

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

Interim       Final

Date of Report    05/30/2018

### Auditor Information

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Company Name: American Correctional Association	
Mailing Address: P.O. Box 8840	City, State, Zip: Omaha, NE 68108
Telephone: (402) 658-0344	Date of Facility Visit: 04/11/2018 – 04/13/2018

### Agency Information

Name of Agency: New York State Department of Corrections and Community Supervision (NY-DOCCS)	Governing Authority or Parent Agency (If Applicable): Click or tap here to enter text.
Physical Address: 1220 Washington Avenue	City, State, Zip: Albany, NY 12226-2050
Mailing Address: Click or tap here to enter text.	City, State, Zip: Click or tap here to enter text.
Telephone: (518) 457-8126	Is Agency accredited by any organization? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
The Agency Is:	<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
Agency mission: 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.	
Agency Website with PREA Information: <a href="http://www.doccs.ny.gov/PREA/PREAINfo.html">http://www.doccs.ny.gov/PREA/PREAINfo.html</a>	

### Agency Chief Executive Officer

Name: Anthony J. Annucci	Title: Acting Commissioner
Email: commissioner@doccs.ny.gov	Telephone: (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	<b>Number of Compliance Managers who report to the PREA Coordinator</b> 15 ADS PREA Compliance Managers report directly to the Associate Commissioner

**Facility Information**

<b>Name of Facility:</b>	Elmira Correctional Facility		
<b>Physical Address:</b>	1879 Davis Street, P.O. Box 500 Elmira, NY 14901-0500		
<b>Mailing Address (if different than above):</b>	Click or tap here to enter text.		
<b>Telephone Number:</b>	(607)-734-3901		
<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	
<b>Facility 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>Facility Website with PREA Information:</b>	<a href="http://www.doccs.ny.gov/PREA/PREAinfo.html">http://www.doccs.ny.gov/PREA/PREAinfo.html</a>		

**Warden/Superintendent**

<b>Name:</b> Raymond Coveny	<b>Title:</b> Superintendent
<b>Email:</b> Raymond.Coveny@doccs.ny.gov	<b>Telephone:</b> (607)-734-3901 Ext. 2000

**Facility PREA Compliance Manager**

<b>Name:</b> Thomas Napoli	<b>Title:</b> Asst. Deputy Supt. PREA Compliance Manager
<b>Email:</b> thomas.napoli@doccs.ny.gov	<b>Telephone:</b> (607)-734-3901 Ext. 6100

**Facility Health Service Administrator**

<b>Name:</b> Amy Felker	<b>Title:</b> Nurse Administrator
<b>Email:</b> amy.felker@doccs.ny.gov	<b>Telephone:</b> (607)-734-3901 Ext. 6100

**Facility Characteristics**

Designated Facility Capacity: 1774		Current Population of Facility: 1596	
Number of inmates admitted to facility during the past 12 months			5359
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:			4279
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:			5263
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:			125
Age Range of Population	Youthful Inmates Under 18: 0	Adults: 18-81	
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:			NA
Average length of stay or time under supervision:			566.49
Facility security level/inmate custody levels:			Maximum
Number of staff currently employed by the facility who may have contact with inmates:			774
Number of staff hired by the facility during the past 12 months who may have contact with inmates:			19
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:			20
<b>Physical Plant</b>			
Number of Buildings: 77		Number of Single Cell Housing Units: 10	
Number of Multiple Occupancy Cell Housing Units:		0	
Number of Open Bay/Dorm Housing Units:		0	
Number of Segregation Cells (Administrative and Disciplinary):		54	
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.):			
<p>Field House, Special Housing Unit, visit room, and Mental Health Unit are areas that have this Capability. The Field House is monitored by the arsenal, which is staffed 24 hours. The Visit Room is monitored by an Officer anytime it is open. The Mental Health Unit is monitored by an Officer on the unit, and that post is staffed 24 hours.</p>			
<b>Medical</b>			
Type of Medical Facility:		Med Level 1	
Forensic sexual assault medical exams are conducted at:		Lourdes Hospital, Cayuga Medical Center, Binghamton General	
<b>Other</b>			
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:			96
Number of investigators the agency currently employs to investigate allegations of sexual abuse:			27



# Audit Findings

## Audit Narrative

A PREA audit of the Elmira Correctional Facility was conducted April 11th – 13th, 2018 by Chris Sweney and David Andraska both are Certified PREA auditor. As part of the audit a full tour of the facility was conducted along with three days of document reviews and staff and inmate interviews. The tour included all area of the main facilities including inmate housing, segregation unit, intake (draft), kitchen, laundry, recreation, control, all program areas, medical and administration. Pre Audit posters where observed in all housing and common areas. No inmates specifically requested to speak with the audit team nor did the audit team receive any written correspondence from inmates or staff prior to the onsite visit.

On the first and second day of the audit the PREA Point Person provided the auditor with a roster of staff assigned to each shift. A total of twenty-two (22) random staff interviews from all three tours were conducted. Specialized staff interviews included the Superintendent, Assistant Deputy Superintendent/PREA Compliance Manager, the PREA Point Person, the Draft (intake) Sergeant who also does the initial screening of inmates when arriving at the facility; Investigators from the Office of Special Investigations (OSI) who are responsible for PREA related investigations as well as medical staff, program staff and volunteers. A total of thirty-one (31) formal staff interviews where completed.

On the second and third day of the audit the PREA Point Person provided the auditor with a roster of all (1575) inmates at the facility. Inmates were randomly selected by the auditor. At least one inmate from each housing unit was interviewed. There were two inmates who spoke limited English interviewed. No inmates where identified that had hearing or visual impairments. Two inmates who identified as gay were interviewed as well as two transgender inmates. A total of sixty-seven (67) formal inmate interviews were completed. Elmira Correctional Facility reported five (5) instances of either sexual abuse or harassment for the audit period. All incidents were referred to OSI for investigation. Of the five investigations, two allegations were reported by the inmate, the other three were third-party reports. Four incidents were determined to be unfounded and one was still under investigation at the time of the on-site visit. The PREA response and investigative process was thoroughly reviewed and found to be well within standard.

## Facility Characteristics

Elmira Correctional Facility is a male, indirect supervision, maximum security facility and reception center located in Elmira, New York. The facility was originally opened in 1876. The facility has the capacity to hold 1774 inmates in 10, 4 three tier linier style units. Each unit is supervised by a Sergeant and multiple staff on all three tours. There are also 54 segregation cells that may be used for administrative or disciplinary housing. In addition there are multiple building for dinning, medical services, laundry, recreation, educational and vocational programs, and administrative space. The facility has a total of seventy-seven (77) buildings.

## 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.

**Auditor Note:** No standard should be found to be “Not Applicable” or “NA”. A compliance determination must be made for each standard.

**Number of Standards Exceeded: 10**

- Standard 115.11: Zero tolerance of sexual abuse and sexual harassment; PREA coordinator
- Standard 115.16: Inmates with disabilities and inmates who are limited English proficient
- Standard 115.17: Hiring and promotion decisions
- Standard 115.31: Employee training
- Standard 115.32: Volunteer and contractor training
- Standard 115.33: Inmate education
- Standard 115.34: Specialized training: Investigations
- Standard 115.41: Screening for risk of victimization and abusiveness
- Standard 115.42: Use of screening information
- Standard 115.71: Criminal and administrative agency investigations

**Number of Standards Met: 35**

**Number of Standards Not Met: 0**

**Summary of Corrective Action (if any)**

No Corrective Action Needed

**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*)

The New York State Department of Corrections and Community Supervision (DOCCS) has a zero tolerance policy towards all forms of sexual abuse and harassment. This policy outlines how the department prevents, detects, and responds to incidents of sexual abuse and sexual harassment. The policy also includes definitions of prohibited behaviors and sanctions for those who participated in those behaviors. The policy includes a description of agency strategies and responses to reduce and prevent sexual abuse and sexual harassment of inmates.

The NYSDOCCS has 54 facilities and has designated an agency wide Associate Commissioner/PREA Coordinator to oversee the development and implementation of their PREA program. An Assistant Deputy Superintendent/PREA Compliance Manager is assigned to oversee Elmira Correctional Facility, Southport Correctional Facility, and Willard Drug Treatment Campus. Each facility including Elmira CF has a designated PREA Point Person. The PREA Point Person (Acting Captain) indicated during his interview that he has sufficient time and authority to develop, implement, and oversee the facilities efforts to comply with the PREA standards.

### Policy, Materials, Interviews and Other Evidence Reviewed

Directive 4027A Sexual Abuse Prevention & Intervention Inmate-on-Inmate  
Directive 4028A Sexual Abuse Prevention & Intervention Staff-on-Inmate

New York State Department of Corrections and Community Supervision Employee Manual  
Memorandum – Appointment of PREA Coordinator for DOCCS  
New York-DOCCS Organizational Chart  
PREA Point Person Interview  
PREA Compliance Manage Interview

**Corrective Action**

No corrective action needed

**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*)

New York State 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. However, DOCCS has entered into agreements with private organizations for 14 Community Based Residential Programs to provide up to 6 months of housing and treatment for selected Parolees. The auditor reviewed Request for Application (RFA) 2016.08-08, Community Based Residential Programs (CBRP) dated August 2016. These contracts were effective starting 10/1/16 (1



program), 5/1/17 (6 programs) and 10/1/17 (7 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 PREA Coordinator. Audits are scheduled at approximately 2 per year per contract beginning about 1 year after the start of the contract.

### **Policy, Materials, Interviews and Other Evidence Reviewed**

Statement of Compliance

Request for Application

Community Based Programs Contracting with DOCCS

### **Corrective Action**

No corrective action needed

## **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*)

The Elmira Correctional Facility is a linier design facility and has a staffing plan which accounts for generally accepted detention and correctional practices; DOCCS follows applicable State and local laws, regulations and standards to determine staffing levels. Elmira Correctional Facility has no Judicial, Federal or other internal or external findings of inadequate staffing. All components of the facility's physical plant, composition of the inmate population and placement of supervisory staff are also considered.

Deviations from the staffing plan are documented and reported to the Superintendent. Staffing requirements are assessed annually and adjustments are made if necessary.

Unannounced rounds are completed by supervisors on each shift and documented in a permanent log book. Elmira provided a copy of their tour logs with the pre-audit documentation which shows this as a regular practice. During the onsite visit, supervisors demonstrate how unannounced rounds are documented. Random staff and inmate interviews also indicated that supervisors as well as administrative staff made regular rounds. Policy prohibits staff from alerting other staff members that supervisory rounds are occurring.

### Policy, Materials, Interviews and Other Evidence Reviewed

New York-DOCCS Employee Manual

Directive #4001, Facility Administrative Coverage & Supervisory Rounds

Staffing Plan Review

Example Log Book Entries; Executive Team and Security Supervisor announced / unannounced rounds.

Examples of Weekly Administrative Activity Report

Examples of Security Supervisor Reports

Supervisory Staff interviews

Random Staff Interviews

Random Inmate Interviews

## Corrective Action

No corrective action needed

## 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*)

Elmira Correctional Facility does not house youthful offenders under the age of 18.

## Policy, Materials, Interviews and Other Evidence Reviewed

Directive #0066 Elmira Correctional Facility

### Corrective Action

No corrective action needed

## 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*)

Elmira Correctional Facility policy prohibits cross-gender strip searches and cross-gender visual body cavity searches. All strip searches are authorized by a supervisor and documented. Elmira Correctional Facility does not house female inmates and therefore the ban on cross-gender pat searches of female inmates is not applicable. The facility has implemented policies and procedures that enable inmates to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their buttocks, or genitalia, except when such viewing is incidental to routine checks. Staff is trained to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates using the least intrusive method possible. Staff interviews showed a thorough understanding of the inmate search policy. Random inmate interviews and interviews with two transgender inmates revealed that searches are being conducted appropriately.

### Policy, Materials, Interviews and Other Evidence Reviewed

Directive #2230 Guidelines for Assignment of Male and Female Correction Officers  
 Directive #4001 Facility Administrative Coverage & Supervisory Rounds  
 Directive #4910 Control & Search for Contraband  
 HSPM 1.37 Body Cavity Search  
 HSPM 1.19 Health Appraisal  
 Training Report  
 Random Staff interviews

Random Inmate interviews

**Corrective Action**

No corrective action needed

**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

Elmira Correctional Facility takes steps and has a policy which ensures 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. Elmira provides inmates with materials which are available in English and Spanish as well as several other languages. Additionally, the facility has a Spanish translator available if needed. They also have access to a translation hotline. PREA posters and educational materials are provided in English, Spanish and eight other languages. 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 Videos are available with subtitles in English, Spanish, Chinese (Mandarin), Haitian-Creole, Italian, Korean, Polish and Russian. Elmira 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.

#### **Policy, Materials, Interviews and Other Evidence Reviewed**

Directive #2612, Inmates with Sensorial Disabilities

Directive #4490, Cultural and Language Access Services

Associate Commissioner Memo – RE: “Ending Sexual Abuse Behind the Walls: An Orientation” DVD and time-coded transcripts in English and Polish

Sample pamphlet translations: What Inmates Need to Know

Language Access Plan for LEP Individuals

Form 4021A – Elmira Correctional Facility Draft Receipt

Form 115.33 Report of Inmate Training: “Ending Sexual Abuse Behind the Walls with Spanish Subtitles

Draft (Intake) Sergeant Interview

Random Staff Interviews

Limited English Inmate Interviews

#### **Corrective Action**

No corrective action needed

## **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*)

The New York State Department of Corrections and Community Supervision (NY-DOCCS) prohibits hiring and/or promoting anyone who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution. NY-DOCCS completes criminal background checks on all new employees, contract staff and volunteers before they are allowed to have contact with inmates. NY-DOCCS policy requires that all new employees be asked whether they have engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution; been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse or been civilly or administratively adjudicated to have engaged in the activity described above.

NY-DOCCS 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 and exceeds the standard requiring background checks at least every five years. Additionally, policy requires staff to report any criminal charges immediately.

### Policy, Materials, Interviews and Other Evidence Reviewed

Directive #2216, Fingerprinting/Criminal History Inquiry – New Employee and Contractors  
 Directive #2112, Report of Criminal Charge  
 Directive #2012, Release of Employee Personnel and Payroll Information  
 NYS Department of Correctional Services Personnel Procedure Manual

Director of Personnel Memo – RE: Personnel Procedure #407 – Civilian Promotions, Personnel Procedure Manual #407A – Security Promotions  
Director of Personnel Memo – RE: Fair Chance Hiring Application Revisions and Statewide Employment Application  
Deputy Commissioner and Counsel – RE: Prison Rape Elimination Act – Background Checks Employment Application  
Form 1253 – Personal History and Interview Record  
Availability Inquiry Correction Sergeant  
Form EIU23 – Personal History Questionnaire  
Elmira Correctional Facility Form 1253, Personal History and Interview Record Sample Derogatory Denial or Approval on Background Check  
Superintendent interview  
Investigative Staff Interview  
Random Staff Interviews

**Corrective Action**

No corrective action needed

**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

The New York State Department of Corrections and Community Supervision (NY-DOCCS) considers the effect of any new design, acquisition, expansion, or modification on the agency's ability to protect inmates from sexual abuse. Elmira Correctional Facility originally opened in 1876. Although there have been many additions and modifications to Elmira over the years, no additions or major modifications have been made to the facility since the PREA standards were adopted.

#### **Policy, Materials, Interviews and Other Evidence Reviewed**

Directive #3053, Alterations and Construction Request

Elmira Correctional Facility Form #1612 Alteration/Construction Request, RE: PREA Compliance for Standard 115.18

Facility Tour

Pre-Audit Questionnaire

#### **Corrective Action**

No corrective action *needed*

## 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

The New York Department of Corrections and Community Supervision (NY-DOCCS) is responsible for criminal and administrative investigations. The Department's Office of Special Investigations Sex Crimes Division conducts the investigations. The Department 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. NY-DOCCS 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 investigators from the Office of Special Investigations. Interviews confirmed that PREA investigations are completed as outlined by the standards and both investigators were very knowledgeable of the investigation process, evidence collection protocols, and the use of the Sexual Abuse Checklist.

Emergency healthcare as well as forensic examinations by SANE/SAFE staff 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. There were no forensic medical exams performed by SANE/SAFE staff during the last twelve months.

### Policy, Materials, Interviews and Other Evidence 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

Investigative Staff Interview

Medical Staff Interview

**Corrective Action**

No corrective action needed

**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**

NY-DOCCS Directives, Sexual Abuse Reporting and Investigations Inmate on Inmate, Sexual Abuse Reporting and Investigations Staff on Inmate and Office of Sexual Investigations Sex Crimes Unit, require that all allegations of sexual abuse and sexual harassment be referred for investigation. The Office of Special Investigations Sex Crimes Division conducts these investigations. The Department 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. All allegations are investigated and reported with findings as required by this standard. Documentation of the administrative or criminal investigation is maintained by the Office of Special Investigations Sex Crimes Division and outcomes are shared with the Superintendent. Interviews conducted with investigators from the Office of Special Investigations demonstrated a significant understanding of their responsibilities and the responsibilities of the New York State Police Bureau of Criminal Investigation in an investigation. The roles and responsibilities of each agency are clearly defined in policy. The agency’s policy is available on the agency’s website.

**Policy, Materials, Interviews and Other Evidence Reviewed**

- 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
- Superintendent Interview
- Investigative Staff Interview
- Random Staff Interviews
- Inmate Interviews

**Corrective Action**

No corrective action needed

**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

NY-DOCCS training for staff pertaining to sexual abuse prevention and reporting predates the PREA requirements. In 2015, NY-DOCCS expanded the training to a three hour course which replaced the previous two hour class. The expanded training addresses all PREA requirements including their zero tolerance policy, the agency's policy and procedures for prevention, reporting and response to a sexual assault or sexual harassment incident, and the dynamics of sexual abuse and harassment in a confinement setting, common reactions of sexual abuse and sexual harassment victims, how to detect and respond to signs of threatened and actual sexual abuse, how to avoid inappropriate relationships with inmates, how to communicate effectively and professionally with inmates, and how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities. This training course is required for all employees once during their career. A refresher, 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. Each officer is provided a pocket card identifying the steps to take as a first responder and how to report to the Office of Special Investigations.

### Policy, Materials, Interviews and Other Evidence Reviewed

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  
 Elmira Correctional Facility Training Completion Report – Sexual Abuse Prevention and Response  
 Elmira Correctional Facility Training Completion Report – Sexual Abuse Prevention and Response (Refresher)  
 Random Staff Interviews

### Corrective Action

No corrective action needed

## 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

All contractors and volunteers who have contact with inmates at the Elmira Correctional Facility receive PREA training prior to working in the facility. Orientation includes the agency's policy and procedures regarding sexual abuse and sexual harassment prevention, detection, reporting, and response including zero tolerance. Upon completion of orientation, the volunteer/contractor signs the Division of Ministerial, Family and Volunteer Services Acknowledgment Form. Signed forms are maintained at the facility.

#### Policy, Materials, Interviews and Other Evidence Reviewed

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, Contractors, Volunteers and Interns

PREA Point Person Interview  
Contract Staff Interview  
Volunteer Interview

**Corrective Action**

No corrective action needed

## 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 State of New York Department of Corrections and Community Supervision (NY-DOCCS) provides PREA education to all inmates beginning at intake into the agency. At reception, 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. Within a week of arrival, inmates receive a peer led comprehensive education in a classroom setting. 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. An interview was conducted of one of the peer educators; he was very knowledgeable and enthusiastic about presenting information to inmates new to the facility. Random inmate interviews confirm they have received PREA information at intake and during orientation at the facility. Additionally, PREA information is posted in all housing and common areas.

### **Policy, Materials, Interviews and Other Evidence Reviewed**

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

Elmira Correctional Facility: Inmate Orientation Sign-in Sheets

PREA Posters and Pamphlets

Superintendent Interview

Draft Sergeant Interview

Random Staff Interviews

Random Inmate Interviews

### **Corrective Action**

No corrective action needed

## **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

(NY-DOCCS) investigators receive specialized training to conduct sexual abuse investigations in confinement settings. 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. Specialized training was verified through the investigator interviews and training records.

#### Policy, Materials, Interviews and Other Evidence Reviewed

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  
 Report of Training Form for Sexual Abuse Investigations and PREA  
 Investigator Interview

#### Corrective Action

No corrective action needed

## 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 State of New York Department of Corrections and Community Supervision (NY-DOCCS) require that 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. Interviews with healthcare staff demonstrated they understood how to detect and assess signs of sexual abuse and sexual harassment, how to preserve physical evidence of sexual abuse, how to respond effectively and professionally to victims of sexual abuse and sexual harassment, and how and who to report allegations or suspicions of sexual abuse and sexual harassment. The facility's healthcare practitioners do not conduct forensic medical exams. Emergency medical healthcare, along with forensic examinations by SANE/SAFE staff, are provided at an outside hospital facility with no cost to the inmate.

#### **Policy, Materials, Interviews and Other Evidence Reviewed**

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

Power Point Presentation: PREA: Medical and Mental Health Care HSPM 1.60 and PREA Standards

Elmira Correctional Facility KHRT Code #17083 – Medical/Mental Health Training

OMH/Medical Staff RTF for Medical/Mental Health Training

Medical/Mental Health Staff Interviews

#### **Corrective Action**

No corrective action needed

## 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

The New York Department of Corrections and Community Supervision (NY-DOCCS) screens all inmates 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, previous 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. Within the first thirty (30) days of arrival at the facility, staff reassesses the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.

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. Only authorized staff has access to these files.

#### Policy, Materials, Interviews and Other Evidence Reviewed

Elmira Correctional Facility Form # 8.07 PREA Risk Screening  
 Elmira Correctional Facility examples of form 115.41M  
 Elmira Correctional Facility KHRT Training report for #17085 – PREA Risk Screening  
 Draft Staff Interview  
 Random Staff Interviews  
 Random Inmate Interviews

#### Corrective Action

No Corrective Action Needed

## 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

The New York Department of Corrections and Community Supervision (NY-DOCCS) 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. Elmira Correctional Facility makes 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 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.

Elmira does not place lesbian, gay, bisexual, transgender, or intersex inmates in a dedicated unit based solely on identification or status.

**Policy, Materials, Interviews and Other Evidence Reviewed**

Directive #4027A – Sexual Abuse Prevention & Intervention, Inmate – on – Inmate

Directive #4401 – Guidance & Counseling Services

Directive #4009 – Minimum Provisions for Health and Morale

Deputy Commissioner Memo – RE: Ne Procedure Necessitated by Directive #4027A, Sexual Abuse Prevention & Intervention, Inmate – on – Inmate

Associate Commissioner Memo – RE: New/Revised Other Security Characteristics Regarding Sexual Orientation and Gender Identity

Elmira Correctional Facility Operations Manual #11.21 Housing Unit Procedures

Elmira Correctional Facility Sexual Orientation and Gender Identity Form

LGBTI Inmate Interviews

Inmate Detention Files

Draft Sergeant Interview

Random Staff Interviews

Random Inmate Interviews

**Corrective Action**

No corrective action needed

**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

NY-DOCCS policy on protective custody 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.

#### **Policy, Materials, Interviews and Other Evidence Reviewed**

Directive #4948 – Protective Custody Status

Inmate Detention File

PREA Point Person Interview

Draft Sergeant Interview

Inmate Interview (Reported abuse at prior facility during intake screening)

#### **Corrective Action**

No corrective action needed

## 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

NY-DOCCS has procedures allowing for multiple internal and external ways for inmates to report sexual abuse, sexual harassment, and retaliation. PREA reporting methods are shared with inmates at intake, during orientation, in the PREA brochure, and on posters throughout the facility. The PREA Brochure, The Prevention of Sexual Abuse in Prison What Inmates Need to Know, informs inmates they can report verbally and in writing to staff, write the PREA Point Person, write the Office of Special Investigations, and report to an outside agency to the New York State Commission of Correction. Inmates may also report allegations through a third party or send an anonymous report. NY-DOCCS is working toward implementation of a state-wide victim services hotline; this service is available and working at Elmira. During the tour the hotline was tested in one of the housing units. Inmate interviews indicated they were comfortable reporting sexual abuse or sexual harassment and they knew the different methods available for reporting. Staff indicated through interviews they were aware of the methods available to them to report sexual abuse and sexual harassment of inmates.

#### Policy, Materials, Interviews and Other Evidence Reviewed

Directive #4027A – Sexual Abuse Prevention & Intervention Inmate – on – Inmate

Directive #4028A – Sexual Abuse Prevention & Intervention Staff – on – Inmate  
Employee Manual Section – 2.20  
Sexual Abuse Prevention and Response (SAPR) Lesson Plan  
General Confinement: The Prevention of Sexual Abuse in Prison: “What Inmates Need to Know” Pamphlet  
Elmira Correctional Facility Specific examples of third party reporting from Commission of  
Corrections/Family Member  
PREA Point Person  
Random Staff Interviews  
Random Inmate Interviews

**Corrective Action**

No corrective action needed

**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

NY-DOCCS 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, it is removed from the grievance process and immediately submitted to the Watch Commander for further handling in accordance with agency policy. This standard is non-applicable

#### Policy, Materials, Interviews and Other Evidence Reviewed

Directive #4040 – Inmate Grievance Program  
 PREA Point Person Interview

#### Corrective Action

No corrective action needed

## 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

NY-DOCCS provides access to victim advocates for emotional support services by providing the telephone number and mailing address for the Crime Victims Treatment Center (CVTC). Inmates may also write the New York State Commission of Correction Confidentially and remain anonymous upon request. Inmates are allowed to write CVTC or the New York State Coalition Against Sexual Assault free of charge. Correspondence with CVTC is processed as privileged mail. Information including the names, addresses

and contact numbers CVTC is posted and widely available throughout the facility. Staff and inmates were aware of available services.

**Policy, Materials, Interviews and Other Evidence Reviewed**

Directive #4423 – Inmate Telephone Calls

Directive #4404 – Inmate Legal Visits

Directive #4421 – Privileged Correspondence

Crime Victims Treatment Center (CVTC) Contract

Associate Commissioner Memo – RE: Just Detention International Resource Guide

NY-DOCCS “Help for Victims of Sexual Abuse in Prison” Pamphlet

Random Staff Interviews

Random Inmate Interviews

**Corrective Action**

No corrective action needed

**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**

The NY-DOCCS website provides a link to the DOCCS Office of Special Investigations as a method for third party reporting of sexual abuse and sexual harassment. The website encourages family members and the public to report allegations of sexual abuse to the facility immediately. Third party reporting information is provided on the website and in inmate brochures, pamphlets, and handouts.

**Policy, Materials, Interviews and Other Evidence Reviewed**

NY-DOCCS PREA Policy Web Page (<http://www.doccs.ny.gov/PREA/PREAINfo.html>)

Random Staff Interviews



Random Inmate Interviews

**Corrective Action**

No corrective action needed

## 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

NY-DOCCS policy requires 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. Medical staff is required to report sexual abuse and harassment. During the initial medical screening, medical staff notifies inmates of their duty to report and limits to confidentiality.

#### Policy, Materials, Interviews and Other Evidence Reviewed

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 and Sexual Abuse Response and Containment Checklist

Medical Staff Interview

Random Staff Interviews

Random Inmate Interviews

#### Corrective Action

No corrective action needed

## 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

NY-DOCCS policy requires staff to take immediate action to protect any inmate subject to substantial risk of sexual abuse. Policies outline the immediate steps that are to be taken to protect inmates with a substantial risk of sexual abuse. Inmates at risk are immediately removed from the area and placed in a safe location. Staff interviews showed a thorough understanding of the steps needed to protect an inmate at risk for sexual abuse. Elmira Correctional Facility has not had any reports of an inmate who was at substantial risk of imminent sexual abuse during the 12 months prior to the audit.

#### Policy, Materials, Interviews and Other Evidence Reviewed

Directive #4040 – Inmate Grievance Program

Directive #4948 – Protective Custody Status

PREA Point Person Interview

Random Staff Interviews

Random Inmate Interviews

#### Corrective Action

No corrective action needed

## 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

NY-DOCCS 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. The facility must also notify the Office of Special Investigations. Elmira Correctional Facility has received three reports of sexual abuse at other facilities during the past 12 months. Documentation was provided showing proper notification was made.

#### Policy, Materials, Interviews and Other Evidence Reviewed

Associate Commissioner Memo – RE: PREA Standard 115.63/263 Report of Sexual Abuse Jail  
Administrator Contact Information  
Investigative Staff Interview  
PREA Point Person Interview

#### Corrective Action

No corrective action needed

### 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

NY-DOCCS has a policy and provides training to all first responders which include the separation of the alleged victim and abuser; preservation and protection of the crime scene until appropriate steps can be taken to collect evidence; the collection of physical evidence, requesting that the alleged victim not take any actions that could destroy physical evidence, including, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and ensuring that the alleged abuser does not take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. Staff was very knowledgeable of their responsibilities when responding to reports of sexual abuse.

#### Policy, Materials, Interviews and Other Evidence Reviewed

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

Random Staff Interviews

#### Corrective Action

No corrective action needed

## 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

Elmira Correctional Facility has a written coordinated response plan to address Incident of inmate sexual abuse. The plan coordinates actions taken in response to an incident of sexual abuse among first responders, security, medical and mental health practitioners, Office of Special Investigations, facility administration, and victim advocates. A checklist is utilized to ensure all process steps are completed and notifications are made.

#### Policy, Materials, Interviews and Other Evidence Reviewed

Associate Commissioner Memo – RE: PREA Coordinated Response Plan and Sexual Abuse Response and Containment Checklist  
Medical Staff Interview  
Investigative Staff Interview  
Random Staff Interviews

#### Corrective Action

No corrective action needed

## 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

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.

#### Policy, Materials, Interviews and Other Evidence Reviewed

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

Superintendent Interview

Investigative Staff Interview

#### Corrective Action

No corrective action needed

### 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

NY-DOCCS has policies and processes in place to protect inmates and staff that report sexual abuse and harassment. The PREA Point Person/Compliance Manager is responsible for this process. Those that report are monitored for at least ninety (90) days. Monitoring includes any inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. NY-DOCCS policy allows the monitoring period to be continued as needed.

#### Policy, Materials, Interviews and Other Evidence Reviewed

Employee Manual – 2.19

Associate Commissioner Memo – RE: Agency Protection against Retaliation, PREA Standard 115.67/267, and Retaliation Monitoring Form-115.67/115.67A

Elmira Correctional Facility example: Retaliation Monitoring Form 115.67

Elmira Correctional Facility example: Monitoring Form 115.67A Staff

#### Corrective Action

No corrective action needed

### 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

Elmira Correctional Facility may use segregated housing for a short period of time to protect those that report sexual abuse. Victims placed in protective custody are monitored and seen by medical and mental health. Placement is reviewed within twenty-four hours and again within thirty days. Alternative housing is generally found within thirty days of placement. Elmira documents any restriction or loss of privileges due to being placed in protective custody.

#### Policy, Materials, Interviews and Other Evidence Reviewed

Directive #4948 – Protective Custody Status

PREA Point Person Interview

Random Staff Interviews

Inmate Interview (Reported sexual abuse during intake process at a prior facility)

#### Corrective Action

No corrective action needed

## 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

NY-DOCCS has a special Sex Crimes Unit in the Office of Special Investigations (OSI) which conducts investigations as outlined in the PREA Standards. Investigators receive specialized training in sexual abuse investigations pursuant to Standard 115.34. When evidence appears to support criminal prosecution, the OSI conducts interviews only after consulting with prosecutors whether interviews may hinder subsequent criminal prosecution. Administrative investigations include an effort to determine whether staff actions or failures contributed to the abuse and are documented in written reports. Criminal investigations are also

documented in a written report that contains a description of all evidence. Substantiated allegations of conduct that appears to be criminal are referred for prosecution and written reports are saved for a minimum of 7 years. Electronic case file, which includes, at a minimum, a copy of the written investigative report and any other critical documents (e.g., medical reports, depositions, etc.) are permanently maintained. Elmira Correctional Facility had five investigations of sexual abuse in the past twelve months. One investigation was still pending at the time of the onsite audit. Of the four closed investigations all were determined to be unfounded.

**Policy, Materials, Interviews and Other Evidence Reviewed**

- Directive #0700 – Office of Special Investigations
- Directive #2011 – Disposition of Departmental Records
- OSI Policy & Procedure: Training Requirements for Sex Crimes Investigators
- 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
- Investigative Staff Interview

**Corrective Action**

No corrective action needed

**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**

Interviews with investigative staff indicate that NY-DOCCS imposes a standard of preponderance of evidence for proof, or a lower standard, when determining whether allegations of sexual abuse or sexual harassment are substantiated. Investigation reports provided additional support further demonstrating compliance with this PREA standard.

## Policy, Materials, Interviews and Other Evidence Reviewed

Deputy Chief of Investigations - Memo RE: Sex Crimes Division Close Out Procedures  
Sexual Abuse Prevention and Response Lesson Plan  
Investigative Staff Interview

### Corrective Action

No corrective action needed

## 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

NY-DOCCS Office of Special Investigations (OSI) has a process in place to notify the inmate upon close out of an investigation, which will indicate substantiated, unsubstantiated, or unfounded. The OSI investigator will notify the inmate directly in cases of substantiated or unsubstantiated cases and record it in the case file. Unfounded investigations are sent to the inmate's facility and provided to the inmate via the legal mail process.

#### Policy, Materials, Interviews and Other Evidence Reviewed

Office of Special Investigations Chief – Memo RE: Notification of Investigative Determination  
Office of Special Investigations Deputy Chief – Memo RE: Sex Crimes Division Close Out Procedures  
Investigative Staff Interview  
PREA Point Person Interview

#### Corrective Action

No corrective action needed

## 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

NY-DOCCS policy 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. Elmira



Correctional has had no incidents of employee suspensions, or termination 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.

**Policy, Materials, Interviews and Other Evidence Reviewed**

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

PREA Point Person Interview

Random Staff Interviews

**Corrective Action**

No corrective action needed

**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**

NY-DOCCS has a zero tolerance involving sexual abuse and sexual harassment of inmate by contractors and volunteer. The policy outlines criminal actions taken in the event a volunteer or contractor sexual abuses or participates in sexual harassment. Interviews of contract staff and volunteers showed an awareness of this policy. Elmira Correctional Facility has not had any reported incidents of a contractor or volunteer who has engaged in sexual abuse of an inmate.

**Policy, Materials, Interviews and Other Evidence Reviewed**

Directive #4750 – Volunteer Service Program

Directive #2605 – Sexual Harassment in the Workplace

Office of Special Investigations: Reporting of Misconduct to Outside Agencies

Division of Ministerial, Family and Volunteer Services

Elmira Correctional Facility example of: Acknowledgment of Orientation for new volunteers and contractors

Contract Medical Staff Interview

Volunteer Interviews

**Corrective Action**

No corrective action needed

**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

NY-DOCCS policy outlines 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.

#### Policy, Materials, Interviews and Other Evidence Reviewed

Directive #4027A – Sexual Abuse Prevention & Intervention Inmate – on – Inmate

Directive #4028A – Sexual Abuse Prevention & Intervention Staff – on – Inmate

Directive #4932 – Standards Behavior & Allowances

Random Staff Interviews

Random Inmate Interviews

#### Corrective Action

No corrective action needed

## 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?  Yes  No

### 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

Elmira Correctional facility has protocols in place to transport a victim of sexual abuse to an outside hospital with SANE/SAFE certified staff for medical examination if required. The Elmira also has processes in place to provide emergency prophylactic medications if deemed appropriate by medical staff in consultation with the inmate. Elmira Correctional Facility had no incidents that required an inmate being transported to a SANE/SAFE certified hospital for a medical examination in the past year.

### Policy, Materials, Interviews and Other Evidence Reviewed

Directive #4027B – Sexual Abuse Reporting & Investigation Inmate – on – Inmate

Directive #4028B – Sexual Abuse Reporting & Investigation Staff – on – Inmate

HSPM 1.60 - Sexual Assault – SAFE/SANE Hospitals

Medical Staff interview

Director of Corrections Interview

Random Staff Interviews

### Corrective Action

No corrective action needed

## 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

Elmira Correctional facility has protocols in place to transport a victim of sexual abuse to an outside hospital with SANE/SAFE certified staff for medical examined if required. Elmira also has processes in place to provide emergency prophylactic medications if deemed appropriate by medical staff in consultation with the inmate. Elmira Correctional Facility had no incidents that required an inmate being transported to a SANE/SAFE certified hospital for a medical examination in the past year.

## 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

NY-DOCCS has protocols in place to provide ongoing medical examination of inmates who claim sexual abuse. Medical staff interviewed was well versed in the emergency protocol to follow with sexual abuse victims. Elmira does not have mental health staff on site but may make arrangements for inmates to be seen at a nearby facility. Elmira Correctional Facility has not had a need for ongoing medical or mental health care for sexual abuse victims and abusers within the twelve months prior to the audit.

#### Policy, Materials, Interviews and Other Evidence Reviewed

HSPM 1.60 - Sexual Assault  
HSPM 1.12B – Inmate Bloodborne Pathogens Significant Exposure  
HSPM 1.44 – Health Screening of Inmates  
Medical Staff interview  
PREA Point Person Interview  
Random Staff Interviews

#### Corrective Action

No corrective action needed

## 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

NY-DOCCS procedures require a sexual abuse incident review must be conducted within 30 days of the conclusion of investigations, unless the allegation is determined to be unfounded. The review team consists of the PREA Compliance Manager, security staff (Captain/ Point Person) and a third member designated by the Superintendent. The incident review team reviews 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. The report is completed and submitted to the Superintendent, Facility PREA Compliance Manager, and PREA Point Person for review. Elmira Correctional Facility had five investigations of sexual abuse in the past twelve months. One investigation was still open at the time of the onsite audit. Of the four closed investigations all were determined to be unfounded and no after action review was needed. Documentation was provided for two after action reviews for incidents outside the previous twelve month period.

#### Policy, Materials, Interviews and Other Evidence Reviewed

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  
PREA Compliance Manager Interview

#### Corrective Action

No corrective action needed

### 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

Elmira 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. NY-DOCCS reviews and collects data as needed from all available documents, including reports, investigation files, and sexual abuse incident reviews. Elmira Correctional

Facility does not contract its inmates to other facilities. NY-DOCCS provides all data from the previous calendar year to the Department of Justice upon request.

**Policy, Materials, Interviews and Other Evidence Reviewed**

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

Elmira Correctional Facility Form 2103SAII and 2103SASI

**Corrective Action**

No corrective action needed

**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

NY-DOCCS PREA Data Collection, Review, Retention, and Publication Manual states the PREA Analyst will prepare and aggregate data collected throughout the agency. An annual report is prepared which includes identification of problem areas, corrective action for each facility, and the agency as a whole. The annual report includes a comparison of the current year's data and corrective actions with prior years and provides an assessment of progress in addressing sexual abuse. Before publishing the annual report, the agency removes all personal identifiers. The annual report is made available to the public through the agency's website. NY-DOCCS Annual Report on Sexual Victimization is available for review on the agency's website.

### Policy, Materials, Interviews and Other Evidence Reviewed

Office of Program Planning Research and Evaluation; PREA Data Collection, Review, Retention and Publication Manual

NY-DOCCS PREA Web Page (<http://www.doccs.ny.gov/PREA/PREAinfo.html>)

### Corrective Action

No corrective action needed

## 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

NY-DOCCS PREA Data Collection, Review, Retention, and Publication Manual states the agency will prepare an annual report. The annual report includes: identification of problem areas, corrective action for each facility, and the agency as a whole, a comparison of the current year's data and corrective actions with those from prior years, and provides an assessment of progress in addressing sexual abuse. NY-DOCCS data is retained and secured by Office of Special Investigations and PREA Analyst. All personal identifiers are removed before the report is published. The annual report is made available to the public through the NY-DOCCS website. (<http://www.doccs.ny.gov/PREA/PREAinfo.html>)

#### Policy, Materials, Interviews and Other Evidence Reviewed

Office of Program Planning Research and Evaluation; PREA Data Collection, Review, Retention and Publication Manual  
NY-DOCCS PREA Web Page (<http://www.doccs.ny.gov/PREA/PREAinfo.html>)

#### Corrective Action

No corrective action needed

## 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

A review of the NYS DOCCS web page ([http://www.doccs.ny.gov/PREA/PREA\\_Final\\_Audit\\_Reports.html](http://www.doccs.ny.gov/PREA/PREA_Final_Audit_Reports.html)) showed 50 audit reports for PREA audits completed from November 6, 2015 through May 7, 2018. NYS DOCCS verified that beginning in audit year 3 of cycle 1, at least one-third of each facility type operated by the Agency was scheduled to be audited. The review of NYS DOCCS website confirms that PREA audits are being completed on NYS DOCCS facilities. During the three-year period starting on August 20, 2013, and during each three-year period thereafter, the agency did not ensure that each facility operated by the agency was audited at least once and at least one-third of each facility type operated by the agency was audited. The website confirms that since the beginning of the 1st cycle August 20, 2013, up to January 30, 2018, 50 facilities have been audited and the Audit Reports are on the NYS DOCCS website.

During the audit, the facility staff provided the Auditor access to all areas of Elmira Correctional Facility; copies of all relevant documents required; a private area and access to randomly selected inmates for interviews; and posted signs advising how inmates could send confidential information or correspondence to the Auditor like legal counsel. The auditor received all information requested by the facility to complete the PREA audit.

Based on the above the facility is meeting Standard 115.401 Frequency and scope of audit requirements.

## 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 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 50 PREA Audits of NYS DOCCS Facilities. There were 23 audits in 2017, 18 audits in 2016 and 3 audits in 2015. The most recent audit appearing on the website was May 7, 2018, well within the 90-day requirement. NYS DOCCS meets the requirements of this part of Standard 115.403 (f) Audit contents and findings.

## 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.

Chris Sweney

05/30/2018

**Auditor Signature**

**Date**

<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.