Nurse; Crime Victims Treatment Center Representative, Downstate Correctional Facility meets the mandate of this standard. The New York Department of Corrections and Community Supervision (NYDOCCS) is responsible for conducting all criminal and administrative investigations within the agency. Investigations are conducted by the Agency's Office of Special Investigations Sex Crimes Division (OSI). The OSI works with the New York State Police Bureau of Criminal Investigation to investigate reports of Staff–on–Inmate and Inmate-on-Inmate sexual assault that may involve criminal charges. Directives for Sexual Abuse Reporting and Investigation and the Inmate on Inmate/Staff-on-Inmate Sexual Abuse Dispatch and Operational Guidelines outline evidence protocols

for administrative investigations and criminal prosecutions. NYDOCCS utilizes the New York Department of Health Protocol for the Acute Care of the Adult Patient Reporting Sexual Abuse for evidence protocols and forensic medical examinations. Interviews were conducted with two investigators from the Office of the Special Investigations who respond to incidents of sexual abuse/sexual assault. Both were knowledgeable of the sexual assault investigative process, evidence collection protocols, and use of the Sexual Abuse Response and Containment Checklist. Emergency healthcare as well as forensic examinations by SANE/SAFE Nurse are provided at an outside facility with no cost to the inmate. An advocate is provided to the inmate upon request to provide emotional support through the forensic medical examination and investigation interviews. An interview with the Executive Director of the Crime Victims Treatment Center confirmed that these services are available to all victims of sexual abuse upon request. One inmate received a forensic medical examination which was performed by SANE/SAFE Nurse during the last twelve months. This forensic medical examination was conducted at St. Frances Hospital.

**Corrective Action**

None required

**Standard 115.22: Policies to ensure referrals of allegations for investigations**

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

**115.22 (a)**

- Does the agency ensure an administrative or criminal investigation is completed for all allegations of sexual abuse?  Yes  No
- Does the agency ensure an administrative or criminal investigation is completed for all allegations of sexual harassment?  Yes  No

**115.22 (b)**

- Does the agency have a policy and practice in place to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior?  Yes  No
- Has the agency published such policy on its website or, if it does not have one, made the policy available through other means?  Yes  No
- Does the agency document all such referrals?  Yes  No

**115.22 (c)**

- If a separate entity is responsible for conducting criminal investigations, does such publication describe the responsibilities of both the agency and the investigating entity? [N/A if the agency/facility is responsible for criminal investigations. See 115.21(a).]  Yes  No  NA

#### 115.22 (d)

- Auditor is not required to audit this provision.

#### 115.22 (e)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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In accordance with a review of Directive #0700, Office of Special Investigations; Directive #4027A Sexual Abuse Prevention & Intervention Inmate – on – Inmate; Directive #4027B Sexual Abuse Reporting & Investigation Inmate – on – Inmate; Directive #4028A Sexual Abuse Prevention & Intervention Staff – on – Inmate; Directive #4028B Sexual Abuse Reporting & Investigation Staff – on – Inmate; Interviews with Superintendent, Investigative Staff, and Random Staff, Downstate Correctional Facility meets the mandate of this standard. NYDOCCS Directives requires all complaints and information received relative to possible investigations be reviewed, processed, and documented. Documentation of the administrative or criminal investigations is maintained by the Office of Special Investigations Sex Crimes Division (OSI). The outcome of these investigations is shared with the Superintendent. OSI works cooperatively with New York State Police (NYSP), Bureau of Criminal Investigations (BCI) in the investigations of reported incidents of staff-on-inmate and inmate-on-inmate sexual abuse that may involve criminal conduct. Two investigators with the Office of Special Investigations articulated their procedures and responsibilities in conducting sexual abuse and/or sexual harassment investigations in addition to the responsibilities of the New York State Police Bureau of Criminal Investigation during an investigation. The roles and responsibilities of each agency are clearly defined in the noted policies.

#### Corrective Action

None required

## TRAINING AND EDUCATION

## Standard 115.31: Employee training

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.31 (a)

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures?  Yes  No
- Does the agency train all employees who may have contact with inmates on inmates' right to be free from sexual abuse and sexual harassment?  Yes  No
- Does the agency train all employees who may have contact with inmates on the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment?  Yes  No
- Does the agency train all employees who may have contact with inmates on the dynamics of sexual abuse and sexual harassment in confinement?  Yes  No
- Does the agency train all employees who may have contact with inmates on the common reactions of sexual abuse and sexual harassment victims?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to detect and respond to signs of threatened and actual sexual abuse?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to avoid inappropriate relationships with inmates?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities?  Yes  No

#### 115.31 (b)

- Is such training tailored to the gender of the inmates at the employee's facility?  Yes  No
- Have employees received additional training if reassigned from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa?  Yes  No

#### 115.31 (c)

- Have all current employees who may have contact with inmates received such training?  
 Yes  No
- Does the agency provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures?  Yes  No
- In years in which an employee does not receive refresher training, does the agency provide refresher information on current sexual abuse and sexual harassment policies?  Yes  No

#### 115.31 (d)

- Does the agency document, through employee signature or electronic verification, that employees understand the training they have received?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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

In accordance with a review of: Training Manual Subject: 0.100 Frequency; Training Chart and Training Bulletins; Training Bulletin #7, PREA: Sexual Abuse Prevention and Response; Training Manual Subject: 6.500 Facility Familiarization; Training Manual Subject: 6.600 Initial Employee; Training 40 hour Orientation' Acting Commissioner Memo – RE: Policies and Standards Generally Applicable to all Employees; Deputy and Associate Commissioner Memo – RE: Sexual Abuse Prevention and Response Training; Sexual Abuse Prevention and Response Lesson Plan, Downstate Correctional Facility meets the mandate of this standard. NYDOCCS mandates a three hour training PREA course training that addresses all PREA requirement including their zero tolerance policy, the agency's policy and procedures for prevention reporting and response to a sexual assault and/or sexual harassment in a confinement setting, common reactions of sexual abuse and harassment victims, how to detect and respond to signs of threatened and actual sexual abuse, how to avoid inappropriate relationships with inmates, how to communicate effectively and professionally with inmates, and how to

comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities. This training course is required for all employees once during their career. A refresher course covering Sexual Abuse Prevention and Response, is required every two years during in-service training. Additionally, training is provided to staff during line up (roll call) and staff meetings. During interviews, officers were very aware of their responsibilities to protect victims, respond to allegations and refer reports for further investigation. Both formal and informal interviews with staff indicate that they are well trained in Sexual Assault Prevention and Response and their duties as first responders and how to report to the Office of Special Investigations. Staff personnel at the facility are issued a pocket card which outlines the Zero Tolerance Policy and explains how to report sexual harassment, abuse and assault on one side of the card while the first responder duties are listed on the reverse side of the card. Supervisory Staff are given a PREA Overview and Quick Response Guide which covers the history of PREA, definitions of sexual harassment and abuse, incident response, and other PREA issues. Interviews conducted with random staff confirmed their knowledge of the facility's Zero Tolerance Policy on sexual abuse and assault and the reporting process for PREA incidents.

#### **Corrective Action**

None required

### **Standard 115.32: Volunteer and contractor training**

#### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

##### **115.32 (a)**

- Has the agency ensured that all volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures?  Yes  No

##### **115.32 (b)**

- Have all volunteers and contractors who have contact with inmates been notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents (the level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with inmates)?  Yes  No

##### **115.32 (c)**

- Does the agency maintain documentation confirming that volunteers and contractors understand the training they have received?  Yes  No

#### **Auditor Overall Compliance Determination**

- Exceeds Standard** (*Substantially exceeds requirement of standards*)

**Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

**Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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

In accordance with a review of Directive #4027A Sexual Abuse Prevention & Intervention Inmate – on – Inmate; Directive #4028A Sexual Abuse Prevention & Intervention Staff – on – Inmate; Directive #4071 Guidelines for Construction Projects; Directive #4750 Volunteer Services Program; Acting Commissioner Memo – RE: Policy on the Prevention of Sexual Abuse of Offenders to all Employees, and Interviews with Contractors and volunteers, Downstate Correctional Facility meets the mandate of this standard. Contractor and Volunteer orientation training includes the agency's policy and procedures regarding sexual abuse and sexual harassment prevention, detention, reporting, and response including zero tolerance. Upon completion, they acknowledged written receipt of training. Downstate Correctional Facility Volunteer and Contractor training records were reviewed and indicated the training was received and understood. Two contract workers within the medical department were interviewed. One volunteer from the Puppies Behind Program and one volunteer within the mental health department were interviewed. The volunteers and contractors interviewed acknowledged receiving PREA training and articulate their understanding of the agency's zero tolerance of sexual abuse and sexual harassment and their responsibility in reporting.

#### **Corrective Action**

None required

## Standard 115.33: Inmate education

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.33 (a)

- During intake, do inmates receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment?  Yes  No
- During intake, do inmates receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment?  Yes  No

#### 115.33 (b)

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Their rights to be free from sexual abuse and sexual harassment?  Yes  No

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Their rights to be free from retaliation for reporting such incidents?  Yes  No
- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Agency policies and procedures for responding to such incidents?  Yes  No

#### 115.33 (c)

- Have all inmates received such education?  Yes  No
- Do inmates receive education upon transfer to a different facility to the extent that the policies and procedures of the inmate's new facility differ from those of the previous facility?  Yes  No

#### 115.33 (d)

- Does the agency provide inmate education in formats accessible to all inmates including those who are limited English proficient?  Yes  No
- Does the agency provide inmate education in formats accessible to all inmates including those who are deaf?  Yes  No
- Does the agency provide inmate education in formats accessible to all inmates including those who are visually impaired?  Yes  No
- Does the agency provide inmate education in formats accessible to all inmates including those who are otherwise disabled?  Yes  No
- Does the agency provide inmate education in formats accessible to all inmates including those who have limited reading skills?  Yes  No

#### 115.33 (e)

- Does the agency maintain documentation of inmate participation in these education sessions?  Yes  No

#### 115.33 (f)

- In addition to providing such education, does the agency ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats?  Yes  No

#### Auditor Overall Compliance Determination

**Exceeds Standard** (*Substantially exceeds requirement of standards*)

- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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

In accordance with a review of Directive #4021 Offender Reception/Classification; Directive #4027A Sexual Abuse Prevention & Intervention Inmate – on – Inmate; Deputy Commissioner for Program Services Memo – RE: PREA: Inmate Orientation Film Implementation; Associate Commissioner Memo – RE: New and Updated PREA Material; Associate Commissioner Memo – RE: Reasonable Accommodations; Inmate Orientation Outline; Inmate Orientation Sign-in Sheets; PREA Posters and Pamphlets, and Interviews with Random and Targeted Inmates, Downstate Correctional Facility meets the mandate of this standard. Downstate Correctional Facility is a Reception Center for the NYDOCCS. As such, Downstate Correctional Facility ensures all incoming inmates receive PREA training on the day of arrival during the intake process. At intake, inmates are provided a PREA pamphlet and inmate handbook which explains the agency’s zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents. When receiving inmates at the facility, the Draft Sergeant covers the PREA information with the inmate. The inmate also receives an Inmate Orientation Manual that includes PREA information and a pamphlet “The Prevention of Sexual Abuse in Prison.” These materials cover the agency’s zero tolerance policy and how to report incidents. Inmates also view the PREA video “Ending Sexual Abuse Behind the Walls: An Orientation.” Inmate education is documented for each inmate and maintained in the inmates’ file. Random inmate interviews confirm they have received PREA information during intake. Additionally, PREA information is posted in all housing and common areas and is accessible to the inmate population. During interviews with random and targeted inmates each reference the PREA posters throughout the facility.

### Corrective Action

None required

## Standard 115.34: Specialized training: Investigations

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.34 (a)

- In addition to the general training provided to all employees pursuant to §115.31, does the agency ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings?

(N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).)  Yes  No  NA

### 115.34 (b)

- Does this specialized training include techniques for interviewing sexual abuse victims? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).]  Yes  No  NA
- Does this specialized training include proper use of Miranda and Garrity warnings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).]  Yes  No  NA
- Does this specialized training include sexual abuse evidence collection in confinement settings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).]  Yes  No  NA
- Does this specialized training include the criteria and evidence required to substantiate a case for administrative action or prosecution referral? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).]  Yes  No  NA

### 115.34 (c)

- Does the agency maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).]  Yes  No  NA

### 115.34 (d)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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

In accordance with a review of Office of Special Investigations Policy and Procedures – Training Requirements for Sex Crime Investigators; Power Point Presentation: PREA Specialized Training for Investigators; Investigating Physical and Sexual Abuse in an Institutional Setting National Institute of Corrections Training – PREA: Investigating Sexual Abuse in Confinement Settings; Documentation of Training Records of Office of Special Investigators; Interviews with Office of Special Investigators, Downstate Correctional Facility meets the mandate of this standard. Investigators assigned to conduct sexual abuse allegations and/or sexual harassment within Downstate Correctional Facility are required and have received specialized training of conducting sexual abuse investigations in confinement settings. This training is completed through the National Institute of Corrections Training. Additionally, the investigative staff receives a vast number of internal and external reference based training. This training includes techniques for interviewing sexual abuse victims, proper use of the Miranda and Garrity warnings, sexual abuse evidence collection in confinement setting, and the criteria and evidence to substantiate a case for administrative action or prosecution referral. Investigators are required to complete annual mandatory training for investigations. Two investigators confirmed their training during the interview process and training records for the 32 investigators employed by the Office of Sex Crime Investigations was provided to the auditors for review.

#### **Corrective Action**

None required

### **Standard 115.35: Specialized training: Medical and mental health care**

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### **115.35 (a)**

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to detect and assess signs of sexual abuse and sexual harassment?  Yes  No
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to preserve physical evidence of sexual abuse?  Yes  No
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to respond effectively and professionally to victims of sexual abuse and sexual harassment?  Yes  No

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how and to whom to report allegations or suspicions of sexual abuse and sexual harassment?  Yes  No

#### 115.35 (b)

- If medical staff employed by the agency conduct forensic examinations, do such medical staff receive appropriate training to conduct such examinations? (N/A if agency medical staff at the facility do not conduct forensic exams.)  Yes  No  NA

#### 115.35 (c)

- Does the agency maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere?  Yes  No

#### 115.35 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.31?  Yes  No
- Do medical and mental health care practitioners contracted by and volunteering for the agency also receive training mandated for contractors and volunteers by §115.32?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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

In accordance with a review of: Directive #4750 Volunteer Service Program, Division of Health Services; Power Point Training Manual – 7.100, 40 Hour Orientation Program for Full-time, Non-security staff at Facilities; Training Manual Subject 6.600, Mandatory Initial Training, Non-security staff at Facilities; Office of Mental Health Memorandum of Understanding; Telemed: Inmate Sexual Assault Post Exposure Protocol PREA; OMH/Medical Staff RTF for Medical/Mental Health Training; Interviews with Medical and Mental Health Staff, Downstate Correctional Facility meets the mandate of this

standard. The State of New York Department of Corrections and Community Supervision (NY-DOCCS) require all full and part-time medical and mental health care practitioners complete specialized training. The training curriculum includes how to detect and assess signs of sexual abuse and sexual harassment, how to preserve physical evidence of sexual abuse, how to respond effectively and professionally to victims of sexual abuse and sexual harassment, and how and who to report allegations or suspicions of sexual abuse and sexual harassment. Medical staff articulated their understanding on how to detect and assess signs of sexual abuse and sexual harassment, how to preserve physical evidence of sexual abuse, how to respond effectively and professionally to victims of sexual abuse and sexual harassment, and how and who to report allegations or suspicions of sexual abuse and sexual harassment during the interview process. Forensic medical examinations are not conducted by medical staff at Downstate Correctional Facility. Medical staff at the facility only provides first aid care as needed without disturbing any evidence of an alleged sexual assault victim. Forensic examinations are conducted by a SANE/SAFE Nurse at St. Frances Hospital. These services are provided at no cost to the inmate.

**Corrective Action**

None required

## **SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS**

### **Standard 115.41: Screening for risk of victimization and abusiveness**

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### **115.41 (a)**

- Are all inmates assessed during an intake screening for their risk of being sexually abused by other inmates or sexually abusive toward other inmates?  Yes  No
- Are all inmates assessed upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates?  Yes  No

#### **115.41 (b)**

- Do intake screenings ordinarily take place within 72 hours of arrival at the facility?  
 Yes  No

#### **115.41 (c)**

- Are all PREA screening assessments conducted using an objective screening instrument?  
 Yes  No

#### **115.41 (d)**

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes?  Yes  No

#### 115.41 (e)

- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: prior acts of sexual abuse?  Yes  No

- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: prior convictions for violent offenses?  Yes  No
- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: history of prior institutional violence or sexual abuse?  Yes  No

#### 115.41 (f)

- Within a set time period not more than 30 days from the inmate's arrival at the facility, does the facility reassess the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening?  Yes  No

#### 115.41 (g)

- Does the facility reassess an inmate's risk level when warranted due to a: Referral?  Yes  No
- Does the facility reassess an inmate's risk level when warranted due to a: Request?  Yes  No
- Does the facility reassess an inmate's risk level when warranted due to a: Incident of sexual abuse?  Yes  No
- Does the facility reassess an inmate's risk level when warranted due to a: Receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness?  Yes  No

#### 115.41 (h)

- Is it the case that inmates are not ever disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (d)(1), (d)(7), (d)(8), or (d)(9) of this section?  Yes  No

#### 115.41 (i)

- Has the agency implemented appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

## Instructions for Overall Compliance Determination Narrative

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In accordance with a review of: Directive 4027A Sexual Abuse Prevention and Intervention – 11/29/17; PREA Risk Screening Form – Male Facility; Form 4021 Security Screening; Form 4021A Draft Receipt; Downstate C.F. FOM # 5.000 PREA Risk Screening; Downstate CF Sample: Completed Risk Screening Form and Interviews with Draft Staff and PREA Compliance Manager, Downstate Correctional Facility meets the mandate of this standard. Downstate Correctional Facility serves as a Reception Center for NYDOCCS. All inmates are screened for risk of victimization and abusiveness upon arrival. The screening is completed by the Draft Sergeant within the first couple hours of arrival. The screening instrument includes whether the inmate has a mental, physical, or developmental disability, the age and physical build of the inmate, previously incarceration history, whether the inmate's criminal history is exclusively nonviolent, prior convictions for sex offenses, whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming, past sexual victimization, self-perception of vulnerability and civil immigration status. The inmates receive a second screening within 30 days. However, as Downstate Correctional Facility is a Reception Center, inmates often transfer normally on an average of 21 days. Therefore, staff reassesses the inmate's risk of victimization or abusiveness based upon any additional relevant information received by the facility since the intake screening normally not later than 14 days to ensure any concerns with the inmate's safety is addressed prior to transfer to his designated correctional facility. Inmates are not disciplined for refusing answer questions during the screening process. Information obtained during the initial assessment and reassessment is placed in the inmate's classification file. These files are accessible to identified authorized staff only. Several hundred screening forms were made available for the auditors review and were noted as meeting the mandate of this standard.

### Corrective Action

None required

## Standard 115.42: Use of screening information

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.42 (a)

- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Housing Assignments?  Yes  No

- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Bed assignments?  Yes  No
- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Work Assignments?  Yes  No
- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Education Assignments?  Yes  No
- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Program Assignments?  Yes  No

#### 115.42 (b)

- Does the agency make individualized determinations about how to ensure the safety of each inmate?  Yes  No

#### 115.42 (c)

- When deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems (NOTE: if an agency by policy or practice assigns inmates to a male or female facility on the basis of anatomy alone, that agency is not in compliance with this standard)?  Yes  No
- When making housing or other program assignments for transgender or intersex inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems?  Yes  No

#### 115.42 (d)

- Are placement and programming assignments for each transgender or intersex inmate reassessed at least twice each year to review any threats to safety experienced by the inmate?  Yes  No

#### 115.42 (e)

- Are each transgender or intersex inmate's own views with respect to his or her own safety given serious consideration when making facility and housing placement decisions and programming assignments?  Yes  No

#### 115.42 (f)

- Are transgender and intersex inmates given the opportunity to shower separately from other inmates?  Yes  No

#### 115.42 (g)

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: lesbian, gay, and bisexual inmates in dedicated facilities, units, or wings solely on the basis of such identification or status?  Yes  No
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: transgender inmates in dedicated facilities, units, or wings solely on the basis of such identification or status?  Yes  No
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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In accordance with a review of: Memo: from Joseph F. Bellnier, Deputy Commissioner for Correctional Facilities, Jeff McKoy, Deputy Commissioner for Program Services, and Jason D. Effman, Associate Commissioner -8/26/16 – RE: Prison Rape Elimination Act ( PREA) Screening; Risk Screening Form – Male Facility; Form 4021 Security Screening; Form 4021A Draft Receipt; Memo: from Jason D. Effman, Associate Commissioner, and Anne Marie McGarth, Assistant Commissioner, 10/27/14, RE: New/Revised other Security Characteristics Regarding Sexual Orientation and Gender Identity, (SOGI) ; Directive #4009 - Minimum Provisions for Health and Morale – 8/17/17 VII,A; Downstate CF FOM # 5.000 PREA Risk Screening; Downstate CF Sample: PREA Risk Screening Form; Downstate

C.F. Sample: Completed SOGI Form; Downstate C.F. Transgender Shower Memorandum, Downstate Correctional Facility meets the mandate of this standard. Downstate Correctional Facility uses information from the risk assessment 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. Information obtained during the screening is used by staff to make individualized determinations about how to ensure the safety of each inmate. Transgender or intersex inmate's housing is considered on a case-by-case basis, placement considers the inmate's health and safety, and whether the placement would present management or security problems. Transgender or intersex inmate's placement is reassessed twice during their stay at Downstate and additionally as needed. Transgender or intersex inmate's own view with respect to his or her own safety is given consideration. Transgender and intersex inmates are given the opportunity to shower separately from other inmates. Downstate Correctional Facility does not place lesbian, gay, bisexual, transgender, or intersex inmates in a dedicated unit based solely on identification or status. Interviews were conducted with three inmates identified as transgender and two inmates identified as gay. Each of these inmates confirmed they have not been placed in dedicated units based solely on their identification or status. In addition these inmates confirmed being reassessed at least twice within a year and felt their own views with respect to their own safety was given serious consideration when staff were making facility and housing placement decisions and programming assignments for them.

#### **Corrective Action**

None required

### **Standard 115.43: Protective Custody**

#### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

##### **115.43 (a)**

- Does the facility always refrain from placing inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers?  Yes  No
- If a facility cannot conduct such an assessment immediately, does the facility hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment?  Yes  No

##### **115.43 (b)**

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible?  Yes  No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Privileges to the extent possible?  Yes  No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Education to the extent possible?  Yes  No

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Work opportunities to the extent possible?  Yes  No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The opportunities that have been limited?  Yes  No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The duration of the limitation?  Yes  No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The reasons for such limitations?  Yes  No

#### 115.43 (c)

- Does the facility assign inmates at high risk of sexual victimization to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged?  Yes  No
- Does such an assignment not ordinarily exceed a period of 30 days?  Yes  No

#### 115.43 (d)

- If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, does the facility clearly document: The basis for the facility's concern for the inmate's safety?  Yes  No
- If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, does the facility clearly document: The reason why no alternative means of separation can be arranged?  Yes  No

#### 115.43 (e)

- In the case of each inmate who is placed in involuntary segregation because he/she is at high risk of sexual victimization, does the facility afford a review to determine whether there is a continuing need for separation from the general population EVERY 30 DAYS?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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

In accordance with a review of: Directive #4948 Protective Custody Status Forms 2168A, 2170A, 4948A; Downstate C.F. Sample: Voluntary Protective Custody Recommendation due to risk for sexual victimization; Interviews with Superintendent; Supervisor of Segregation Unit, Downstate Correctional Facility meets the mandate of this standard. NYDOCCS policies prohibits the placement of inmates at high risk for sexual victimization in the 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 an involuntary segregated housing placement is made the placement is review on a weekly basis until other housing can be found. Segregated housing assignment will not exceed a period of thirty (30) days. Inmates placed in protective custody shall have access to programs privileges, education, and work opportunities to the extent possible. If restrictions occur, the facility documents the restrictions, duration of the limitation, and reasons for the limitation. Interviews with Superintendent and Staff who Supervise Segregation at Downstate Correctional Facility confirmed no inmates have been placed in involuntary confinement at high risk of sexual victimization within the past 12 months of the audit.

#### **Corrective Action**

None required

## **REPORTING**

### **Standard 115.51: Inmate reporting**

#### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### **115.51 (a)**

- Does the agency provide multiple internal ways for inmates to privately report: Sexual abuse and sexual harassment?  Yes  No
- Does the agency provide multiple internal ways for inmates to privately report: Retaliation by other inmates or staff for reporting sexual abuse and sexual harassment?  Yes  No
- Does the agency provide multiple internal ways for inmates to privately report: Staff neglect or violation of responsibilities that may have contributed to such incidents?  Yes  No

#### **115.51 (b)**

- Does the agency also provide at least one way for inmates to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency?  Yes  No
- Is that private entity or office able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials?  Yes  No
- Does that private entity or office allow the inmate to remain anonymous upon request?  Yes  No
- Are inmates detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security?  Yes  No

#### 115.51 (c)

- Does staff accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties?  Yes  No
- Does staff promptly document any verbal reports of sexual abuse and sexual harassment?  Yes  No

#### 115.51 (d)

- Does the agency provide a method for staff to privately report sexual abuse and sexual harassment of inmates?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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

In accordance with a review of the Employee Manual, Section-2.20; Directive #4027A Sexual Abuse Prevention and Intervention, Inmate on Inmate; Directive #4028A Sexual Abuse Prevention and Intervention, Staff on Inmate; the Sexual Abuse Prevention and Response Lesson Plan; The Prevention of Sexual Abuse in Prison, What Inmates Need to Know Pamphlet and the letter from the Chairman of the State Commission of Corrections to the NYDOCCS Acting Commissioner, Downstate

Correctional Facility meets the mandate of this standard. A variety of procedures have been established both internally and externally that allows the inmates to report sexual abuse and assault. Inmates receive a copy of The Prevention of Sexual Abuse in Prison, What Inmates Need to Know Pamphlet, during the intake process which advises them that they can contact any staff member or the NYDOCCS Office of Special Investigation to report sexual abuse or assault internally. Additionally, there are posters throughout the facility which also inform the inmates of other reporting options. To report to an external organization, inmates can contact the New York State Commission of Corrections. Reports to the New York State Commission of Correction may be made confidentially and remain anonymous upon request. Inmates have access to dial 777 a confidential reporting method to Crime Victim Treatment Center in New York. The New York State Commission of Correction immediately forwards any reports of sexual abuse and sexual harassment to the OSI for investigation. Inmates may also report allegations to third parties who in turn would contact the NY-DOCCS concerning the allegations. All allegations, including anonymous allegations, are investigated. Even though Downstate Correctional Facility does not house inmates solely for civil immigration offenses, consular official contact information is available in the library and the legal library. Inmates interviewed indicated they were familiar with the various ways to report sexual abuse or assault information. The PREA pocket card given to all staff explains how staff can privately report sexual abuse or assault allegations to OSI Sex Crimes Division. Interviews with random staff, random and targeted inmates confirmed their knowledge of methods for inmates to report any and all allegations of sexual abuse and/or harassment verbally and/or in writing.

**Corrective Action**

None required

**Standard 115.52: Exhaustion of administrative remedies**

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

**115.52 (a)**

- Is the agency exempt from this standard? NOTE: The agency is exempt ONLY if it does not have administrative procedures to address inmate grievances regarding sexual abuse. This does not mean the agency is exempt simply because an inmate does not have to or is not ordinarily expected to submit a grievance to report sexual abuse. This means that as a matter of explicit policy, the agency does not have an administrative remedies process to address sexual abuse.  Yes  No  NA

**115.52 (b)**

- Does the agency permit inmates to submit a grievance regarding an allegation of sexual abuse without any type of time limits? (The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.) (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the agency always refrain from requiring an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA

### 115.52 (c)

- Does the agency ensure that: An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the agency ensure that: Such grievance is not referred to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.)  Yes  No  NA

### 115.52 (d)

- Does the agency issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance? (Computation of the 90-day time period does not include time consumed by inmates in preparing any administrative appeal.) (N/A if agency is exempt from this standard.)  Yes  No  NA
- If the agency claims the maximum allowable extension of time to respond of up to 70 days per 115.52(d)(3) when the normal time period for response is insufficient to make an appropriate decision, does the agency notify the inmate in writing of any such extension and provide a date by which a decision will be made? (N/A if agency is exempt from this standard.)  
 Yes  No  NA
- At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, may an inmate consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.)  Yes  No  NA

### 115.52 (e)

- Are third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse? (N/A if agency is exempt from this standard.)  
 Yes  No  NA
- Are those third parties also permitted to file such requests on behalf of inmates? (If a third-party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.) (N/A if agency is exempt from this standard.)  Yes  No  NA
- If the inmate declines to have the request processed on his or her behalf, does the agency document the inmate's decision? (N/A if agency is exempt from this standard.)  
 Yes  No  NA

### 115.52 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA
- After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, does the agency immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken? (N/A if agency is exempt from this standard.)  Yes  No  NA
- After receiving an emergency grievance described above, does the agency provide an initial response within 48 hours? (N/A if agency is exempt from this standard.)  Yes  No  NA
- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes  No  NA

#### 115.52 (g)

- If the agency disciplines an inmate for filing a grievance related to alleged sexual abuse, does it do so ONLY where the agency demonstrates that the inmate filed the grievance in bad faith? (N/A if agency is exempt from this standard.)  Yes  No  NA

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does*

*not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

In accordance with a review of Directive #4040 Inmate Grievance Program – 1/20/16 General Policies § 701.2 (j), 701.3 (i); Interviews with PREA Compliance Manager, and Grievance Staff, NYDOCCS does not use their grievance process to address incidents of sexual abuse or harassment. If a sexual abuse or sexual harassment allegation is received through a grievance, the Grievance Supervisor immediately forwards the grievance to the Watch Commander who in turns submits it to the Office of Sex Crime Investigations as a PREA occurrence for investigation. This standard is non-applicable.

#### **Corrective Action**

None required

### **Standard 115.53: Inmate access to outside confidential support services**

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### **115.53 (a)**

- Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations?  Yes  No
- Does the facility provide persons detained solely for civil immigration purposes mailing addresses and telephone numbers, including toll-free hotline numbers where available of local, State, or national immigrant services agencies?  Yes  No
- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible?  Yes  No

#### **115.53 (b)**

- Does the facility inform inmates, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws?  Yes  No

#### **115.53 (c)**

- Does the agency maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide inmates with confidential emotional support services related to sexual abuse?  Yes  No
- Does the agency maintain copies of agreements or documentation showing attempts to enter into such agreements?  Yes  No

## Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

## Instructions for Overall Compliance Determination Narrative

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In accordance with a review of Directive #4423 Inmate Telephone Calls; Directive #4404 Inmate Legal Visits; Directive #4421 Privileged Correspondence; Associate Commissioner Memo – RE: Just Detention International Resource Guide; NYDOCCS “Help for Victims of Sexual Abuse in Prison” Pamphlet; Interviews with Executive Director of Crime Victims Treatment Center, Associate Commissioner, and Compliance Manager, Downstate Correctional Facility meets the mandate of this standard. The Downstate Correctional Facility has a contract with Crime Victim’s Treatment Center in New York City for victim advocate services. The agreement outlines the services provided by the Program as: follow-up with inmates who made direct contact seeking rape crisis services via telephone or mail or requested through NYDOCCS; maintain active, confidential communication with NYDOCCS staff in order to facilitate treatment for inmate victims, consistent with the victim’s right to confidentiality; to provide in person follow-up rape crisis counseling and emotional support services at the facility; and must be willing to participate in training to advance the goals and program objectives with NYDOCCS. This information is posted in the housing areas near the unit phones. Staff provides victims with “legal” calls with rape crisis program providers and these calls will not be monitored as they are considered confidential. An interview with facility mail staff, confirmed staff does not review the inmates’ outgoing mail, which allows the inmates confidential communication. Inmates have access to dial 777 for immediate communication with the Crime Victims Treatment Center. During interviews with random inmates and random staff each was knowledgeable of the inmates’ access to dial 777 for support services. Downstate Correctional Facility does not detain persons solely for civil immigration.

### Corrective Action

None required

## Standard 115.54: Third-party reporting

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.54 (a)

- Has the agency established a method to receive third-party reports of sexual abuse and sexual harassment?  Yes  No
- Has the agency distributed publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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In accordance with a review of the NY-DOCCS PREA Policy Web Page (<http://www.doccs.ny.gov/PREA/PREAinfo.html>); Interviews with Random Staff and Random Inmate, Downstate Correctional Facility meets the mandate of this standard. The PREA link on the website provides information on third party reporting of alleged PREA incidents. The information on the web site encourages third parties to report allegations to the facility Superintendent, Watch Commander, PREA Coordinator or the OSI. This information is included in the Prevention of Sexual Abuse in Prison Pamphlet which is provided to each inmate. This information is posted throughout the facility and available in the libraries. Interviews with random staff and random inmates confirmed allegations of sexual abuse and/or sexual harassment of inmates could be reported by third party to include family, friends, etc.

#### Corrective Action

None required

## OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

### Standard 115.61: Staff and agency reporting duties

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### 115.61 (a)

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency?  Yes  No
- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding retaliation against inmates or staff who reported an incident of sexual abuse or sexual harassment?  Yes  No
- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment or retaliation?  Yes  No

#### 115.61 (b)

- Apart from reporting to designated supervisors or officials, does staff always refrain from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions?  Yes  No

#### 115.61 (c)

- Unless otherwise precluded by Federal, State, or local law, are medical and mental health practitioners required to report sexual abuse pursuant to paragraph (a) of this section?  Yes  No
- Are medical and mental health practitioners required to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services?  Yes  No

#### 115.61 (d)

- If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, does the agency report the allegation to the designated State or local services agency under applicable mandatory reporting laws?  Yes  No

#### 115.61 (e)

- Does the facility report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

## Instructions for Overall Compliance Determination Narrative

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In accordance with a review of Directive #4027A Sexual Abuse Prevention & Intervention Inmate – on – Inmate; Directive #4028A Sexual Abuse Prevention & Intervention Staff – on – Inmate; Directive #0700 Office of Special Investigations Employee Manual Section – 2.20; Office of Mental Health Memorandum of Understanding; Associate Commissioner Memo – RE: PREA Coordinated Response Plan; PREA Standard 115.65/265; Sexual Abuse Response and Containment Checklist Medical Staff and Interviews with Random Staff; Random Inmates; Medical and Mental Health Staff, Downstate Correctional Facility meets the mandate of this standard. NYDOCCS policies require all staff to immediately report and document sexual abuse and sexual harassment, including third-party and anonymous reports. Staff is prohibited from discussing information related to sexual abuse reports with anyone other than those directly involved. Inmates are provided with information on how to report allegations of sexual abuse and/or sexual harassment upon their arrival during the intake process. Inmates confirmed receipt of this information during the interview process and was aware of the various methods these allegations could be reported. Random staff was also knowledgeable of their responsibility to report and document all allegations immediately to their supervisor, Watch Commander and/or OSI. Staff interviewed also confirmed methods of reporting the allegations privately and not sharing information reported with those who have no need to know. Medical staff is required to report sexual abuse and harassment. Medical staff informs the inmates of their duty to report and limits to confidentiality during the initial medical screening process.

### Corrective Action

None required

## Standard 115.62: Agency protection duties

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

### 115.62 (a)

- When the agency learns that an inmate is subject to a substantial risk of imminent sexual abuse, does it take immediate action to protect the inmate?  Yes  No

### Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

**Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

**Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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In accordance with a review of Directive #4040 Inmate Grievance Program; Directive #4948 Protective Custody Status; Interviews with Superintendent, PREA Compliance Manager, and Random Staff, Downstate Correctional Facility meets the mandate of this standard. Policies and the PREA training delivered to staff outline the immediate steps that are to be taken to protect inmates with a substantial risk of sexual abuse. PREA Pocket cards given to all staff that clearly states the first duty is to separate and isolate potential victims, abusers or witnesses. Policy requires that immediate action be taken by staff to protect any inmate subject to sexual abuse. All staff interviewed knew the first step was to immediately isolate and protect potential victims of sexual abuse. In the past twelve months, there were no reported instances where inmates reported to staff that they were at substantial risk of imminent sexual abuse

#### Corrective Action

None required

### Standard 115.63: Reporting to other confinement facilities

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

##### 115.63 (a)

- Upon receiving an allegation that an inmate was sexually abused while confined at another facility, does the head of the facility that received the allegation notify the head of the facility or appropriate office of the agency where the alleged abuse occurred?  Yes  No

##### 115.63 (b)

- Is such notification provided as soon as possible, but no later than 72 hours after receiving the allegation?  Yes  No

##### 115.63 (c)

- Does the agency document that it has provided such notification?  Yes  No

##### 115.63 (d)

- Does the facility head or agency office that receives such notification ensure that the allegation is investigated in accordance with these standards?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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In accordance with a review of Associate Commissioner Memo – RE: PREA Standard 115.63/263 Report of Sexual Abuse; Jail Administrator Contact Information; Memorandums Submitted by Superintendent, and Interviews with OSI Investigative Staff, and PREA Compliance Manager, Downstate Correctional Facility meets the mandate of this standard. NYDOCCS policy require upon receiving an allegation that an inmate was sexually abused while confined at another facility, that the Superintendent of the facility that received the inmate must notify the head of the facility where the sexual abuse is alleged to have occurred within 72 hours. Notification is made electronically by the Superintendent of one institution to the Superintendent of the other institution. The facility must also notify the Office of Special Investigations to initiate an investigation. Allegations will also be recorded in the Sexual Abuse/Threat Incident Log. Specialized staff and the Superintendent were knowledgeable of their roles if an allegation is received. The notices were documented as reported within 72 hours of awareness. There were two PREA notifications made to other correctional facilities by Downstate Correctional Facility. The auditors were provided documentation supporting the Superintendent made appropriate notification to the two correctional facilities where the allegations were reported to have occurred. Downstate Correctional Facility did not receive any reports of sexual abuse from other correctional facilities regarding PREA incidents occurring at Downstate during the past 12 months.

### Corrective Action

None required

## Standard 115.64: Staff first responder duties

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.64 (a)

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Separate the alleged victim and abuser?  Yes  No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence?  Yes  No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence?  Yes  No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence?  Yes  No

#### 115.64 (b)

- If the first staff responder is not a security staff member, is the responder required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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In accordance with a review of Directive #4027A Sexual Abuse Prevention & Intervention Inmate – on – Inmate Directive #4028A Sexual Abuse Prevention & Intervention Staff – on – Inmate Associate Commissioner Memo – RE: PREA Coordinated Response Plan Sexual Abuse Response and Containment Checklist Deputy Commissioner Memo – RE: Response to Inmate Sexual Activity Sexual Abuse Prevention and Response (SAPR) Lesson Plan; Interviews with Random Staff, Superintendent, Compliance Manager, Downstate Correctional Facility meets the mandate of this standard. The PREA

pocket card has been given to staff, and it outlines the first responder's steps to separate the alleged victim and abuser; preserve and protect the crime scene; and request the alleged victim and alleged abuser take no action to destroy evidence. The responding staff is to immediately notify their immediate supervisor and the Watch Commander. The Watch Commander will make further notifications to the Superintendent, medical, mental health, and OSI, as noted on the Sexual Abuse and Containment Checklist. During interviews with each of the random staff, volunteers, contractors, higher and intermediate level supervisors and OSI investigations they articulated their knowledge and responsibility in the steps to follow as a first responder. All staff to include volunteers, contractors, civilians, and security personnel is considered first responders.

**Corrective Action**  
None required

## Standard 115.65: Coordinated response

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

### 115.65 (a)

- Has the facility developed a written institutional plan to coordinate actions among staff first responders, medical and mental health practitioners, investigators, and facility leadership taken in response to an incident of sexual abuse?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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

In accordance with a review of Associate Commissioner Memo – RE: PREA Coordinated Response Plan and Sexual Abuse Response and Containment Checklist, Downstate Correctional Facility meets the mandate of this standard. The PREA Coordinated Response Plan coordinates the actions taken in response to an incident of sexual abuse among first responders, security, medical and mental health practitioners, OSI, facility leadership, and victim advocates. A checklist, Sexual Abuser Response and Containment Checklist Form, is utilized to ensure all steps are properly completed and appropriate

notifications are made in a timely manner. Interviews with staff indicate that each area is aware of their specific responsibilities under this plan.

**Corrective Action**

None required

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

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

**115.66 (a)**

- Are both the agency and any other governmental entities responsible for collective bargaining on the agency’s behalf prohibited from entering into or renewing any collective bargaining agreement or other agreement that limits the agency’s ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted?  Yes  No

**115.66 (b)**

- Auditor is not required to audit this provision.

**Auditor Overall Compliance Determination**

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

In accordance with a review of Directive #2110 Employee Discipline-Suspension from Duty During the Continuation of Disciplinary Proceedings; Directive #2114 Function of the Bureau of Labor Relations; New York State Employee Union Contracts; Interviews with Superintendent, Union Official, and OSI Investigators, Downstate Correctional Facility meets the mandate of this standard. NY-DOCCS union contracts allow for the removal of staff accused of sexual abuse from contact with inmates pending the

outcome of an investigation. The facility may remove alleged staff sexual abusers from contact with any inmates or place an employee on administrative leave pending the outcome of an investigation. Interviews with the Superintendent, Union Official and OSI Investigators confirmed this policy and practice.

**Corrective Action**

None required

**Standard 115.67: Agency protection against retaliation**

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

**115.67 (a)**

- Has the agency established a policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff?  Yes  No
- Has the agency designated which staff members or departments are charged with monitoring retaliation?  Yes  No

**115.67 (b)**

- Does the agency employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations?  Yes  No

**115.67 (c)**

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of residents or staff who reported the sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Act promptly to remedy any such retaliation?  Yes  No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor any inmate disciplinary reports?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate housing changes?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate program changes?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff?  Yes  No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need?  Yes  No

#### 115.67 (d)

- In the case of inmates, does such monitoring also include periodic status checks?  
 Yes  No

#### 115.67 (e)

- If any other individual who cooperates with an investigation expresses a fear of retaliation, does the agency take appropriate measures to protect that individual against retaliation?  
 Yes  No

#### 115.67 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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

In accordance with a review of Employee Manual – 2.19; Associate Commissioner Memo – RE: Agency Protection against Retaliation, PREA Standard 115.67/267; Retaliation Monitoring Form- 115.67/115.67A; Downstate Correctional Facility example: Retaliation Monitoring Form 115.67 Downstate Correctional Facility example: Monitoring Form 115.67A; revealed NYDOCCS has policies in place for Retaliation Monitoring. NYDOCCS policies states monitoring will include a review of any new disciplinary reports, program changes, housing changes, and any other pertinent information. Downstate Correctional Facility demonstrated during 100 day corrective action period meeting the mandate of this standard. Specifically, staff assigned to monitor retaliation provided supporting documentation that supports inmates pending retaliation monitoring are monitored for a minimum of 90 days while at the facility or until they are transferred. When an inmate who has been identified as requiring retaliation monitor is transferred within the 90 day period, notification of such monitoring is forwarded via email to the inmate's receiving facility for continuation of the retaliation monitoring. Therefore, the required retaliation monitoring is completed in accordance to this standard and Downstate Correctional Facility meets the mandate of this standard.

### Corrective Action

Corrective action was required to ensure the treatment of inmates and staff who reported the sexual abuse and/or sexual harassment is monitored in accordance is policy and as noted within this standard to monitor any changes that may suggest possible retaliation by inmates or staff toward the reporting staff and/or inmate. As Downstate Correctional Facility could not demonstrate that it was routinely notifying other correctional facilities when an inmate under retaliation monitoring was transferred, the Associate Commissioner and PREA Coordinator updated the state-wide policy to clarify this requirement. A corrective action period was effective for 100 days to ensure monitoring continued for a minimum of 90 days, and/or upon an inmate's transfer to another correctional facility within the required 90 retaliation monitoring cycle, the facility conducting the monitoring would notify the inmate's receiving facility of the required continued retaliation monitoring.

## Standard 115.68: Post-allegation protective custody

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

### 115.68 (a)

- Is any and all use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse subject to the requirements of § 115.43?  Yes  No

### Auditor Overall Compliance Determination

**Exceeds Standard** (*Substantially exceeds requirement of standards*)

**Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

**Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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

In accordance with a review of Directive #4948 Protective Custody Status and Interviews Superintendent, and Supervisor of Segregation, Downstate Correctional Facility meets the mandate of this standard. The Directive prohibits the placement of inmates who alleged to have suffered sexual abuse in involuntary segregated housing unless an assessment of all available alternatives has been made and a determination has been made that there is no available alternative means of separation from likely abusers. Inmates that are placed in protective custody on this basis shall have access to programs privileges, education, and work opportunities in accordance with PREA Standard 115.43. If an inmate is placed in involuntary protective custody; his status is reviewed every thirty days. Interviews with the Compliance Manager, Superintendent, and Supervisor of Segregation confirmed no inmates have been placed in involuntary protective custody who have alleged to have suffered sexual abuse in the past 12 months at Downstate Correctional Facility.

#### Corrective Action

None required

## INVESTIGATIONS

### Standard 115.71: Criminal and administrative agency investigations

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### 115.71 (a)

- When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, does it do so promptly, thoroughly, and objectively? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.21(a).]  Yes  No  NA
- Does the agency conduct such investigations for all allegations, including third party and anonymous reports? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.21(a).]  Yes  No  NA

#### 115.71 (b)

- Where sexual abuse is alleged, does the agency use investigators who have received specialized training in sexual abuse investigations as required by 115.34?  Yes  No

#### 115.71 (c)

- Do investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data?  Yes  No
- Do investigators interview alleged victims, suspected perpetrators, and witnesses?  
 Yes  No
- Do investigators review prior reports and complaints of sexual abuse involving the suspected perpetrator?  Yes  No

#### 115.71 (d)

- When the quality of evidence appears to support criminal prosecution, does the agency conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution?  Yes  No

#### 115.71 (e)

- Do agency investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and not on the basis of that individual's status as inmate or staff?  Yes  No
- Does the agency investigate allegations of sexual abuse without requiring an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding?  Yes  No

#### 115.71 (f)

- Do administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse?  Yes  No
- Are administrative investigations documented in written reports that include a description of the physical evidence and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings?  Yes  No

#### 115.71 (g)

- Are criminal investigations documented in a written report that contains a thorough description of the physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible?  Yes  No

#### 115.71 (h)

- Are all substantiated allegations of conduct that appears to be criminal referred for prosecution?  
 Yes  No

#### 115.71 (i)

- Does the agency retain all written reports referenced in 115.71(f) and (g) for as long as the alleged abuser is incarcerated or employed by the agency, plus five years?  Yes  No

#### 115.71 (j)

- Does the agency ensure that the departure of an alleged abuser or victim from the employment or control of the agency does not provide a basis for terminating an investigation?  
 Yes  No

#### 115.71 (k)

- Auditor is not required to audit this provision.

#### 115.71 (l)

- When an outside entity investigates sexual abuse, does the facility cooperate with outside investigators and endeavor to remain informed about the progress of the investigation? (N/A if an outside agency does not conduct administrative or criminal sexual abuse investigations. See 115.21(a).)  Yes  No  NA

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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

In accordance with a review of Directive #0700 Office of Special Investigations; Directive #2011 Disposition of Departmental Records; OSI Policy & Procedure: Training Requirements for Sex Crimes Investigators; New York Criminal Procedure Law 160.45 Polygraph Test; OSI Policy and Procedure: Intake and Case Management Unit – Complaint Process and Case File Management; Office of Special Investigations Sex Crimes Unit: Inmate on Inmate Dispatch and Operational Guidelines; Office of Special Investigations Sex Crimes Unit: Staff on Inmate Dispatch and Operational Guidelines; Power

Point Presentation: PREA Specialized Training: Investigations; New York State Police Superintendent Letter RE: Implementation of the PREA Standards, and Interviews with two OSI Investigative Staff, Downstate Correctional Facility meets the mandate of this standard. Interviews were conducted with two OSI Investigators. Additionally a review of closed investigative files was reviewed. The OSI Investigators indicated they follow a uniform evidence protocol during the investigations of sexual abuse and sexual harassments. Sexual abuse investigations are conducted by investigators who have been specially trained in sexual abuse investigation. Training documentation was provided to the auditors confirming all 32 OSI Investigators had completed multiple training courses including the NIC PREA Investigating Sexual Abuse in a Confinement Setting webinar in accordance with standard 115.34. The investigative process was articulated by the two OSI Investigators during the interview process. They explained having a sound working relationship with the New York State Police concerning inmate sexual abuse incidents. The credibility of an alleged victim, suspect, or witness is assessed on an individual basis and not determined by the person's status as an inmate or staff. Inmates who allege sexual abuse are not required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation. Additionally, the departure of the alleged abuser or victim from the employment or control of the facility or agency does not provide a basis for terminating an investigation.

An interview with the Associate Commissioner/Agency-wide PREA Coordinator stated the OSI receives several hundred cases for review and investigations per year state-wide. Therefore, due to the amount of investigative cases received, several new staff has been recently hired within the Office of Sex Crime Investigations to enable a more prompt and timely completion of these investigations. All sexual investigations are conducted objectively to include those reported by third party and anonymously.

**Corrective Action**

None required

**Standard 115.72: Evidentiary standard for administrative investigations**

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

**115.72 (a)**

- Is it true that the agency does not impose a standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated?  Yes  No

**Auditor Overall Compliance Determination**

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

In accordance with a review of the Deputy Chief of Investigations - Memo RE: Sex Crimes Division Close Out Procedures; Power Point Presentation Excerpt: PREA Specialized Training: Investigation; Sexual Abuse Prevention and Response Lesson Plan; and Interviews with two OSI Investigators, Downstate Correctional Facilities meets the mandate of this standard. The noted policies and interviews with two OSI Investigators confirmed no standard greater than a preponderance of the evidence for determining whether allegations of Sexual Abuse or Harassment are substantiated.

**Corrective Action**

None required

**Standard 115.73: Reporting to inmates**

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

**115.73 (a)**

- Following an investigation into an inmate's allegation that he or she suffered sexual abuse in an agency facility, does the agency inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded?  Yes  No

**115.73 (b)**

- If the agency did not conduct the investigation into an inmate's allegation of sexual abuse in an agency facility, does the agency request the relevant information from the investigative agency in order to inform the inmate? (N/A if the agency/facility is responsible for conducting administrative and criminal investigations.)  Yes  No  NA

**115.73 (c)**

- Following an inmate's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The staff member is no longer posted within the inmate's unit?  Yes  No
- Following an inmate's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The staff member is no longer employed at the facility?  Yes  No
- Following an inmate's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the

resident has been released from custody, does the agency subsequently inform the resident whenever: The agency learns that the staff member has been indicted on a charge related to sexual abuse in the facility?  Yes  No

- Following an inmate's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility?  Yes  No

#### 115.73 (d)

- Following an inmate's allegation that he or she has been sexually abused by another inmate, does the agency subsequently inform the alleged victim whenever: The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility?  
 Yes  No
- Following an inmate's allegation that he or she has been sexually abused by another inmate, does the agency subsequently inform the alleged victim whenever: The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility?  
 Yes  No

#### 115.73 (e)

- Does the agency document all such notifications or attempted notifications?  Yes  No

#### 115.73 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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

In accordance to a review of Memorandum from Stephen Maher, Chief, Office of Special Investigations, 9/14/15 RE: Notification of Investigative Determination; Memo: from Christian Nunez, Deputy Chief, Office of Special Investigations, 7/29/15 RE: Sex Crimes Division (SCD) Close Out Procedures; Samples of Notification Email and Memorandums from the Office of Special Investigations; Interviews with the OSI Investigators, and PREA Compliance Manager, Downstate Correctional Facility meets the mandate of this standard. The Office of Special Investigations (OSI) has a process in place to notify the inmate upon close out of the investigation finding of substantiated, unsubstantiated, or unfounded. All notifications shall be in writing and documented. A review of the closed investigative files confirmed documentation was made confirming whether the inmate was notified and/or if the inmate had been released from imprisonment. The OSI Investigator is to notify the facility who then notifies the inmate in person if the outcome of the investigation is determined to be substantiated or unsubstantiated. In stances that the case was determined to be unfounded, this notification will be made by the facility. An inmate who makes allegations that the sexual abuse was perpetrated by a staff member shall be notified of the status of the staff member in writing to include whether the staff member is no longer posted within the inmate's unit, the staff member is no longer employed at the facility, the agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility, and/or the agency learns the staff member has been convicted on a charge related to sexual abuse within the facility. If the allegation was sexual abuse by another inmate, the facility informs the inmate whether the alleged abuser has been indicted on a charge related to sexual abuse within the facility and/or convicted on a charge related to sexual abuse within the facility.

**Corrective Action**

None required

**DISCIPLINE**

**Standard 115.76: Disciplinary sanctions for staff**

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

**115.76 (a)**

- Are staff subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies?  Yes  No

**115.76 (b)**

- Is termination the presumptive disciplinary sanction for staff who have engaged in sexual abuse?  Yes  No

**115.76 (c)**

- Are disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories?  Yes  No

#### 115.76 (d)

- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Law enforcement agencies (unless the activity was clearly not criminal)?  Yes  No
- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Relevant licensing bodies?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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

In accordance with a review of Directive #4028A Sexual Abuse Prevention & Intervention Staff – on – Inmate; Directive #4028B Sexual Abuse Reporting & Investigation Staff – on – Inmate; Directive #2110 Employee Discipline – Suspension from Duty During the Continuation of Disciplinary Proceedings; Employee Manual; Interviews with Superintendent, Human Resource Manager, and Union Official, Downstate Correctional Facility meets the mandate of this standard. The Directives addresses disciplinary sanctions of employees up to removal for PREA related issues. The employee manual provided to all employees explains the disciplinary process to them. Downstate Correctional Facility Correctional has not had any incidents of employee terminations and/or suspensions for issues of sexual abuse or sexual harassment. Staff interviews revealed an awareness of the departments zero tolerance policy as it pertains to sexual abuse and sexual harassment.

#### Corrective Action

None required

#### Standard 115.77: Corrective action for contractors and volunteers

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

**115.77 (a)**

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with inmates?  Yes  No
- Is any contractor or volunteer who engages in sexual abuse reported to: Law enforcement agencies (unless the activity was clearly not criminal)?  Yes  No
- Is any contractor or volunteer who engages in sexual abuse reported to: Relevant licensing bodies?  Yes  No

**115.77 (b)**

- In the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer, does the facility take appropriate remedial measures, and consider whether to prohibit further contact with inmates?  Yes  No

**Auditor Overall Compliance Determination**

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

In accordance with a review of Directive #4750 Volunteer Service Program; Directive #2605 Sexual Harassment in the Workplace Office of Special Investigations: OSI Reporting of Misconduct to Outside Agencies; Memorandum from the Acting Commissioner reference the Policy on the Prevention of Sexual Abuse of Offenders; Division of Ministerial, Family and Volunteer Services; Acknowledge of Code of Conduct Forms; Interviews Volunteers and Contractors, Downstate Correctional Facility meets the mandate of this standard. NY-DOCCS has a zero tolerance involving sexual abuse and sexual harassment of inmate by contractors and volunteer. The policies outline criminal actions taken in the event a volunteer or contractor sexual abuses or participates in sexual harassment. These policies also require that contractors or volunteers who commit the prohibited act of engaging in sexual abuse are reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. Interviews were conducted with two volunteers and two contractors, all were aware of

the policies as outlined. Downstate Correctional Facility reported there were zero incidents reported in past 12 months of volunteers and/or contractors who engaged in sexual abuse of an inmate.

**Corrective Action**

None required

**Standard 115.78: Disciplinary sanctions for inmates**

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

**115.78 (a)**

- Following an administrative finding that an inmate engaged in inmate-on-inmate sexual abuse, or following a criminal finding of guilt for inmate-on-inmate sexual abuse, are inmates subject to disciplinary sanctions pursuant to a formal disciplinary process?  Yes  No

**115.78 (b)**

- Are sanctions commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories?  Yes  No

**115.78 (c)**

- When determining what types of sanction, if any, should be imposed, does the disciplinary process consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior?  Yes  No

**115.78 (d)**

- If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, does the facility consider whether to require the offending inmate to participate in such interventions as a condition of access to programming and other benefits?  Yes  No

**115.78 (e)**

- Does the agency discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact?  Yes  No

**115.78 (f)**

- For the purpose of disciplinary action does a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred NOT constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation?  Yes  No

### 115.78 (g)

- Does the agency always refrain from considering non-coercive sexual activity between inmates to be sexual abuse? (N/A if the agency does not prohibit all sexual activity between inmates.)  
 Yes  No  NA

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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

In accordance with a review of Directive #4027A Sexual Abuse Prevention & Intervention Inmate – on – Inmate; Directive #4028A Sexual Abuse Prevention & Intervention Staff – on – Inmate, and Directive #4932 Standards Behavior & Allowances Downstate Correctional Facility meets the mandate of this standard. The listed policies outline disciplinary sanctions that may be imposed on inmates who engage in sexual abuse and sexual harassment. Inmates are subject to discipline internally for inmate on inmate sexual abuse. Inmates are only disciplined for sexual relations with staff in cases where it is determined to be without consent from staff.

#### Corrective Action

None required

## MEDICAL AND MENTAL CARE

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

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

### 115.81 (a)

- If the screening pursuant to § 115.41 indicates that a prison inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening? (N/A if the facility is not a prison.)  
 Yes  No  NA

#### 115.81 (b)

- If the screening pursuant to § 115.41 indicates that a prison inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening? (N/A if the facility is not a prison.)  Yes  No  NA

#### 115.81 (c)

- If the screening pursuant to § 115.41 indicates that a jail inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening?  Yes  No

#### 115.81 (d)

- Is any information related to sexual victimization or abusiveness that occurred in an institutional setting strictly limited to medical and mental health practitioners and other staff as necessary to inform treatment plans and security management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law?  
 Yes  No

#### 115.81 (e)

- Do medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does*

*not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

In accordance with a review of Memorandum from Deputy Commissioner / Chief Medical Officer; Directive #4301 Mental Health Satellite Services and Commitments to CNYPC - 8/18/15 – IV; DOCCS Mental Health Referral Form 3150; HSPM 1.12B - Inmate Bloodborne Pathogens Significant Exposure Protocols; PREA - Office of Mental Health Memorandum of Understanding with NYDOCCS ; HSPM 1.44 – Health Screening of Inmates; review of Health Screening Forms #3278RC and #3278TR, and interviews with intake staff and medical and mental health staff, Downstate Correctional Facility exceed in meeting the mandate of this standard. Directive #4301 requires all medical and mental health follow-up within fourteen days of arrival inmates who have disclosed during screening prior sexual victimization or previously perpetrated sexual abuse whether it occurred in an institution setting or in the community. If doing the initial screening an inmate discloses he has a history of prior sexual victimization and/or previously perpetrated sexual abuse, the inmate is referred to medical and mental health service. Routine medical and mental health referrals are seen within 14 days. An interview with the Mental Health Administrator confirmed that under the conditions of Downstate being a Reception Center, inmates receive at least one interaction with mental health on day one of their arrival and if identified as a victim of sexual abuse and/or previously perpetrated sexual abuse, they would be seen on the second day in addition to 14 days as needed until their departure. Information obtained regarding sexual victimization and/or abusiveness is strictly limited to medical and mental health staff, and only staff on a need to know basis.

Information obtained during the medical screening is shared with appropriate staff as needed, to determine housing, work, bed, education, and program assignment. As Downstate Correctional Facility is a Reception Center it also has a Cadre which inmates have an average length of stay of 850 days. There is an enormous amount of movement through Draft at Downstate Correctional Facility. Specifically, 1, 072 inmates were admitted to the facility during the past 12 months prior to the audit whose length of stay was for 30 days or more, and 5,425 inmates who was admitted to the facility whose stay was for 72 hours or more. Medical and mental health screening is conducted on all incoming inmates and meets the mandate of this standard while exceeding it in the amount of screenings completed. Confirmation of required screening was acknowledged during staff and inmate interviews in addition to a review of screening forms.

**Corrective Action**

None required

**Standard 115.82: Access to emergency medical and mental health services**

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

**115.82 (a)**

- Do inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment?  
 Yes    No

### 115.82 (b)

- If no qualified medical or mental health practitioners are on duty at the time a report of recent sexual abuse is made, do security staff first responders take preliminary steps to protect the victim pursuant to § 115.62?  Yes  No
- Do security staff first responders immediately notify the appropriate medical and mental health practitioners?  Yes  No

### 115.82 (c)

- Are inmate victims of sexual abuse offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate?  Yes  No

### 115.82 (d)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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

In accordance with a review of Directive #4027B – Sexual Abuse Reporting & Investigation Inmate – on – Inmate; Directive #4028B – Sexual Abuse Reporting & Investigation Staff – on – Inmate; HSPM 1.60 - Sexual Assault, Listing of Areas Hospitals with SANE/SAFE Nurses; Completed Ambulatory Health Record; New York Public Law S2807-C; Interviews with security staff, medical and mental health staff and SAFE/SANE Nurse, Downstate Correctional Facility meets the mandate of this standard. The listed Directives require inmates who are victims of sexual abuse be afforded access to forensic medical examinations at an outside facility where evidentiary or medically appropriate. Inmate victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health

practitioners per their professional judgment. Forensic exams are not conducted onsite. If needed, the inmate would be taken to an offsite hospital for the exam. St. Frances Hospital has been identified as the offsite hospital for conducting forensic examination by SAFE/SANE nurses. These exams would be conducted at no cost to the inmate. Downstate Correctional Facility has a Level 1 medical unit onsite with 24 hours coverage that ensures emergency medical treatment is provided to the inmate population on site as needed. Immediate notification of the Watch Commander and the Facility Health Services Director (FHSD) is required. As with all significant incidents, the Watch Commander would initiate notifications to the necessary parties, including medical and mental health for all sexual abuse/assault incidents. These procedures were confirmed during the interview process with supervisory security staff, medical and mental health staff.

#### **Corrective Action**

None required

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

#### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### **115.83 (a)**

- Does the facility offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility?  Yes  No

#### **115.83 (b)**

- Does the evaluation and treatment of such victims include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody?  Yes  No

#### **115.83 (c)**

- Does the facility provide such victims with medical and mental health services consistent with the community level of care?  Yes  No

#### **115.83 (d)**

- Are inmate victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests? (N/A if all-male facility.)  Yes  No  NA

#### **115.83 (e)**

- If pregnancy results from the conduct described in paragraph § 115.83(d), do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services? (N/A if all-male facility.)  Yes  No  NA

### 115.83 (f)

- Are inmate victims of sexual abuse while incarcerated offered tests for sexually transmitted infections as medically appropriate?  Yes  No

### 115.83 (g)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident?  Yes  No

### 115.83 (h)

- If the facility is a prison, does it attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners? (NA if the facility is a jail.)  Yes  No  NA

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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

In accordance with a review of HSPM 1.60 - Sexual Assault; Office of Mental Health Memorandum of Understanding; HSPM 1.44- Health Screening of Inmates forms; HSPM 1.12B – Inmate Bloodborne Pathogens Significant Exposure; Mental Health Referral Forms; interviews with medical and mental health staff, Downstate Correctional Facility meets the mandate of this standard. Downstate Correctional Facility is designated as a male reception center for NYDOCCS and does not process nor house female inmates. Downstate Correctional Facility has protocol in place to provide ongoing medical examination of inmates who claim sexual abuse. All inmate allegations of sexual assault must be evaluated immediately by the facility health staff. Interviews with the Mental Health and Medical Administrators confirmed the facility has 24 hours medical coverage for the inmate population and offers sexual abuse victims with medical and mental health services consistent with the community standard of care. Procedures are in place that provides victims of sexual abuse, while incarcerated testing for sexually transmitted infections as medically appropriate. The treatment and evaluation of the

victims include appropriate evaluation, treatment and follow-up services at the victim's designated facility upon the victim's departure. These treatment services are provided to the victim without any financial cost regardless of whether or not the victim names the abuser or cooperates with any investigation arising out of the incident. An interview with the Chief of Mental Health confirmed mental health evaluations of all known inmate – on inmate abusers are conducted by a Special Evaluation Center New York State Office of Mental Health. Downstate Correctional Facility reported one inmate that required ongoing medical or mental health care due to a reported allegation of sexual abuse within 12 months prior to the audit.

**Corrective Action**

None required

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.86 (a)

- Does the facility conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded?  Yes  No

#### 115.86 (b)

- Does such review ordinarily occur within 30 days of the conclusion of the investigation?  Yes  No

#### 115.86 (c)

- Does the review team include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners?  Yes  No

#### 115.86 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse?  Yes  No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility?  Yes  No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse?  Yes  No

- Does the review team: Assess the adequacy of staffing levels in that area during different shifts?  Yes  No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff?  Yes  No
- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager?  Yes  No

### 115.86 (e)

- Does the facility implement the recommendations for improvement, or document its reasons for not doing so?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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

In accordance with a review of Deputy Commissioner/Associate Commissioner –Memo RE: Prison Rape Elimination Act Procedural Enhancements Sexual Abuse Response and Containment Checklist; Sexual Abuse Incident Reviews and Security Staffing Audits; Interviews with the Superintendent, and PREA Compliance Manager it is determined that although policies were place to meet this standard, the facility was not able to demonstrate by practice that it was meeting the Department policy. During the corrective action period, the facility demonstrated practices were developed to meet the mandate of this standard. NY-DOCCS policy requires a sexual abuse incident review must be conducted within 30 days of the conclusion of investigations, unless the allegation is determined to be unfounded. A review of Incident Review files confirmed that documentation supports staff other than the PREA Compliance Manager and Captain/PREA Point Person was involved in conducting the 5 incident reviews for sexual abuse cases closed during the 100 day corrective action period. Documentation was provided that supported input from health services or mental health staff, and an additional third member designated by the Superintendent as a member of the incident review team. The incident review team consists of the appropriate team members who completes the Sexual Abuse Response and Containment Checklist

and reviewed the circumstances of the incident; the inmates and staff involved, whether actions taken were consistent with agency policies and procedures, if allegation or investigation indicates a need for policy changes and whether the incident or allegation were motivated by race, ethnicity, gender identity, lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status, gang affliction, or was motivated or otherwise caused by other group dynamics at the facility; an examination of the area in the facility where the incident alleged occurred to assess whether physical barriers in the area may enable abuse; an assessment of the adequacy of staffing levels in that area during different shifts; and an assessment as to whether monitoring technology should be deployed or augmented to supplement supervision by staff. Interview with the Superintendent, the facility shall implement recommendations that result from the review, or document the reasons for not making the implementations.

### **Corrective Action**

The corrective action period was initiated to ensure the facility is receiving and properly documenting input from mental health and medical staff, and documenting the participation of a third supervisor appointed by the Superintendent as members of the incident review during the incident review process of completed PREA investigative cases. The corrective action was effective for 100 days. The facility demonstrated during the corrective action period that practices and procedures were in place to ensure the incident review team was composed of the appropriate staff as outlined within the standard, and that input from health services or mental health staff was properly documented.

## **Standard 115.87: Data collection**

### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### **115.87 (a)**

- Does the agency collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions?  Yes  No

#### **115.87 (b)**

- Does the agency aggregate the incident-based sexual abuse data at least annually?  Yes  No

#### **115.87 (c)**

- Does the incident-based data include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice?  Yes  No

#### **115.87 (d)**

- Does the agency maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews?  Yes  No

### 115.87 (e)

- Does the agency also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates? (N/A if agency does not contract for the confinement of its inmates.)  Yes  No  NA

### 115.87 (f)

- Does the agency, upon request, provide all such data from the previous calendar year to the Department of Justice no later than June 30? (N/A if DOJ has not requested agency data.)  Yes  No  NA

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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

In accordance with a review of Office of Program Planning Research and Evaluation PREA Data Collection, Review, Retention and Publication Manual; Directive #4027B Sexual Abuse Reporting & Investigation Inmate – on – Inmate; Directive #4028B Sexual Abuse Reporting & Investigation Staff – on – Inmate, Downstate Correctional Facility meets the mandate of this standard. Downstate Correctional Facility collects accurate, uniform data for every allegation of sexual abuse at the facility using a standardized instrument and set of definitions, and aggregates the incident-based sexual abuse data at least annually. The data collected is based on the most recent version of the Survey of Sexual Violence conducted by the Department of Justice. NYDOCCS reviews and collects data as needed from all available documents, including reports, investigation files, and sexual abuse incident reviews. The Downstate Correctional Facility does not contract its inmates to other facilities. NYDOCCS provides all data from the previous calendar year to the Department of Justice upon request.

### Standard 115.88: Data review for corrective action

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

### 115.88 (a)

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas?  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis?  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole?  Yes  No

#### 115.88 (b)

- Does the agency's annual report include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse?  Yes  No

#### 115.88 (c)

- Is the agency's annual report approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means?  Yes  No

#### 115.88 (d)

- Does the agency indicate the nature of the material redacted where it redacts specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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

In accordance with a review of the NYDOCCS Agency Website; PREA Data Collection, NYDOCCS PREA Data Collection, Review, Retention, and Publication Manual it was determined Downstate Correctional Facility meets the mandate of this standard. The agency's policy requires the PREA Analyst to prepare and aggregate data collected throughout the agency. Each year an annual report is prepared that includes all identified noted problems within each facility while applying corrective actions for each area identified throughout the agency as a whole. The annual report includes a comparison of the current year's data and corrective actions with prior years and provides an assessment of progress in addressing sexual abuse. A review of the annual reports confirmed no personal identifiers are included in the report prior to publishing on the agency website. The NYDOCCS Annual Report on Sexual Victimization is posted on the Agency's website and available for review at <http://www.doccs.ny.gov/PREA/PREAINfo.html>.

## Standard 115.89: Data storage, publication, and destruction

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.89 (a)

- Does the agency ensure that data collected pursuant to § 115.87 are securely retained?  
 Yes  No

#### 115.89 (b)

- Does the agency make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means?  Yes  No

#### 115.89 (c)

- Does the agency remove all personal identifiers before making aggregated sexual abuse data publicly available?  Yes  No

#### 115.89 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection, unless Federal, State, or local law requires otherwise?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

## Instructions for Overall Compliance Determination Narrative

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

In accordance with a review of Office of Program Planning Research and Evaluation; PREA Data Collection, Review, Retention and Publication Manual NYDOCCS PREA Website, Downstate Correctional Facility and the Agency meets the mandate of this standard. NYDOCCS policies require the agency to prepare an annual report. Problem areas of concern and corrective actions are included in the annual reports for each facility throughout the Agency. A comparison of the current year's data and corrective actions with those from prior years, and provides an assessment of progress in addressing sexual abuse. NYDOCCS data is retained for at least 10 years and is secured by Office of Special Investigations and PREA Analyst. The Agency ensures all personal identifiers are removed before publishing the reports. The annual report is posted on the NY-DOCCS website at <http://www.doccs.ny.gov/PREA/PREAinfo.html> for review by the public.

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.401 (a)

- During the three-year period starting on August 20, 2013, and during each three-year period thereafter, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (N/A before August 20, 2016.)  
 Yes  No  NA

#### 115.401 (b)

- During each one-year period starting on August 20, 2013, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited?  Yes  No

#### 115.401 (h)

- Did the auditor have access to, and the ability to observe, all areas of the audited facility?  
 Yes  No

#### 115.401 (i)

- Was the auditor permitted to request and receive copies of any relevant documents (including electronically stored information)?  Yes  No

#### 115.401 (m)

- Was the auditor permitted to conduct private interviews with inmates, residents, and detainees?  Yes  No

#### 115.401 (n)

- Were inmates permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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

The Auditor reviewed the NYS DOCCS web page at [http://www.doccs.ny.gov/PREA/PREA\\_Final\\_Audit\\_Reports.html](http://www.doccs.ny.gov/PREA/PREA_Final_Audit_Reports.html) containing the 53 audit reports for PREA audits completed from November 6, 2015 through June 5, 2018. I have also viewed the agency schedule of audits. This is the 14<sup>th</sup> audit of a NYS DOCCS prison in audit year 2 of cycle 2. Following the corrective action period for this audit, this becomes the 54<sup>th</sup> audit of a DOCCS facility. Thus, this audit completes the first round of PREA Audits for DOCCS facilities.

The Auditor verified that the NYS DOCCS has, beginning in audit year 3 of cycle 1, ensured that at least one-third of each facility type operated by the Agency was and is scheduled to be audited. A total of 19 DOCCS facilities are scheduled for audits during audit year 2 of cycle 2, including 18 Adult Prisons and 1 Community Confinement Facility.

NYS Correction Law section 121 provides that the private ownership or operation of a facility for housing state or local inmates or the private ownership or operation of a facility for the incarceration of other state's inmates is prohibited. Thus, no private prisons are operated on behalf of the Agency.

NYS DOCCS has entered into agreements with private organizations for 12 Community Based Residential Programs to provide up to 6 months of housing and treatment for selected Parolees. These contracts were effective starting 5/1/17 (6 programs) and 10/1/17 (6 programs). Each contract permits contract monitoring and requires the Program to achieve and maintain PREA Compliance, and to arrange for PREA Audits on a schedule set in consultation with the DOCCS Agency-Wide PREA Coordinator. Audits are scheduled at 2 per year per contract with the first pair to be completed on or about 1 year after the start of the contract (i.e., two by May 2018, two by October 2018, etc.), thus ensuring that one-third of each facility type operated by a private organization on behalf of the agency will be audited during each forthcoming audit year.

## Standard 115.403: Audit contents and findings

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports within 90 days of issuance by auditor. The review period is for prior audits completed during the past three years PRECEDING THIS AGENCY AUDIT. In the case of single facility agencies, the auditor shall ensure that the facility's last audit report was published. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.)  Yes  No  NA

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's*

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

The auditor observed on the agency's website all Final PREA Audit Reports. The NYS DOCCS website <http://www.doccs.ny.gov/PREA/PREAINfo.html> confirms that the agency ensures that the auditor's final report is published on the agency's website. A review of the website found the Final Audit Reports for 53 PREA Audits of NYS DOCCS Facilities. There were 23 facilities audited in 2017, 18 facilities audited in 2016, and 3 facilities audited in 2015. The most recent audit appearing on the website was June 5, 2018, well within the 90-day requirement. NYS DOCCS meets the mandate of this standard.

## AUDITOR CERTIFICATION

I certify that:

- The contents of this report are accurate to the best of my knowledge.
- No conflict of interest exists with respect to my ability to conduct an audit of the agency under review, and
- I have not included in the final report any personally identifiable information (PII) about any inmate or staff member, except where the names of administrative personnel are specifically requested in the report template.

### Auditor Instructions:

Type your full name in the text box below for Auditor Signature. This will function as your official electronic signature. Auditors must deliver their final report to the PREA Resource Center as a searchable PDF format to ensure accessibility to people with disabilities. Save this report document into a PDF format prior to submission.<sup>1</sup> Auditors are not permitted to submit audit reports that have been scanned.<sup>2</sup> See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

*Debra Dawson*

*June 23, 2018*

**Auditor Signature**

**Date**

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<sup>1</sup> See additional instructions here: <https://support.office.com/en-us/article/Save-or-convert-to-PDF-d85416c5-7d77-4fd6-a216-6f4bf7c7c110>.

<sup>2</sup> See *PREA Auditor Handbook*, Version 1.0, August 2017; Pages 68-69.