

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

Interim  Final

Date of Report October 25, 2017

## Auditor Information

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City, State, Zip: Alexandria, Virginia 22314

Telephone: (703) 222-5646

Date of Facility Visit: September 11-13, 2017

## Agency Information

Name of Agency:

New York State Department of Corrections and Community Supervision

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: 1220 Washington Avenue

City, State, Zip: Albany, NY 12226-2050

Telephone: (518) 457-8126

Is Agency accredited by any organization?  Yes  No

The Agency Is:

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

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

**Agency Website with PREA Information:** <http://www.doccs.ny.gov/PREA/PREAinfo.html>

## 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> 14 ADS PREA Compliance Managers report directly to PREA Coordinator Effman

**Facility Information**

<b>Name of Facility:</b> Gouverneur Correctional Facility			
<b>Physical Address:</b> Scotch Settlement Road, Gouverneur, NY 13669			
<b>Mailing Address (if different than above):</b> P. O. Box 158, Ogdensburg, NY, 13642-0370			
<b>Telephone Number:</b> (315) 287-7351			
<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> The facility Mission is the Department Mission. The Department's Mission Statement is "To improve public safety by providing a continuity of appropriate treatment services in safe and secure facilities where all inmates' needs are addressed and they are prepared for release, followed by supportive services for all parolees under community supervision to facilitate a successful completion of their sentence."			
<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> Elizabeth A. O'Meara	<b>Title:</b> Superintendent
<b>Email:</b> Elizabeth.Omeara@doccs.ny.gov	<b>Telephone:</b> (315) 287-7351

**Facility PREA Compliance Manager**

<b>Name:</b> Martalydee Martinez	<b>Title:</b> ADS/PREA
<b>Email:</b> Martalydee.Martinez@doccs.ny.gov	<b>Telephone:</b> (315) 287-7351

**Facility Health Service Administrator**

<b>Name:</b> Robert Kasuike M. D.	<b>Title:</b> Clinical Physician 2/Facility Health Service Director
<b>Email:</b> Robert.Kasuike@doccs.ny.gov	<b>Telephone:</b> (315) 287-7351

### Facility Characteristics

<b>Designated Facility Capacity:</b> 1082		<b>Current Population of Facility:</b> 976	
<b>Number of inmates admitted to facility during the past 12 months</b>			1,738
<b>Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:</b>			1,540
<b>Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:</b>			1,712
<b>Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:</b>			8
<b>Age Range of Population:</b>	<b>Youthful Inmates Under 18:</b> None	<b>Adults:</b> 19-79	
<b>Are youthful inmates housed separately from the adult population?</b>		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input checked="" type="checkbox"/> NA	
<b>Number of youthful inmates housed at this facility during the past 12 months:</b>			0
<b>Average length of stay or time under supervision:</b>			288 days
<b>Facility security level/inmate custody levels:</b>			Medium
<b>Number of staff currently employed by the facility who may have contact with inmates:</b>			388.5
<b>Number of staff hired by the facility during the past 12 months who may have contact with inmates:</b>			11
<b>Number of contracts in the past 12 months for services with contractors who may have contact with inmates:</b>			7

### Physical Plant

<b>Number of Buildings:</b> 59		<b>Number of Single Cell Housing Units:</b> 0	
<b>Number of Multiple Occupancy Cell Housing Units:</b>		0	
<b>Number of Open Bay/Dorm Housing Units:</b>		14	
<b>Number of Segregation Cells (Administrative and Disciplinary):</b>		132	

**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.):**

Gouverneur Correctional Facility currently has 127 cameras within the confines of the facility. There are 107 cameras in the S-200 Housing Unit and 20 cameras for perimeter surveillance. There is one monitor in the Visiting Room Inmate Bathroom- Male Post Only, with no recording capability.

### Medical

<b>Type of Medical Facility:</b>	Medium Level 1
<b>Forensic sexual assault medical exams are conducted at:</b>	Claxton- Hepburn Medical Center, Canton-Postdam Hospital, and Gouverneur Hospital.

**Other**

<b>Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:</b>	<b>61</b>
<b>Number of investigators the agency currently employs to investigate allegations of sexual abuse:</b>	<b>25</b>

# Audit Findings

## Audit Narrative

The Prison Rape Elimination Act (PREA) Audit for the Gouverneur Correctional Facility (Gouverneur CF) from initial notification through this auditor' Summary Report Adult Prisons and Jails/PREA Final Report began July 21, 2017 with the notice that the New York Department of Corrections and Community Supervision (DOCCS) through the American Correctional Association (ACA) had scheduled a PREA Audit with a tour date of September, 11-13, 2017, of the Gouverneur CF in St. Lawrence County in the city of Gouverneur, New York. PREA Certified Auditor Marilyn (Lynn) McAuley was notified by ACA e-mail of her appointment and schedule. The weekly audit schedule for the Gouverneur CF included PREA and ACA Reaccreditation audits at the facility. The ACA Reaccreditation was the second part of the week September 13-15, 2017 with the PREA Audit the beginning of the week September 11-13, 2017.

The audit process started with communications between the Superintendent and the auditor. The auditor explained the audit process that is designed to assess compliance not only through written policies and procedures but also whether such policies and procedures are reflected in the knowledge and day-to-day practice of staff at all levels. The Assistant Deputy Superintendent/PREA Compliance Manager mailed a USB thumb drive to the auditor. The thumb drive contained three essential parts: Part One – PREA Audit: Pre-audit Questionnaire (PAQ), Adult Prisons & Jail; Part Two - Master Folder for each of the 43 PREA Standards; and Part Three – Audit Welcome Book.

Part One, the Gouverneur CF PREA Audit: Pre-audit Questionnaire, Adult Prisons & Jail which is a stand-alone folder provided required data necessary for the auditor to make a decision on compliance of the standards, and information for the auditor to use in completing the PREA Compliance Audit Instrument. The PAQ provided comprehensive, specific material that could be verified by the auditor on site with review of documentation including files, interviews with staff and inmates and observations during the tour of the facility. Also included were: ACA Final VCR Report of Standards Compliance Reaccreditation October 1-3, 2014 audit; Memo dated July 31, 2017 on Gouverneur CF Video Monitoring Technology; 2017 Gouverneur Correctional Facility Inmate Population Report showing the inmate population for the 1<sup>st</sup>, 10<sup>th</sup> and 20<sup>th</sup> of the month for the period of July 1, 2016 to June 30, 2017 and the Schematic Plan of Gouverneur CF. The ACA VCR report provided valuable information on facility description, conditions of confinement, medical, mental health and programs that could be confirmed with observation, review of documentation and interviews. The Schematic Plan identified all 59 buildings at the facility and provided the auditor important information prior to arriving at the facility in preparation of the facility tour.

Part Two, Master Folder with PREA compliant information for each of the 43 PREA Standards provided documentation that supported the information on the Pre Audit Questionnaire. The separate files for each of the 43 Adult Prisons and Jails PREA standards contained relevant policies and procedures that go with each of the standards. All documents are named according to the corresponding Pre-Audit Questionnaire number and the document name. The 43 standards folders (one for each standard) found in the Master Folder contained substantiated compliance documentation for each of the standards addressing: intake procedures, interviews, screening appraisals of the incoming inmates,

and treatment of inmates with intersex conditions, gender identity disorder, gender dysphoria, and staff personnel discipline forms.

Part Three, the Gouverneur CF Welcome Book for the ACA Audit September 2017 included information on: Mission Statement; Physical Plant; Organizational Summary; Facility Services; and Accommodation Information. The Gouverneur CF is one of five DOCCS facilities in the Watertown Hub and well described in the Welcome Book. The facility demographics provided valuable information to prepare the auditor for the facility tour. Descriptions of: facility staff including organizational charts; programs; recreation; vocational; academic; guidance; inmate grievance program; general and law library; ministerial services; work programs; inmate records; and correspondence program provided valuable information prior to the actual facility visit and gave the auditor information necessary to complete pre-audit work and prepare for the actual site facility tour. The Welcome Book was well prepared, extremely valuable to the auditor and provided information requested plus additional information.

The PREA Resource Audit Instrument used for Adult Prisons and Jails was furnished by the National PREA Resource Center. To summarize, there are seven sections, A through G, comprised of the following: A) Pre-Audit Questionnaire, sent by DOCCS; B) the Auditor Compliance Tool; C) Instructions for the PREA Audit Tour; D) the Interview Protocols; E) the Auditor's Summary Report; F) the Process Map; and G) the Checklist of Documentation. These instruments were used for: guidance during the tour; interviews with random and specialized staff and random and specific classes of inmates; observations during tour of the complex; and recommendations for review of documentations.

Following the protocols of making contacts, and checking on the posting of notices (posting was initiated through the American Correctional Association and the facility, Gouverneur CF) the auditor, began review of the Pre-Audit Questionnaire and the material sent prior to the audit visit. Each item on the thumb drive was reviewed. Of particular interest to the auditor was the detailed information in the Pre-Audit Questionnaire completed by the PREA Compliance Manager for the DOCCS. Also, in this preliminary review, special interest was taken in the compliance documentation provided for each standard. The information from the standard files and the PAQ was used to complete the PREA Compliance Audit Instrument Checklist of Policies/Procedures; the PREA Resource Audit Instrument and other documents in advance to identify additional information that might be required and could be collected prior and during the audit visit.

On the first day of the audit, the Auditor proceeded to the Administration Building where a brief meeting was held with the auditor and the Superintendent and her PREA team of PREA Compliance Manager, PREA Point Person and Executive Staff. The DOCCS has a PREA Compliance Manager responsible for a number of facilities in a HUB and has designated a PREA Compliance Manager at each facility with a title of PREA Point Person. During this initial kickoff meeting the auditor established a schedule for continued communication throughout the audit process. She characterized the audit as an opportunity for positive change as the audit relies on a rigorous, practice-based methodology that assesses whether policies and procedures have been institutionalized throughout the facility. The auditor stressed the PREA audit will be unlike other correctional audits the facility has received in the past. It was established that the auditor and Superintendent and PREA team would meet in the afternoon to review the day activity and prepare for the next day of the audit with morning and afternoon meetings to occur each day of the audit.

The auditor sent a daily audit activity schedule to the Superintendent for the 2 1/2 days of the audit prior to arriving at the facility. This schedule was discussed during the initial briefing and revised based on

the needs of individuals involved in the audit process. The first audit briefing discussed tour protocols and points of interest for the following two days and was prior to beginning the facility tour. The interview process started with the Superintendent and facility PREA Compliance Manager. At this time, a review of the inmate population, inmate count on the first day of the audit was 989 inmates. This PREA audit was done using the PREA Auditor Handbook, PREA Management Office, Bureau of Justice Assistance, U.S. Department of Justice, Version 1.0, August 2017. Requirements for interviewing inmates changed with the PREA Auditor Handbook. The object of inmate interviews are to understand the facility's practices from the inmate's perspective and determine the extent to which inmates are knowledgeable about the facility's obligations to keep them safe from sexual abuse and sexual harassment. The appropriate sampling methodology and the minimum number of inmates that the auditor was required to interview are from the PREA Auditor Handbook. The sampling methodology used was to select inmates from an up-to-date inmate roster, by housing unit, the first day of the audit to include inmates from each of the 14 housing units, S-200 unit and SHU unit. Inmates to be selected and interviewed to come from the target group included: Youthful inmates; Inmates with a physical disability; Inmates who are blind, deaf, or hard of hearing; Inmates who are LEP; Inmates with a cognitive disability; Inmates who identify as Lesbian, Gay, or Bisexual; Inmates who identify as Transgender or Intersex; Inmates in segregated housing for high risk of sexual victimization; Inmates who reported sexual abuse; and Inmates who reported sexual victimization during risk screening. The PREA Compliance Manager supplied an alphabetical list of inmates for selection from the target group. The minimum number of inmates to be interviewed is based on the inmate population of the facility. The population on the first day of the audit was 989 inmates resulting on a selection of 30 inmates to be interviewed per the inmate interview rubrics in Tables 1-4 in the PREA Auditor Handbook. Per the Table 1: required number of inmate interviews the minimum number of interviews for the Gouverneur CF PREA audit for inmate is populations between 501-1,000 is at least 30 inmate interviews with at least 15 inmate interviews from the target group. The facility did not have inmates available in all of the target groups. In fact, it was difficult to find 15 inmates from the target group.

The random inmates to interview at Gouverneur CF were selected from each housing unit for interview by the auditor. Random selection of 20 inmates and 16 target inmates resulted in 36 inmates (3.6% of 989 Gouverneur CF inmates) interviewed. Target inmates from the list to consider interviewing at Gouverneur included: Youthful Inmates N/A; Inmates with a Physical Disability N/A; Inmates who are Blind, Deaf, or Hard of Hearing N/A; Inmates who are LEP 25; Inmates with a Cognitive Disability N/A; Inmates who Identify as Lesbian, Gay, or Bisexual 4; Inmates who Identify as Transgender or Intersex 0; Inmates in Segregated Housing for High Risk of Sexual Victimization 0; Inmates who Reported Sexual Abuse 4; and Inmates who Reported Sexual Victimization during Risk Screening 1. Target inmates interviewed including: 6 limited English proficient inmates (Spanish, Russian, and Chinese) with an interpreter; 4 inmates who had reported sexual abuse; 1 inmate who disclosed sexual victimization during risk screening; 5 LGBTI inmates. Random selection of inmates to be interviewed resulted in at least 2 inmates from each of the 14 housing units, S-200 and SHU units being interviewed resulting in geographic diversity. The auditor was not able to interview a selection from each of the target group since some targeted did not have inmates at the facility. All inmates interviewed acknowledged: the DOCCS's zero tolerance of sexual abuse and sexual harassment; their right to be free from both sexual abuse/harassment and retaliation for reporting; and they have been trained on how to report verbally, in writing, anonymously and from third parties. Inmates interviewed were aware of the kind of services available outside the facility for dealing with sexual abuse. They reported the facility provides mailing addresses and telephone numbers for the outside services.

Interviews with security, non-security and specialized staff included male and female staff with years of service ranging from 3 years to over 35 years. The auditor interviewed 52 staff that may have contact with inmates at the Gouverneur CF. Staff currently employed by the facility who have contact with inmates is 388 with (13.4%) staff interviewed. Security staff were interviewed from day, evening and night shifts at Gouverneur CF: Deputy Superintendent of Security; Captain; Lieutenants; Sergeants; Correctional Officers; intake officer; intermediate/higher-level staff (unannounced rounds); and staff who perform inmate screening. Non-security staff included: transitional staff; program staff; administrative staff; medical staff; mental health staff; human resource manager; SAFE/SANE representative; volunteer; contractor; investigative staff; incident review team member; retaliation monitor; and first responder. The auditor interviewed two volunteers, two contractors and two investigative staff. The representative sample of staff, supervisors, and administrators found staff understands their responsibilities under the PREA Standards, as well as the obligations imposed on the facility and agency to implement the agency's zero tolerance of sexual abuse and sexual harassment. All staff interviewed confirmed they have received training and understood DOCCS PREA policies and procedures and are committed to fulfill their responsibilities regarding sexual abuse and sexual harassment prevention, detection, reporting and response.

Sampling techniques for interviews with staff and inmates included random selection of staff and inmates from: list of all inmates by housing unit; list of all employees broken down by security and non-security staff; list of employees hired during the last 12 months; list of volunteers and contractors; investigators assigned to facility and OSHP; specialty staff; available SANE/SAFE representative; intake staff; medical and mental health staff; and list of inmates who: are disabled/limited English proficient; transgender/intersex/gay/bisexual; who reported a sexual abuse; and who disclosed sexual victimization during risk screening. Files selected for review were based on requirements of the standards. The facility provided the auditor offices to hold staff and inmate interviews. Facility staff provided excellent service making sure the individuals selected were available for the auditor to interview them without delay. The auditor used the PREA Audit Instrument for: random sample of inmates; special class of inmates; random sample of staff (security and non-security); specialized staff; Warden; and PREA Compliance Manager. While the recommended questions were asked for staff and inmates the auditor also added questions that would help in deciding compliance of the various standards.

The Gouverneur CF is a well-managed operation with obvious complete cooperation between management, security, medical, mental health and other staff in developing, implementing and monitoring on a daily basis the requirements of the 43 PREA standards. Review of documentation, observations during the tour, interviews with staff and inmates and comparing the information with the total requirements of the PREA audit was enhanced by the extreme cooperation of all staff at the Gouverneur CF in providing additional information as requested. Staff is completely knowledgeable of the PREA standards and enforces the standards to ensure the safety of inmates and staff at the facility. This is the first PREA audit for Gouverneur CF and it was evident that the facility considers PREA a priority as they have enhanced the facilities ability to protect inmates from sexual abuse and sexual harassment in a number of ways.

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

staff and inmates, and review of documents confirm that the Gouverneur CF staff considers PREA a number one priority and have developed, implemented and are monitoring all of the 43 standard to ensure compliance with the standards requirements. The Agency's approach to preventing, detecting, and responding to the PREA Standards continues to substantially exceed in a number of the standards based on the performance of dedicated staff at Gouverneur CF.

## Facility Characteristics

The Gouverneur CF is owned and operated by the New York Department of Corrections and Community Supervision (DOCCS). The facility mission is the same as the agency's mission to "To improve public safety by providing a continuity of appropriate treatment services in safe and secure facilities where inmates' needs are addressed and they are prepared for release, followed by supportive services under community supervision to facilitate a successful completion of their sentence." Gouverneur CF is located on approximately 100 acres of land near the Village of Gouverneur. The facility is part of the Watertown Hub which is a regional cluster of facilities that work together to fulfill the mission of the Department. The first inmates arrived in October 1990 while part of the facility was being completed. In January 1991, it became a fully utilized 750 bed medium security facility. A 100 cell, 200 bed S-Block opened in July 1998.

There are 59 buildings inside the double fenced 55 acre compound. The facility has seven dormitory style housing units that house 840 inmates; 140 of the 840 beds are considered double bunks. The housing units with type of housing are: A-1 Mess Hall Unit; A-2 Extra Privilege Unit; B-1, B-2, C-1, and C-2 General Confinement; D-1 ASAT (Substance Abuse); D-2, E-1, E-2, F-1, F-2, and G-1 General Confinement; G-2 Veterans Program Unit. S-200 is Special Housing Unit as is 32 single cell Special Housing Unit. The original Special Housing Unit has 32 single cells. The S-200 Special Housing Unit has a total of 100 cells all of which are double bunked. Full capacity of medium inmates currently is 1,082. Current design capacity is 1082 beds with current population of facility 976 inmates. Inmate population on the 1<sup>st</sup> day of the audit was 989 inmates. During the last 12 months 1,738 inmates were admitted to the facility with 1,540 inmates whose length of stay in the facility was for 30 days or more. Eight inmates were admitted the facility prior to August 20, 2012. The average length of stay or time under supervision for inmates is 288 days. The age range of population is 19-79 years.

The administration building provides for a number of support functions and is the entry point for all pedestrian traffic into the secure compound. Currently 388.5 staff is employed by the facility and have contact with inmates. Eleven staff that has contact with inmates was hired by the facility during the past 12 months. Gouverneur CF is a Medical Level 1 Facility. There are 61 volunteers and individual contractors, who may have contact with inmates who are currently authorized to enter the facility.

The DOCCS considers the safety of inmates and staff a priority evident by upgrading the video monitoring system at Gouverneur CF. The agency considers how video monitoring technology enhances the facility's ability to protect inmates from sexual abuse. Gouverneur has 127 cameras within the confines of the facility. There are 107 cameras in the S-200 Unit and 20 cameras for perimeter surveillance. There is one monitor in the Visiting Room Inmate Bathroom- Male Post Only with no recording capability.

The Superintendent and staff provided the auditor with access to all areas of the Gouverneur CF so she was able to observe activity at the facility according to the PREA Compliance Audit Tool – Instructions

for PREA Audit Tour in order to verify compliance with the standards. The tour of the facility included observation: in all of the buildings; programs and services; vocational and academic education; general and law library; food service; and recreation. Interviews with specialized staff, random sample of staff and inmates were conducted on all three days of the audit. During the three days of the site visit the auditor and the PREA Compliance Manager reviewed the 43 PREA Standard files using the PREA Audit: Pre-Audit Questionnaire, Adult Prisons & Jails and PREA Audit: Auditor Compliance Tool, Adult Prisons and Jails Tool to assess final compliant review.

During the audit, documentation reviewed confirmed 100% of staff at Gouverneur CF had received the original PREA training prior to the last 12 months and 100% of staff was retrained during the last 12 months. Staff is very proud of their jobs, knowledgeable about their duties especially to the PREA Standards and confirms they have received and understand the required original PREA training and new PREA updated training. Review of files confirms that staff has signed forms confirming they have received and understood the original and new PREA training as required by the standards. The auditor attended the changing of security staff for all three shifts changes and observed the movement from one shift leaving and another shift arriving. This gave the auditor an opportunity to interview staff from both of the shifts. This method of updating security staff during shift change regarding PREA and other important areas of corrections is impressive.

The Agency has zero tolerance for sexual abuse and sexual harassment. Sexual abuse and sexual harassment violate Department rules and threaten security. All reports of sexual abuse, sexual harassment, and retaliation against an inmate or staff member for reporting or taking part in an investigation of possible sexual abuse or harassment is thoroughly investigated and if there is evidence that a crime was committed, it will be prosecuted to the fullest extent permitted by law. Today, DOCCS is proud to be a leader in the national efforts to improve correctional practices under the Prison Rape Elimination Act of 2003 (PREA). The Gouverneur CF is a well-managed prison housing medium classification of inmates. Administration has designed, developed, implemented and now are monitoring a comprehensive PREA practice to prevent, detect and respond to sexual abuse and sexual harassment that meets or exceeds all of the required PREA standards.

## Summary of Audit Findings

Comparing policies and practice with data received and reviewed, observations, and interviews to the standard requirements began with the pre-audit activity, continued during the site visit and was completed during the post audit summary report stage. During the last 12 months Gouverneur CF had a total of three allegations of sexual abuse and sexual harassment. All allegations were on going at the time of the site visit. The three allegations were reviewed with two investigators who provided the necessary documentation to confirm that the allegations are being investigated per Agency Policy and PREA Standards. All three allegations were referred as criminal investigations.

The 2017 PREA Audit found the following six standards substantially exceeds the requirement of the standard: 115.11 Zero tolerance of sexual abuse and sexual harassment; PREA Coordinator; 115.16 Inmates with disabilities and inmates who are limited English proficient; 115.31 Employee training; 115.33 Inmate Education; 115.34 Specialized training: Investigations; 115.71 Criminal and administrative agency investigations. The total number of standard that substantially exceeds the requirement of the standard is 6 standards. The other 39 standards meet standards as are substantial compliance; complies in all material ways with the standard for the relevant review period.

An explanation of the findings related to each standard showing policies, practice, observations and interviews are provided in this report under each standard. The New York Department of Corrections and Community Supervision is a leader in national efforts to improve correctional practices under the Prison Rape Elimination Act of 2003 (PREA). Evidence supports PREA is a priority for the Department and there is exceptionally strong leadership at the Gouverneur CF enforcing the Department's PREA policies that were developed using best practices in corrections.

**Number of Standards Exceeded:** 6

**Number of Standards Met:** 39

**Number of Standards Not Met:** 0

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

Review of: policies, procedures and files; observation during the facility tour and interviews with staff; outside facility staff, and inmates; prior, during and post the site visit, the auditor found the facility had two areas that needed corrective action.

1. Standard 115.13 (a) The agency shall ensure that each facility it operates shall develop, document, and make its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect inmates against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, facilities shall take into consideration (1-11): with (5) All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated). Tour of the facility found two areas that had "blind spots" that required corrective action. The corrective action included placing one mirror in the General Library and three mirrors in the Law Library. The corrective action was completed prior to the auditor leaving the site resulting in the facility compliant in Standard 115.13.
2. Standard 115.15 (d) The facility shall implement policies and procedures that enable inmates to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breast, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routing cell checks. Tour of the facility found the frosted portion of the shower doors was not consistent requiring corrective action of extending the frosted portion by 2 inches at the bottom of the glass window. The corrective action was completed prior to the auditor leaving the site resulting in the facility compliant with Standard 115.15.

## PREVENTION PLANNING

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

#### 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 auditor reviewed: DOCCS Directive #4027A, Sexual Abuse & Intervention – Inmate-on-inmate, 8/16/11-II; Directive #4028A, Sexual Abuse & Intervention Staff-on-Inmate-8/17/11 –II; Employee Manual Section – Rev. 2013-2.19 & 2.20 and confirm policies are in place to ensure the agency has written policies mandating zero tolerance toward all forms of sexual abuse and sexual harassment and

outlining the agency's approach to preventing, detecting, and responding to such conduct. The policies include definitions of prohibited behaviors regarding sexual assault and sexual harassment of inmates with sanctions for those found to have participated in prohibited behaviors. Also, Directives #4027A/4028A Sexual Abuse Prevention & Intervention include the agency strategies and response to reduce and prevent sexual abuse and sexual harassment of inmates. Interviews with specialty and random selection staff and inmates confirm they have been trained on PREA compliance and know PREA means Safe and Secure Prisons and DOCCS has a zero tolerance toward all forms of sexual abuse and sexual harassment. During the tour of the facility the auditor observed posters regarding DOCCS zero tolerance toward all forms of sexual abuse and sexual harassment strategically placed throughout the facility.

Review of: Memo dated 3/14/12 from the DOCCS Commissioner RE: Appointment of Associate Counsel as PREA Coordinator for DOCCS with Duties Description; Memo announcement from DOCCS Commissioner, 4/23/13 RE: Associate Commissioner Appointment (PREA); and DOCCS Organizational Chart, 12/9/2016; confirms the Commissioner has designated an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee the agency's efforts to comply with the PREA standards in all of its facilities at all times. Interview with the Associate Commissioner/PREA Coordinator confirms he is responsible for the DOCCS agency-wide PREA requirements and has sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities. The PREA Coordinator position in the agency's organizational structure is Associate Commissioner (PREA) reporting to the Acting Commissioner. Interview with the Associate Commissioner/PREA Coordinator, observation during the audit and review of DOCCS Organizational Chart confirms his status.

In an interview with the Associate Commissioner/PREA Coordinator he advised he has fourteen Assistant Deputy Superintendent (ADS) PREA Compliance Managers. In addition, each of the 54 facilities has a Captain or staff member with equivalent responsibilities designated as the PREA Point Person. He interacts with the ADS's PREA Compliance Managers routinely. They have weekly conference calls to discuss policy updates, new initiatives and to discuss any issues he should be aware of. They email and speak on an ongoing basis each week. In addition, they meet as a group at least annually for training programs, often in conjunction with the Office of Special Investigations, Sex Crimes Division staff. Both the ADS PREA Compliance Managers and the designated PREA Point Persons will frequently deal with a Correctional Facility Operations Specialist (CFOS) from his Office. He has two CFOS in his Office in Albany who frequently work with AD's and the PREA Point Persons to answer questions, provide guidance, or share information.

The Associate Commissioner/PREA Coordinator advised if he identifies an issue with complying with a PREA standard he reviews the matter with members of the Central Office or facility Executive Team with the subject matter expertise, to determine whether the issue is with the policy or implementation of the policy. He then either issues a revised policy, works with the proper Deputy Commissioner to prepare a policy revision, or provide clarifying direction as appropriate. For significant issues, he will bring the matter to the attention of the Acting Commissioner and the Department's Executive Team. Gouverneur CF is one of many facilities under the direction of DOCCS.

Review of: Memo: from Deputy Commissioner and Associate Commissioner – 8/17/17 RE: Facility Prison Rape Elimination Act (PREA) Point person – Revised; Memo: Announcement from PREA Coordinator, 7/15/14 RE: Assistant Deputy Superintendent/PREA Compliance Manager Appointments with Duties Description; confirms the agency operates more than one facility, and has required each

facility to designate a PREA Compliance Manager or PREA Point Person with sufficient time and authority to coordinate the facility's efforts to comply with the PREA Standards. Interviews with the Hub PREA Compliance Manager and Gouverneur CF PREA Compliance Manager/Point Person confirm that Gouverneur CF has designated a PREA Compliance Manager at the facility. The Department has Hub PREA Compliance Managers and there is a Compliance Manager/Point Person at Gouverneur with a title of PREA Point Person. Gouverneur CF is in the Watertown Hub with four other facilities.

The agency's commitment to PREA is shown in the organizational structure developed. There is a PREA Coordinator responsible for the agency-wide PREA with PREA Compliance Managers responsible for PREA in a number of facilities. Interviews with the PREA Coordinator, the area PREA Compliance Manager and the Gouverneur PREA Compliance Manager/Point Person confirm that the PREA Compliance Manager/Point Person has been designated at Gouverneur CF and he has sufficient time and authority to coordinate the facility's efforts to comply with the PREA Standards. The Gouverneur PREA Compliance Manager/Point Person is a Captain with direct access to the facility Superintendent. Interviews with staff confirmed that the PREA Point Person is handling all PREA issues for the facility as per Department and Facility policies and procedures.

Review of documentation, observation of zero tolerance posters during tours of facility and interviews with staff and inmates, as described, confirms DOCCS is compliant with this PREA standard. The agency's zero tolerance for sexual abuse and sexual harassment is a top priority. Gouverneur CF is committed to operating in compliance with PREA and continues to report all allegations of any form of sexual misconduct to the Office of Special Investigations for review and follow up. The facility has invested the necessary resources and time to educate the inmate population about their rights under PREA and to train security and civilian staff, contract staff, and volunteers concerning their obligation to identify and report knowledge or suspicion of inappropriate activity related to PREA. The agency's strong support for developing, implementing and monitoring the PREA Standards is evident with the policies developed and enforced. The agency's priority commitment to PREA is evident with the three levels of staff beginning with the agency-wide PREA Coordinator, PREA Compliance Managers with multiple facilities and facility (Gouverneur) PREA Point Person. In conclusion, the auditor finds the facility substantially exceed the requirement for Standard 115.11 Zero Tolerance of Sexual Abuse and Sexual Harassment; PREA Coordinator.

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

### **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*)

The auditor reviewed the RFA 2016.08-08 P: 8, 9, Community Based Residential Programs (CBRP) Attachments A & C dated August 2016, for the PREA Standards requirements for contracting with other entities for the confinement of inmates. The DOCCS contracts with 6 organizations for the confinement of its inmates in Community Based Residential Program (CBRP) in a housing initiative to assist parolees under jurisdiction of DOCCS to attain stability in the community while providing for individual case needs and community safety. These contracts will be under RFA 2016.08 requiring the CBRP's obligation to adopt and comply with the PREA standards 28 C.F.R. Part 115, including Standards for Community Confinement Facilities. The Contractor agrees to comply with the standards and any subsequent amendments adopted by the United States Department of Justice. Further the Contractor developed a written policy mandating Zero tolerance toward all forms of Sexual Abuse and Sexual Harassment. The contracts resulting from the RFA permits the agency contract monitoring to ensure that the contractor is complying with the PREA standards and requires the contractor to comply with PREA audit requirements. Interviews with the Agency Contract Administrator confirmed that DOCCS monitoring for PREA compliance includes: onsite visits; reports; providing PREA information; PREA Audit every three years in conjunction with DOCCS. An interview with one of the CBRP facilities confirmed the DOCCS monitoring is as reported by the interview with the Agency's Contract Administrator. Therefore, Gouverneur CF is compliant with Standard 115.12: Contracting with other entities for the confinement of inmates.

## Standard 115.13: Supervision and monitoring

### 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*)

Gouverneur of: Memo: Captain to Director Security Information Staffing Unit RE: Chart & Staffing Review 1/30/15 ; Memo: from Deputy Commissioner to Superintendent RE: Security Chart/Staffing Review Report 2/11/16; Correctional Facility Annual Security Chart/Staffing Review - Report with Recommended Changes to Facility Plot Plan (staffing plan); interviews with Superintendent, PREA Compliance Manager and facility PREA Point Person; confirm policies are in place to ensure Gouverneur CF has developed, documented, and makes its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect inmates against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, Gouverneur CF has taken into consideration: 1) Generally accepted detention and correctional practices; 2) Any judicial findings of inadequacy; 3) Any findings of inadequacy from Federal investigative agencies; 4) Any findings of inadequacy from internal or external oversight bodies; 5) All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated); 6) The composition of the inmate population; 7) The number and placement of supervisory staff; 8) Institution programs occurring on a particular shift; 9) Any applicable State or local

laws, regulations, or standards; 10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and 11) Any other relevant factors.

The facility provided an example of the Gouverneur CF Post Closure Report showing circumstances: when the staffing plan was not complied with; the facility documents and justifies all deviations from the plan as reviewed; and reasons staffing plan not met. The average daily number of inmates since August 20, 2012 is 983 inmates with the average daily number of inmates on which the staffing plan was predicated was a maximum capacity of 1,082 inmates. Deviations from the Staffing Plan are documented in reports and include: facility frisk/lockdown, holiday schedule; trip assignments, program closed, facility frisk, and lockdowns.

The auditor reviewed the Gouverneur CF Annual Staffing Audit Review RE: Consultation with PREA Coordinator confirming the agency, whenever necessary, but no less frequently than once each year, for each facility the agency operates, in consultation with the PREA coordinator required by 115.11, the agency assess, determine, and document whether adjustments are needed to: 1) The staffing plan established pursuant to the first paragraph of this section; 2) The facility's deployment of video monitoring systems and other monitoring technologies; and 3) The resources the facility has available to commit to ensure adherence to the staffing plan. The current average daily staffing level is based on 1,082. This staffing level is within generally accepted guidelines and practices. Interview with the PREA Coordinator confirmed he is consulted regarding assessments of and adjustments to the staffing plan for Gouverneur CF on an annual basis.

Review of: Agency's Directive #4001, Facility Administrative Coverage & Supervisory Rounds, 4/7/14 – VI A, C, Pages 4-5, and Form 4001 A, Form 4001 B, 8/15 and Employee Manual – 2.44 Rev. 2013 confirms Gouverneur CF has implement a policy and practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Such policy and practice has been implemented for all three shifts. The facility has a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

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

Standard 115.13 (a) says the agency shall ensure that each facility it operates shall develop, document, and make its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect inmates against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, facilities take into consideration (1-11): with (5) All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated). Tour of the facility found two areas that had "blind spots" requiring corrective action requiring four mirrors. The corrective action included placing one mirror in the General Library and three mirrors in the Law Library. The corrective action was completed prior to the auditor leaving the site resulting in removal of "blind spots" making the facility compliant in Standard 115.13.

In conclusion, based on: review of excellent documentation showing development, review and recommendations for improvement of the staffing plan; observation during tour of the facility and interviews with staff during tours and random selection of staff and inmates this facility meets the requirements of Standard 115.13 Supervision and Monitoring.

## Standard 115.14: Youthful inmates

### 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*)

Gouverneur CF does not house youthful inmates under age 18. Therefore, Gouverneur CF is compliant with Standard 115.14 Youthful Inmates.

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

### 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  NA

### 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  NA
- Does the facility document all cross-gender pat-down searches of female inmates?  
 Yes  No  NA

### 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*)

Review of: DOCCS Directive #4910, Control and Search for Contraband, 11/03/16 & Rev. III B 3 b (1); III B 3 b (2) Note: III E 1 Note: III G 1 B; III Gr a & b; 1b, 5; HSPM 1.37 Body Cavity, 12/29/2016 – Entire; Directive #2230, Guidelines for Assignment of Male and Female Correction Officers, 3/13/15 – I C, II E, III; confirms the facility does not conduct cross-gender strip searches or cross-gender visual body cavity searches except in exigent circumstances or when performed by medical practitioners. Interview with random selection of staff and inmates found the facility does not allow cross-gender viewing and searches except in exigent circumstances or when performed by medical practitioners per agency policy. There were zero cross-gender strip searches or cross-gender visual body cavity searches at Gouverneur CF during the last twelve months. During the tour of housing units the auditor interviewed security staff who confirmed they do not conduct cross-gender strip searches or cross-gender visual body cavity searches.

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

Gouverneur CF is an all-male facility so there were non-cross-gender pat-down searches of female inmates. Therefore this part of the standard is non-applicable.

Review of: Directive #2230 – Guidelines for Assignment of Male and Female Correction Officers – 3/13/15 – 1 C; 11 E; III; DOCCS Directive #4910, Control and Search for Contraband, 11/03/16 & Rev. III B 3 b (1); III B 3 b (2) Note: III E 1 Note: III G 1 B; III G 5 a & b; and Memo dated 5/14/14 from

Deputy Commissioner and PREA Coordinator regarding revisions to Directive #4910 confirm the facility has implemented policies and procedures that enable inmates to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breast, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Tour of the housing units found the frosted portion of the shower doors was not consistent with partial viewing from some of the shower doors requiring corrective action of extending the frosted portion by 2 inches at the bottom of the glass window. The corrective action was completed prior to the auditor leaving the site resulting in the facility compliant in Standard 11515. These policies and procedures require staff of the opposite gender to announce their presence when entering an inmate housing unit. Observation during the facility tour and interviews with staff and inmates confirm that staff of the opposite gender announces their presence when entering an inmate housing unit.

Review of: DOCCS Directive #4910, Control and Search for Contraband, 11/03/16 & Rev. III B 3 b (1); III B 3 b (2) Note: III E 1 Note: III G 1 B; III Gr a & b; 1b, 5; HSPM 1.37 Body Cavity, 12/29/2016 – Entire; Directive #2230, Guidelines for Assignment of Male and Female Correction Officers, 3/13/15 – I C, II E, III; HSPM 1.19 – Health Appraisal – 2/19/16 Entire; Facility KHRT Course 35029 & 01062; confirm policies are in place to ensure the facility not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate’s genital status. If the inmate’s genital status is unknown, it may be determined during conversations with the inmate, by reviewing medical records, or, if necessary by learning that information as part of a broader medical examination conducted in private by a medical practitioner. Interview with a random selection of Correction Officers, Captain, Lieutenants, Sergeants and Correctional Officers confirm they have been trained not to search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate’s genital status. The facility did not have such a search occurring in the past 12 months per policy requirements.

Review of: DOCCS Directive #4910, Control and Search for Contraband, 11/03/16 & Rev. III B 3 b (1); III B 3 b (2) Note: III E 1 Note: III G 1 B; III Gr a & b; 1b, 5; HSPM 1.37 Body Cavity, 12/29/2016 – Entire; DOCCS Sexual Abuse Prevention and Response (SAPR) Lesson Plan, Objectives 4/10/15; Memo dated 5/14/14 from Deputy Commissioner and PREA Coordinator regarding revisions to Directive #4910; confirm policies are in place to ensure training security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

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

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

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

### **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*)

Review of: Directive #2612, Inmates with Sensorial Disabilities – 4/30/15 – I; Directive #4490, Cultural and Language Access Services – 1/15/16 – Entire; Memo: from Associate Commissioner, 10/26/15, RE: “Ending Sexual Abuse Behind Walls: An Orientation” – Entire, Copy of DVD and time-coded transcripts in English and Polish; Memo: from Associate Commissioner, 12/28/15, RE: New and Updated PREA Material; confirm the agency has policies in place to ensure the agency takes appropriate steps to ensure that inmates with disabilities (including, for example, inmates who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps include, when necessary to ensure effective communication with inmates who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, the agency ensures that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities, including inmates who have intellectual disabilities, limited reading skills, or who are blind or have low vision. An agency is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans With Disabilities Act, 28 CFR 35.164. Interviews with a nine disabled and limited English speaking inmates confirmed the facility provides information about sexual abuse and sexual harassment that they are able to understand and they are aware additional assistance is available to them. Interview with the Agency Head confirmed that DOCCS has a system-wide language access policy that ensures

individuals who require assistance with language can still fully participate in critical functions by using the Language Line services for translation of written documents or interpretation of spoken language. There are CD's and Tape Cassettes that provide visually impaired inmate's information. The agency's Office of Cultural and Language Access Services is responsible for implementing DOCCS' Language Access Plan and ensuring that Limited English Proficient (LEP) individuals can access the Department's programs, services and benefits. Vital documents and PREA informational brochures and inmate education film are available in English, Spanish, Italian, Simplified Chinese, Russian, Korean, Polish and Haitian Creole.

Review of: DOCCS Directive #4490 Cultural and Language Access Services, 1/15/16- Entire; Memo: from PREA Coordinator, 12/28/15 – Entire; Sample of pamphlet translations in various language; Language Access Plan, 4/1/15; and Form 4021A – facility specific example; confirm the agency has taken reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Interview with the Agency Head confirms the agency has procured Interpretation Services for Individuals with Limited English Proficiency that is available over-the-phone Interpretation Services and in-person (consecutive) Interpretation Services. Contracts were awarded on a regional basis so there are different vendor for different geographic areas. Gouverneur CF is in the Watertown HUB.

Review of: DOCCS Directive #4490 Cultural and Language Access Service, BI page 4 and Language Access Plan, 4/1/15 and Directive #2612 page 2, Inmates with Sensorial Disabilities, 4/30/15 – I , confirm the agency does not rely, per policy, on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under 115.64, or the investigation of the inmate's allegations. An interview with staff confirms that inmate interpreters for sexual abuse and sexual harassment are not allowed and facility approved interpreters are available for inmates if necessary. In the past 12 months there were zero instances where inmate interpreters, readers, or other types of inmate assistants were used.

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

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

### **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, makes its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse?  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*)

Review of: Directive #2216, Fingerprinting/Criminal History Inquiry – New Employees and Contractors – 9/17/15 – I, III, Attachment A; NYS Department of Correctional Services Personnel Procedure Manual #406A Recruitment Process – 4/8/16 – Forms: PPM 406A1 Recruitment Process Checklist, PPM 406A 2 Employment Telephone Verification; Memo: from Director of Personnel, 4/30/14, RE: Personnel Procedure #407 – Civilian Promotions, Personal Procedure manual #407A – Security Promotions, 4/29/14; Facility example: Form 1253 and sample derogatory denial or approval on Background check; confirm policies are in place to ensure the agency not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any contractor who may have contact with inmates, who: 1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); 2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or 3) Has been civilly or administratively adjudicated to have engaged in the activity described in the first paragraph (2)

of this section. The interview with the Human Resource Manager found prior to appointment the facility performs criminal record background checks and considered pertinent civil or administrative adjudication for every candidate selected for an employment, contractor or potential promotional appointment is conducted as described in the first paragraph. Prior incidents of sexual harassment are considered when determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates.

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

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

Review of policies, procedures and forms; random sample of employee files; and interview with the Human Resource Manager confirm the agency perform criminal record background checks. In the past 12 months 11 people who have contact with inmates were hired who had criminal background record checks.

Review of: DOCCS Directive #2216, Fingerprinting/Criminal History Inquiry – New Employees and Contractors, 9/17/15 – I, III, Attachment A; confirms the agency performs a criminal background records check before enlisting the services of any contractor who may have contact with inmates. There were 9 contract individuals who might have contact with inmates that had background record checks during the last twelve months.

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

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

interviews or written self-evaluations conducted as part of reviews of current employees. The agency imposes upon employees a continuing affirmative duty to disclose any such misconduct.

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

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

Review of: DOCCS Directive #2012, Release of Employee Personnel and Payroll Information, 8/7/15 - 2C 6 a. & b confirms unless prohibited by law, the agency provides information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work. Interview with the Human Resource Manager confirms that release of employee personnel and payroll information is per Directive #2012 9/6/2013, guidelines for release of specified employee personnel information.

In conclusion, based on review of the documentation provided; observation when visiting the Human Resource area; and interviews with Human Resource staff found all elements of this standard in place. The auditor reviewed the list of 9 new employees and one contractor hired in the last year and reviewed a random selection of files and confirms compliance with the Standard 115.17 Hiring and Promotion Decisions.

## Standard 115.18: Upgrades to facilities and technologies

### 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*)

When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities the agency considers the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect inmates from sexual abuse. Gouverneur CF has not acquired a new facility or made a substantial expansion to existing facilities since August 20, 2012 so this part of the Standard 115.18 is non-applicable. Policies and procedures are in place confirmed with review of: Directive #3053, Alterations and Construction Request – 2/28/17 – II, Form 1612; Facility Specific Example of submitted form 1612. Interview with the Agency Head found in accordance with Department Policy (Directive 3053 "Alterations/Construction Requests") each facility Superintendent must obtain Central Office approval for any alteration or construction project. As a part of that process the Superintendent submits a form 1612 Alteration/Construction Requests form. The Superintendent is required to evaluate the scope of the alteration and consider the effect of the design, acquisition, or modification upon the ability to protect inmates from sexual abuse. The Superintendent indicates on the form whether the alteration's impact will enhance, be neutral, or have a negative impact on the ability to protect inmates from sexual abuse. The Office of Facilities Planning reviews the requests and obtains comments from the Associate Commissioner/PREA Coordinator, in addition to the Deputy Commissioner for Correctional Facilities before approving any request. There were no new facility or planned any substantial expansion or modification of existing facilities at Gouverneur Correctional Facility.

When installing or updating a video monitoring system, or other monitoring technology, the Agency considers how such technology may enhance the agency's ability to protect inmates from sexual abuse. Compliance is confirmed with review of: Directive #3053, Alterations and Construction Request – 2/28/17 – II, Form 1612; Interview with Agency Head found the Department has wide-spread audio/video surveillance in a number of its facilities, and also coverage in specialized units such as special housing units, behavioral health units, and our new units for Youthful Inmates. When a report of sexual abuse or sexual harassment is received by the Office of Special Investigations (OSI), standard protocol calls for them to secure surveillance footage for the date, time and location of the reported incident. Video surveillance has provided corroborating evidence used to help obtain convictions and has also assisted in vindicating wrongfully accused staff. It is becoming increasingly frequent that DOCCS OSI, Sexual Abuse Prevention & Education Office and Operations review areas of concern for possible adjustment of existing camera systems, or to make recommendations for augmentation of the system. Regrettably, technical limitations do prevent rapid adjustments to the surveillance system. In Gouverneur Correctional Facility during the last 12 months there were two upgrades to the video system; 1) corrected so females not view the monitors in S-200; 2) repair of defective and obsolete equipment and update in S-200 of internal fiber optic equipment and recorders. These upgrades were per Agency policies and requirements of this standard.

Based on Policies and Procedures, interviews with the Agency Head and facility staff and review of video monitoring system Gouverneur Correctional Facility is compliant with Standard 115.18: Upgrades to facilities and technology.

## RESPONSIVE PLANNING

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

#### 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 evidentiary 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*)

Review of: Directive #4027B Sexual Abuse Reporting Investigation – Inmate-on-Inmate, 8/16/11 – Attachment B – Appendix 1-5; Operational Guidelines – Office of Special Investigations Immediate Dispatch, Inmate-on-Inmate/Staff –on-Inmate; Sexual Abuse Prevention and Response (SAPR) Lesson Plan, March 2015; and Statement of Non-Applicability, 5/14/2015 confirm policies are in place to enable DOCCS the responsibility for investigating allegations of sexual abuse and the agency follows a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. Interviews with medical/mental health staff and investigators and review of specific evidence collection and preservation documentation found DOCCS does not conduct on-site forensic medical examinations. When evidentiary or medical appropriate, a victim of sexual abuse shall be transported to an outside hospital and is provided treatment and services as required by the laws, regulations, standards and policies established by State of New York and administered by the New York State Department of Health. This includes but is not limited to, minimum standards and the uniform evidence protocol adopted by the Department of Health. The evidence protocol includes sufficient technical detail to aid responders in obtaining useable physical evidence.

Department of Health Protocol for the Acute Care for the Adult Patient Reporting Sexual Assault – Revised October 2008; and Statement of Non-Applicability, 5/14/2015; confirm policies are in place to ensure the protocol is developmentally appropriate for youth where applicable, and, as appropriate, is adapted from or otherwise based on the most recent edition of the U.S. Department of Justice’s Office on Violent Against Women publication, “A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,” or similarly comprehensive and authoritative protocols developed after 2011. Gouverneur is an all-male adult facility for inmates 18 years and older. Therefore, this part of the standard is non-applicable.

Review of: HSPM 1.60 – Sexual Assault, 5/20/14 –II, III A 1 C confirm there are policies are in place to ensure the agency offers all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiary or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioner. The agency documents its efforts to provide SAFEs or SANEs. Interviews with staff from the Renewal House providing forensic medical exams and victim advocate services confirmed the service is available 24/7. Should a SAFE/SANE nurse not be available the inmate would be seen by medical staff in the emergency room. There was one inmate from Gouverneur CF that had a forensic medical exam during the last 12 months that was provided by a SANE/SAFE staff and the investigation is on-going.

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

facility medical staff and Renewal House staff confirm they or a rape crisis center staff is made available to provide victim advocate services. Inmates are given names, address and telephone numbers of available rape crisis centers.

Review of: DOCCS Operational Guidelines – Office of Special Investigations Immediate Dispatch, Inmate-on-Inmate/Staff -on-Inmate confirm that policies are in place to ensure as requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member accompany and support the victim through the forensic medical examination process and investigatory interviews and provide emotional support, crisis intervention, information, and referrals. Interviews with PREA Compliance Manager/Point Person, facility medical/mental health staff and Renewal House staff confirm that policies are in place to ensure victim advocate services are available.

Review of: Letter to Superintendent NY State Police, 5/2/14 RE: Implementation of the PREA Standards, Entire confirm policies are in place to ensure the NY State Police follows the requirements of all paragraphs of this section. The Standard requires to the extent the agency itself is not responsible for investigating allegations of sexual abuse, the agency shall request that the investigating agency follow the requirements of all paragraphs of this section. The agency is responsible for administrative and criminal investigations and works cooperatively with NY State Police (NYSP), Bureau of Criminal Investigation (BCI). Therefore, this part of Standard 115.21 is non-applicable.

The requirements of all paragraphs of this section shall also apply to: 1) Any State entity outside of the agency that is responsible for investigating allegations of sexual abuse in prisons or jails; and 2) Any Department of Justice Component that is responsible for investigating allegations of sexual abuse in prisons or jails. The agency is responsible for administrative and criminal investigations. Therefore, this part of Standard 115.21 is non-applicable.

For the purposes of this section, a qualified agency staff member or a qualified community-based staff member shall be an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general. The agency is responsible for administrative and criminal investigations. Therefore, this part of Standard 115.21 is non-applicable.

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

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

### **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*)

Review of: Directive #4027B – Sexual Abuse Reporting & Investigation – 2/17/16, Inmate-on-Inmate – VII B; Attachment A; Directive #4028B – Sexual Abuse Reporting & Investigation – 3/4/16, Staff-on-Inmate – VI B; Attachment A. and interview with random sample of staff confirmed the agency is responsible for conducting administrative sexual abuse investigations in coordination with the New York State Police (NYSP), Bureau of Criminal Investigation (BCI) responsible for criminal sexual abuse investigations; confirms policies are in place to ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. Interview with the Acting Commissioner found in accordance with his authority under Section 112 of the New York State Correction Law, he has designated the Department’s Office of Special Investigation (OSI) as the Department’s investigative branch to investigate allegations of serious misconduct in the facilities. The

Office of Special Investigations conducts criminal and administrative investigations of all allegations of sexual abuse. Allegations of sexual harassment are reviewed by OSI and may either be investigated by OSI or by the facility subject to OSI' review. The Office of Special Investigation, Sex Crimes Division and the New York State Police, Bureau of Criminal Investigation, work cooperatively in the investigation of reported incidents of staff-on-inmate and inmate-on-inmate sexual abuse that may involve criminal conduct. During the last twelve months 3 allegation of sexual abuse and sexual harassment were received and were referred as criminal investigations. The investigations were still active at the time of the audit. The auditor met with two investigators and reviewed the files and found they had been processed according to department policy and PREA standards.

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

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

Any State entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in prisons or jails shall have in place a policy governing the conduct of such investigations. According to the DOCCS Statement of Non-Applicability, 5/15/15 the Acting Commissioner of DOCCS has delegated the authority to conduct administrative and criminal investigation to the Office of Special Investigations (OSI) in accordance with Correction Law 112 and Directive #0700 "Office of Special Investigations. This part of Standard 115.22 is non-applicable.

The following is on DOCCS Website "DOCCS investigates all reports of sexual abuse, sexual harassment, and retaliation in connection with a sexual abuse or harassment matter. All reports, including third-party and anonymous reports are confidential and will be thoroughly investigated". As outlined in a letter of understanding the Department's investigators work collaboratively with the State Police in joint administrative and criminal investigations in all cases involving potentially criminal conduct. Inmates are encouraged to report incidents to facility staff to permit the most expeditious response. They may also report by writing to the Superintendent, a member of the facility Executive Team, other facility staff, Central Office, the Department's Office of Special Investigations (OSI) (previously known as the Department's Office of the Inspector General), or to the Department's PREA Coordinator".

Any Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in prisons or jails shall have in place a policy governing the conduct of such investigations. According to the DOCCS Statement of Non-Applicability, 5/15/15 The Department of Justice is not responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in NY DOCCS facilities. Therefore, this part of the standard is non-applicable.

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

## TRAINING AND EDUCATION

### Standard 115.31: Employee training

#### 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, those 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*)

Review of: Training Manual Subject 0.100 – Frequency Training hart and Training Bulletins – 7/10/17 – Entire; Training manual Subject 8.300A – Recruit Training Catalog of Courses – 7/10/17 – Module 6#4 Page 9; Training Bulletin #7, “PREA: Sexual Abuse Prevention and Response” – Revised 4/16/17; Training Manual Subject: 7.000 – Initial Employee Training/40 Hour Orientation – 7/10/17 – Section II, Section IV page 5, Attachment A page 9; Sexual Abuse Prevention and Response Lesson Plan P: 18 &

19, – March 2015, Report of Training Form: Sexual Abuse Prevention and Response (PREA) RTF – PREA (11/2016); confirm DOCCS has policies in place to ensure training all employees who may have contact with inmates on: 1) Its zero-tolerance policy for sexual abuse and sexual harassment: 18-19; 2) How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedure: 52-53, 59-74, 78-79; 3) Inmates 'rights to be free from sexual abuse and sexual harassment P: 56-57; 4) The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment P: 56-57, 76; 5) The dynamics of sexual abuse and sexual harassment in confinement P: 31-33; 6) The common reactions of sexual abuse and sexual harassment victims P: 36-42; 7) How to detect and respond to signs of threatened and actual sexual abuse P: 59-69; 8) How to avoid inappropriate relationships with inmates P:43-51; 9) How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates P: 20-29; and 10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities P: 80; interviews with random sample of staff, specialty staff and executive staff; and review of employee signed training rosters; confirm that the PREA training has been given to: each new employee; all current staff and PREA training is including in the annual in-service training. Review of training records show employees received the training and signed they have received and understood their responsibilities under PREA.

Review of Sexual Abuse Prevention and Response Lesson Plan, March 2015, Report of Training Form: Sexual Abuse Prevention and Response (PREA) RTF – PREA Revised 4/16/17; and Training Manual Subject: 7.100 – Facility Familiarization 7/10/17; confirm policies are in place to ensure that DOCCS training is tailored to the gender of the inmates at the employee's facility. The employee shall receive additional training if the employee is reassigned from a facility that houses only female inmates, or vice versa.

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

Review of: Training Manual Subject 0.100 – Frequency Training hart and Training Bulletins – 7/10/17 – Entire; Training manual Subject 8.300A – Recruit Training Catalog of Courses – 7/10/17 – Module 6#4 Page 9; Training Bulletin #7, "PREA: Sexual Abuse Prevention and Response" – Revised 4/16/17; Training Manual Subject: 7.100 – Facility Familiarization – 7/10/17; Sexual Abuse Prevention and Response Lesson Plan – March 2015, Report of Training Form: Sexual Abuse Prevention and Response (PREA) RTF – PREA (11/2016). Memo: from Acting Commissioner – 6/26/17 – RE: Policies and Standards Generally Applicable to all Employees-Entire; Memo: from Deputy Commissioner and PREA Coordinator -4/8/15 – RE: Sexual Abuse Prevention and Response (PREA) RTF-PREA (11/2016); confirm all current employees who have not received such training were trained on the standards, and the agency provided each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures. In years in which an employee does not receive refresher training, the agency provides refresher information on current sexual abuse and sexual harassment policies. Interviews with the PREA Compliance Manager/Point Person, random staff, specialty staff and executive staff, and review of employee signed training rosters confirm that the PREA training has been given to: each new employee; all current staff within one year of the effective date of PREA Standards and PREA training is including in the annual in-service training. As at the date of the audit the number of staff employed by the facility,

which may have contact with inmates who were trained or retrained on the PREA requirements was 388.5 Gouverneur Correctional Facility Staff.

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

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

## Standard 115.32: Volunteer and contractor training

### 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*)

Review of: Directive #4027A – Sexual Abuse Prevention & Intervention – 3/4/16 – Inmate-on-Inmate – IV A 2; Directive #4028A – Sexual Abuse Prevention & Intervention – 3/4/16 – Staff-on-Inmate – V A 2; Memo: from Acting Commissioner – 9/4/13 – RE: Policy on the Prevention of Sexual Abuse of Offenders (revised) to all Employees, Contractors, Volunteers, and Interns; FORM 4071A (3/1/16). Review of training records and interviews with facility staff, volunteers and contractors; confirm the agency ensure that all volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures. Interviews with the PREA Compliance Manager/Point Person and volunteers and contractors who have contact with inmates confirm they have received and understand the PREA training on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures.

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

Review of: DOCCS Directive #4750, Volunteer Services Program, 3/7/13 – IV C 4 and Facility Specific Example: completed Division of Ministerial, Family, and Volunteer Services 2015 – Form REV:3/18/14 confirms the facility maintains documentation confirming that volunteers and contractors understand the training they have received. Sample PREA Volunteer and Contractors Training Forms signed by the volunteers and contractors were reviewed showing they had received and understood their responsibilities from the PREA training. There were 38 volunteers and 23 contractors who have contact with inmates who were trained in agency policies and procedures regarding sexual abuse/harassment prevention, detection, and response.

In conclusion, based on documentation reviewed, interviews with PREA Compliance Manager and volunteers, reviewing volunteer signed rosters, observations during tour and response to questions Gouverneur CF is compliant with Standard 115.32 Volunteer and Contractor Training.

## Standard 115.33: Inmate education

### 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*)

Review of: Directive #4021 – Offender Reception/Classification – 3/20/13 – II A 9, B 11; Directive #4027A – Sexual Abuse Prevention & intervention – 3/4/16 – Inmate-on-Inmate IV A 3; Memo: from Associate Commissioner – 12/28/15 RE: New and Updated PREA Materials – Entire; Memo: from Deputy Commissioner for Program Services and PREA Coordinator, 6/18/15, RE: PREA: Inmate Orientation Film Implementation; Orientation Sign in sheet and Form 115.33; Facility Specific: “Catch up” training of inmate population Schedule; Facility Specific Example: Orientation Packet/Signed acknowledgement of receipt; availability of posters and pamphlets viewed during facility tour; and interviews with inmates and staff; confirm policies are in place to ensure during the intake process, inmates receive information explaining the agency’s zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment. Interview with intake staff confirm inmates are provided with information about the Department’s zero-tolerance policy and how to report incidents or suspicions of sexual abuse or sexual harassment immediately when they arrive at the facility during intake. Interviews with random sample of inmates confirm they receive the valuable PREA information verbally and in writing. The auditor reviewed inmate intake files and observed arrival of new inmates to the facility and saw the PREA packets given to the inmates. There were 1,712 inmates admitted during the past 12 months who were given PREA information at intake.

Review of: Confirmed with review of: Directive #4027A – Sexual Abuse Prevention & intervention – 3/4/16 – Inmate-on-Inmate IV A 3; Memo: from Deputy Commissioner and Associate Commissioner – 6/18/15 RE; PREA; Inmate Orientation Film Implementation, Inmate Orientation Film Implementation – Special Housing Units; Memo: from Associate Commissioner – 12/28/15 RE: New and Updated PREA Materials – Entire; Memo: from Associate Commissioner – 10/27/14 RE: Reasonable Accommodations PREA Information; confirm policy is in place to ensure within 30 days of intake, the agency provides comprehensive education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents. There were 1,540 inmates during the last 12 months (whose length of stay in the facility was for 30 days or more) who received comprehensive education their rights to be free from both sexual abuse/harassment and retaliation for reporting such incidents and on agency policies and procedures for responding to such incidents within 30 days of intake. During the interview with intake staff the Intake Sergeant advised he meets every inmate privately on the day of their arrival to the facility and addresses their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents. This process was confirmed with interview of random sample of inmates. The auditor attended the inmate comprehensive

PREA orientation and observed the training that explained and provided information on their rights to be free from sexual abuse and sexual harassment.

Review of: Memo: from Deputy Commissioner for Program Services and PREA Coordinator, 6/18/15, RE: PREA: Inmate Orientation Film Implementation and Inmate Orientation Outline – 6/15/15 confirms policies are in place to ensure current inmates who have not received such education are educated and shall receive education upon transfer to a different facility to the extent that the policies and procedures of the inmate's new facility differ from those of the previous facility. According to the interview with the Sergeant responsible for intake, all inmates in the facility have been educated in PREA and inmates transferred in from another facility receive the PREA information upon arriving at the facility with formal PREA during orientation which is given within 7 day from arriving at the facility. Interviews with transfer-in inmates confirm they receive PREA information at intake and PREA education at the orientation. The auditor attended the inmate orientation and observed the inmates being trained in: the Department's zero- tolerance policy and how to report incidents or suspicions of sexual abuse or harassment.

Review of: Directive #4027A – Sexual Abuse Prevention & intervention – 3/4/16 – Inmate-on-Inmate IV A 3; Memo: from Deputy Commissioner and Associate Commissioner – 6/18/15 RE; PREA; Inmate Orientation Film Implementation, Inmate Orientation Film Implementation – Special Housing Units; Memo: from Associate Commissioner – 12/28/15 RE: New and Updated PREA Materials – Entire; Memo: from Associate Commissioner – 10/27/14 RE: Reasonable Accommodations PREA Information; confirm the agency has policies that require they provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, otherwise disabled, as well as to inmates who have limited reading skills. Copies of New and Updated PREA Materials and PREA: Inmate Orientation Film Implementation was reviewed and confirms PREA material is available in a variety of languages with interpretation services provided in accordance with the Department's Language Access Policy. In the event that an inmate has difficulty understanding the written material due to a disability or limited reading skills then appropriate staff provides assistance. The agency developed PREA inmate orientation films, "Ending Sexual Abuse Behind the Walls: An Orientation". The project was funded by a Bureau of Justice Assistance PREA Demonstration Project Grant. The film is available in eight languages and has subtitles. The auditor reviewed the films and found them to be excellent content and of professional quality. The films are shown to all inmates during the reception, classification and facility inmate orientation process. Interview with the PREA Compliance Manager/Point Person confirms the PREA Information ensures reasonable accommodations for inmates with Sensorial Disabilities and provides equal access to all information provided to general population. The Department has several facilities for designated inmates with Sensorial Disabilities so there were no inmates in this class at the facility.

Review of: Memo: from Deputy Commissioner for Program Services and PREA Coordinator, 6/18/15, RE: PREA: Inmate Orientation Film Implementation and Inmate Orientation Outline – 6/15/15 confirm the agency policy requires maintaining documentation of inmate participation in these education sessions. Interviews with random sample of inmates confirmed they had received PREA written information and participated in PREA educational sessions and documented in writing their receipt and understanding of the material the day they receive the training. The intake supervising Sergeant also confirmed inmates sign a form when receiving material and training. The auditor reviewed training records to confirm training received, understood and confirming signature.

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

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

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

## Standard 115.34: Specialized training: Investigations

### 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*)

Review of: DOCCS Office of Special Investigations Policy and Procedure – Training Requirements for Sex Crimes Investigators, 9/1/15 – Entire and Power Point Presentation Excerpt: PREA Specialized Training: Investigations, September 16, 2015 confirm policies are in place that ensure that in addition to the general training provided to all employees pursuant to 115.31, DOCCS ensures that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings. Interview with investigative staff found they received training specific to conducting sexual abuse investigations in confinement settings beginning with a three week investigations school and then on-the-job-training with a seasoned investigator. Additionally they have completed the NIC course “Investigating Sexual Abuse in a Confinement Setting” a course on interview, interrogation, and evidence collection.

Review of: Office of Special investigations Policy and Procedure – 9/1/15, Training Requirements for Sex Crimes Investigators – Entire; Power Point Presentation Excerpt: PREA Specialized Training – 5/31/16 P: 1-10; Investigating Physical and Sexual Abuse in an Institutional Settings – 11/14/16 - 11/16/16 with Report of Training Form; National Institute of Corrections Training (Section Overview) PREA; Investigating Sexual Abuse in Confinement Settings (DOCCS Course Code #17072); Power Point Presentation Excerpt: Sexual Abuse Investigations and PREA – 2014 Update, June 19, 2014; and interviews with two investigators; confirm policies are in place to ensure specialized training includes techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. Interviews with investigative staff found the specialized training for investigators included: Techniques for interviewing sexual abuse victims; Proper use of Miranda and Garrity warnings; Sexual abuse evidence collection in confinement settings; and Criteria and evidence required to substantiate a case for administrative or prosecution referral. Review of training logs confirmed training received.

Review of: DOCCS Office of Special Investigations Policy and Procedure – Training Requirements for Sex Crimes Investigators, 9/1/15 – Entire; Power Point Presentation Excerpt: PREA Specialized Training: Investigations, September 16, 2015; KHRT Training Report for Course #17072, National Institute of Corrections Training – PREA: Investigating Sexual Abuse in Confinement Settings; Report of Training Form for PREA Specialized Training: Investigations, August 5, 2015 and Report of Training Form for Sexual Abuse Investigations and PREA – 2014, updated, June 19, 2014 confirm DOCCS has policies in place and maintains documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations. Training reports are on record and reviewed by the auditor confirming the 25 investigators currently employed by DOCCS have completed the required specialized training for investigators.

Any State entity or Department of Justice component that investigates sexual abuse in confinement setting provides such training to its agents and investigators who conduct such investigations. There is no Department of Justice component. The NY State Police assist DOCCS with criminal investigations. Review of Electronic mail from Major, New York State Police, and Bureau of Criminal Investigation regarding Bureau of Criminal Investigation members statewide have completed the DOCCS PREA training.

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

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

### 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 does 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*)

Review of: Office of Mental Health Memorandum of Understanding – 9/14/16; Power Point Presentation: PREA Medical and Mental Health Care HSPM 1.60 and PREA Standards; TeleMed: Inmate Sexual Assault Post Exposure Protocol PREA 8/10/16; Training manual Subject 6.600, Mandatory Initial Training, Non-Security Staff at Facilities , 2/19/15 (Mandatory) and Email; interviews with medical and mental health care staff who confirmed they have been trained in how to detect and assess signs of sexual abuse and sexual harassment; confirm DOCCS ensures that all full-and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in: 1) How to detect and assess signs of sexual abuse and sexual harassment; 2) How to preserve physical evidence of sexual abuse; 3) How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and 4) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment. Interviews with medical and mental health staff confirm that full-and-part medical and mental health care practitioners have received training as described in 1-3 in the first paragraph. Medical and mental health care practitioners who work regularly at the facility are 15 with 15 staff receiving the required training for 100%.

If medical staff employed by the agency conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations. Review of Power Point Presentation: PREA: Medical and Mental Health Care HSPM 1.60 and PREA Standards confirms DOCCS does not train medical staff to conduct forensic medical exams as this policy directs medical staff to send inmate victims to an outside hospital emergency department for evaluation by a certified Sexual Assault Forensic Examiner (SAFE) or certified Sexual Assault Nurse Examiner (SANE). Interviews with medical staff confirm they do not perform forensic medical exams as the inmate is taken to a medical facility that has SAFE and SANE service 24/7. Therefore, DOCCS is non-applicable for this part of Standard 115.35.

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

Review of: Training manual Subject 6.600, Mandatory Initial Training, Non-Security Staff at Facilities , 2/19/15 (Mandatory); Email: PREA – Office of Mental Health Memorandum of Understanding To: All Superintendents (Interim MOU between OMH and DOCCS), 6/18/14; Directive #4750 – Volunteer

Services Program, Division of Health Services acknowledgement form; Training Manual Subject – 7.100.40 - Hour Orientation Program for Full-time, Non-security Staff at Facilities – 8/25/15 (Mandatory) confirm DOCCS policies are in place to ensure medical and mental health care practitioners receive the training mandated for employees under 115.31 or for contractors and volunteers under 115.32, depending upon the practitioner’s status at the agency. Interviews with medical and mental health confirm they receive PREA training mandated for employees under 115.31. Review of training records indicate that all medical and mental health staff sign showing they received and understand the PREA training.

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

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

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

#### **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*)

Review of: Memo: from Deputy Commissioner for Correctional Facilities, Deputy Commissioner for Program Services, and Associate Commissioner – 8/26/16 RE: Prison Rape Elimination Act (PREA) Risk Screening, Risk Screening Form – Male Facility, Risk Screening Form – Female Facility, Form: 4021 Security Screening, Form: 4021A Draft Receipt Directive 4027A, Sexual Abuse Prevention & Intervention Inmate-on-Inmate, 8/16/11 – IV B 1, 2; and Memo: from Deputy Commissioner/Chief Medical Officer, 3/16/15 RE: Health Screening Forms 3278RC and 3278TR; and interviews with intake staff and random sample of inmates; confirm the policy is in place that ensures all inmates are assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates Interview with the Sergeant who performs screening for risk of victimization and abusiveness confirms that he screens inmates upon admission to the facility and transfer from another facility for risk of sexual abuse victimization or sexual abusiveness toward other inmates per DOCCS policies. Interviews of random sample of inmates confirm they received the screening as described.

Review of: Memo: from Deputy Commissioner for Correctional Facilities, Deputy Commissioner for Program Services, and Associate Commissioner – 8/26/16 RE: Prison Rape Elimination Act (PREA) Risk Screening, Risk Screening Form – Male Facility, Risk Screening Form – Female Facility, Form: 4021 Security Screening, Form: 4021A Draft Receipt and interviews with intake staff, medical and mental health staff confirms policy is in place ensuring intake screening ordinarily take place within 72 hours of arrival at the facility. Interview with the Sergeant who performs the screening at the facility is by DOCCS policy that the initial assessment must include a preliminary review by Security, Health Services and Classification staff within 24 hours of an inmate's arrival at the reception facility. The sending facility senior correction counselor advises the receiving facility and each in-transit facility, via electronic mail to the watch commander, of any such history. Upon each transfer, any inmate so identified will be screened by a security supervisor within 24 hours of arrival at the facility for any indication of current sexual vulnerability or sexually aggressive behavior. Information from the screening process, the initial assessment, quarterly reviews, and inmate disciplinary history, will be reviewed and considered for purposes of classification, housing assignments and programming, etc. During the last 12 months 1,712 inmates entering the facility were screened for risk of sexual victimization or risk of sexually abusing other inmates within 72 hours of their entry into the facility.

Review of: Memo: from Deputy Commissioner for Correctional Facilities, Deputy Commissioner for Program Services, and Associate Commissioner – 8/26/16 RE: Prison Rape Elimination Act (PREA) Risk Screening, Risk Screening Form – Male Facility, Risk Screening Form – Female Facility, Form: 4021 Security Screening, Form: 4021A Draft Receipt and interviews with intake staff, medical and mental health staff; confirms that assessments are being conducted using an objective screening instrument. Interview with the PREA Compliance Manager/Point Person and review of the Intake Screening Form 115.41 include all 10 required criteria to assess inmates for risk of sexual victimization and meet the requirement of using objective screening instrument.

Review of: Memo: from Deputy Commissioner for Correctional Facilities, Deputy Commissioner for Program Services, and Associate Commissioner – 8/26/16 RE: Prison Rape Elimination Act (PREA) Risk Screening, Risk Screening Form – Male Facility, Risk Screening Form – Female Facility, Form: 4021 Security Screening, Form: 4021A Draft Receipt and interviews with intake staff, medical and mental health staff; confirms that the objective screening instrument used during intake screening considers, at a minimum, the following criteria to assess inmates for risk of sexual victimization: 1) Whether the inmate has a mental, physical, or developmental disability; 2) The age of the inmate; 3) The

physical build of the inmate; 4) Whether the inmate has previously been incarcerated; 5) Whether the inmate's criminal history is exclusively nonviolent; 6) Whether the inmate has prior convictions for sex offenses against an adult or child; 7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; 8) Whether the inmate has previously experienced sexual victimization; 9) The inmate's own perception of vulnerability; and 10) Whether the inmate is detained solely for civil immigration purposes. (d) Note each item prescribed by the PREA standard that is missing from the facility's risk screening instrument; note each item not prescribed in the PREA standards that is included in the facility's instrument. Interview with the Sergeant performing the screening process confirmed that the initial risk screening considers: consideration of any inmate disabilities; inmate age; physical build; previous incarceration; criminal history exclusively nonviolent; inmate criminal history; perceived sexual orientation; previous sexual victimization; inmate perception of vulnerability and whether detention is related to civil immigration.

Review of: DOCCS PREA Intake Screening Form 115.41 (09/16); confirms policies and forms are in place to ensure the initial screening considers prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in assessing inmates for risk of being sexually abusive. Interview with the Sergeant performing the screening process confirmed that the initial risk screening includes assessments including: prior acts of sexual abuse, prior convictions for violent offenses and history of prior institutional violence or sexual abuse, as known to the agency, to assess the inmate for risk of being sexually abusive. Review of the PREA Intake Screening Form 115.41 (09/15) confirms all of the screening areas identified by the Sergeant performing the screening appear on this form.

Review of: Memo: from Deputy Commissioner for Correctional Facilities, Deputy Commissioner for Program Services, and Associate Commissioner – 8/26/16 RE: Prison Rape Elimination Act (PREA) Risk Screening; Risk Screening Form – Male Facility, Risk Screening Form – Female Facility; Form: 4021 Security Screening; Form: 4021A Draft Receipt; and interviews with intake staff, medical and mental health staff; confirms DOCCS policies are in place to ensure within a set time period, not to exceed 30 days from the inmate's arrival at the facility, the facility will reassess the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening. Interview with the Sergeant performing the screening process confirmed that the facility reassess the inmate's risk of victimization or abusiveness within 30 days per DOCCS policy. Interviews with random sample of inmates confirm the reassessment process occurs as required. During the last 12 months 1,540 inmates entering the facility were reassessed for their risk of sexual victimization or risk of sexually abusing other inmates within 30 days of their entry into the facility.

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

Review of: Memo: from Deputy Commissioner for Correctional Facilities, Deputy Commissioner for Program Services, and Associate Commissioner – 8/26/16 RE: Prison Rape Elimination Act (PREA) Risk Screening, Risk Screening Form – Male Facility, Risk Screening Form – Female Facility, Form: 4021 Security Screening, Form: 4021A Draft Receipt; Memo: from Associate Commissioner and Assistant Commissioner – 10/27/14 RE: New/Revised Other Security Characteristics Regarding Sexual

Orientation and Gender Identity (SOGI) Form: Interview Guide Regarding Sexual Orientation; confirms policy is in place to ensure inmates are not disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked about: whether the inmate has a mental, physical, or developmental disability; whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; whether the inmate has previously experienced sexual victimization; and the inmate's own perception of vulnerability and Gender Identity. According to the interview with the PREA Coordinator he advised during the risk screening process, the screening form is routed to the facility Watch Commander, the AD PREA Compliance Manager and the designated PREA Point Person at the respective facility. Policy dictates that the PREA Intake Screening Forms are confidential. The completed forms are filed in each inmate's Guidance Folder with other sensitive and protected assessments. Access to completed forms is limited to the Executive Team and Guidance Staff with a business necessity to review the completed forms. The information is provided to the facility Movement and Control and the Housing Sergeant, who use the information to inform housing and bed assignments, and to the Program Committee Chairperson, who uses the information to inform work, education and program assignments. Interview with the Sergeant performing the screening process confirm that inmates are not disciplined for refusing to answer, or for not disclosing complete information in response to questions asked. Interview with specialty staff and PREA Compliance Manager/Point Person also confirm inmates are not disciplined for these four areas of this section.

Review of: Memo: from PREA Coordinator and Assistant Commissioner, 10/27/14, RE: New/Revised Other Security Characteristics regarding Sexual Orientation and Gender Identity (SOGI); and Employee Manual Sections 2.20 & 4.2 (Revision 2013) confirm DOCCS has policies in place to ensure the department implements appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates. According to interviews with the PREA Coordinator, PREA Compliance Manager/Point Person and the Sergeant responsible for screening the agency outlines who should have access to an inmate's risk assessment within the facility in order to protect sensitive information from exploitation and those including only those with a "need to know" allowed to have access. Apart from reporting to designated supervisions or officials, staff does not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in Agency policy, to make treatment, investigation, and other security and management decisions.

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

## Standard 115.42: Use of screening information

### 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

#### 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*)

Review of: Memo: from Deputy Commissioner for Correctional Facilities, Deputy Commissioner for Program Services, and Associate Commissioner – 8/26/16 RE: Prison Rape Elimination Act (PREA) Risk Screening; Risk Screening Form – Male Facility, Risk Screening Form – Female Facility, Form: 4021 Security Screening; Form: 4021A Draft Receipt and interviews with the PREA Compliance Manager/Point Person; confirms DOCCS has a policy in place showing how use of information from the risk screening required by 115.41 is limited to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. According to the PREA Compliance Manager/Point Person the agency information from the risk screening during intake is reviewed and assessed with the PREA Compliance Manager/Point Person, security and medical/mental health staff. Information is used to inform housing, bed, work, education and program assignments according to the interviews with the Sergeant responsible for screening.

Review of: Memo: from Deputy Commissioner for Correctional Facilities, Deputy Commissioner for Program Services, and Associate Commissioner – 8/26/16 RE: Prison Rape Elimination Act (PREA) Risk Screening, Risk Screening Form – Male Facility, Risk Screening Form – Female Facility, Form: 4021 Security Screening, Form: 4021A Draft Receipt; and interview with intake staff; confirms DOCCS policies are in place to ensure the agency makes individualized determinations about how to ensure the safety of each inmate. Interviews with the Sergeant responsible for screening inmates and the PREA Compliance Manager/Point Person the facility uses the intake screening information accordingly to make individualized determinations to ensure inmate safety.

Review of: Memo: from Deputy Commissioner for Correctional Facilities, Deputy Commissioner for Program Services, and Associate Commissioner – 8/26/16 RE: Prison Rape Elimination Act (PREA)

Risk Screening, Risk Screening Form – Male Facility, Risk Screening Form – Female Facility, Form: 4021 Security Screening, Form: 4021A Draft Receipt; Memo: from Associate Commissioner and Assistant Commissioner 10/27/14 RE: New/Revised Other Security Characteristics Regarding Sexual Orientation and Gender Identity (SOGI) and interviews with PREA Compliance Manager/Point Person and transgender inmate; confirm policy is in place to ensure in deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the agency considers on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems. According to the interview with PREA Compliance Manager/Point Person, transgender or intersex inmates go through SOGI and PREA risk assessments. The information gained is used for determining the inmate's initial housing assignment. This housing assignment may be changed after the inmate is further evaluated by the appropriate staff. According to interviews with transgender inmates staff asked them about their safety with housing and programmatic decisions of when and where education, work and exercise would occur. The transgender inmates said they had not been put in housing area only for transgender inmates and they had not been searched for the sole purpose of determining their genital status. The transgender inmates stated they are treated with respect by security and non-security staff and feel safe in the facility.

Review of: Memo: from Deputy Commissioner for Correctional Facilities, Deputy Commissioner for Program Services, and Associate Commissioner – 8/26/16 RE: Prison Rape Elimination Act (PREA) Risk Screening, Risk Screening Form – Male Facility, Risk Screening Form – Female Facility, Form: 4021 Security Screening, Form: 4021A Draft Receipt and interviews with intake and PREA Compliance Manager/Point Person; confirms DOCCS policies ensure placement and programming assignments for each transgender or intersex inmate be reassessed at least twice each year to review any threats to safety experienced by the inmate. According to interviews with PREA Compliance Manager/Point Person and Sergeant responsible for screening inmates, placement and programming assignments for each transgender or intersex inmate is reassessed to review any threat to safety quarterly with ORC and offender rehabilitation coordinator and Sergeant responsible for screening inmates.

Review of: Memo: from Deputy Commissioner for Correctional Facilities, Deputy Commissioner for Program Services, and Associate Commissioner – 8/26/16 RE: Prison Rape Elimination Act (PREA) Risk Screening, Risk Screening Form – Male Facility, Risk Screening Form – Female Facility, Form: 4021 Security Screening, Form: 4021A Draft Receipt; Memo: from Associate Commissioner and Assistant Commissioner 10/27/14 RE: New/Revised Other Security Characteristics Regarding Sexual Orientation and Gender Identity (SOGI) and interviews with intake staff, PREA Compliance Manager, and transgender inmate; confirm each transgender or intersex inmate's own views with respect to his own safety is given serious consideration when making facility and housing placement decisions and programming assignments. According to interviews with PREA Compliance Manager/Point Person and Sergeant responsible for screening inmates, transgender and intersex inmates' views of his safety are given serious consideration in placement and programming assignments. Interviews with transgender inmates confirm staff asks questions about their safety and they responded they feel very safe at the facility.

Review of: Directive #4009, Minimum Provisions for Health and Morale – 8/17/17 – VII, A; PREA Risk Screening – GCF 0598 PREA Risk Screening 7/3/17 Entire; GCF 0786 Dormitory Set-up/inmate Personal Property Limits/General Rules & Procedures 3/28/17 P: 6; RE: Showers and Bathroom Areas and interviews with intake staff, PREA Compliance Manager, and transgender inmate; confirm a policy is in place to ensure transgender and intersex inmates are given the opportunity to shower separately from other inmates. According to interviews with PREA Compliance Manager/Point Person and Sergeant responsible for screening inmates, transgender and

intersex inmates are given the opportunity to shower separately from other inmates by requesting separate shower time. Interviews with transgender inmates confirm they are given the opportunity to shower separately from other inmates.

Review of: Memo: from Deputy Commissioner for Correctional Facilities, Deputy Commissioner for Program Services, and Associate Commissioner – 8/26/16 RE: Prison Rape Elimination Act (PREA) Risk Screening, Risk Screening Form – Male Facility, Risk Screening Form – Female Facility, Form: 4021 Security Screening, Form: 4021A Draft Receipt; NYS DOCCS does not house lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units or wings solely on the basis of such identification or status. Therefore, this part of Standard 115.41 is non-applicable.

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

## Standard 115.43: Protective Custody

### 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*)

Review of: Directive #4948, Protective Custody Status 6/29/17 – Entire; Forms 2168A, 2170A, 4948A; and interview with the Superintendent; confirm the agency has a policy in place to ensure inmates at high risk for sexual victimization are not placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If a facility cannot conduct such an assessment immediately, the facility may hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment. According to interview with the facility superintendent agency policy prohibits placing inmates at high risk for sexual victimization or has alleged sexual abuse in involuntary segregated housing in lieu of other housing areas, unless an assessment has determined there are no available alternative means of separation from potential abusers (last resort). During the

last 12 months zero inmates at risk of sexual victimization were held or assigned in involuntary segregated housing. Therefore, the auditor was not able to review any files to review.

Review of: Directive #4948, Protective Custody Status 6/29/17 – Entire; Forms 2168A, 2170A, 4948A; and interview with Superintendent; confirm the agency has a policy to ensure inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document: 1) The opportunities that have been limited; 2) The duration of the limitation; and 3) The reasons for such limitations. According to interview with staff who supervises inmates in segregated housing for protection from sexual abuse or after having alleged sexual abuse they have access to: programs; privileges; and education. They do not have access to work opportunities. The auditor observed and confirmed no inmates were in protective custody for protection from sexual abuse during the tour of the housing units. The facility has not placed an inmate in involuntary or voluntary protective custody due to being high risk for sexual victimization during the last 12 months. Since no inmates were placed in protective custody due to being high risk for sexual victimization the auditor was not able to interview an inmate.

Review of: Directive #4948, Protective Custody Status 6/29/17 – Entire, Forms 2168A, 2170A, 4948A; and interview with Superintendent; confirm the agency has a policy ensuring the facility assigns such inmates to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days. According to interviews with the facility superintendent and staff supervising inmates in segregated housing, inmates at high risk for sexual victimization or who have alleged sexual abuse are placed in involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged and is used as a last resort and for a time of less than 30 days.

Review of: Directive #4948, Protective Custody Status 6/29/17 – Entire; Forms 2168A, 2170A, 4948A; and interview with Superintendent; confirm the agency has a policy ensuring if an involuntary segregated housing assignment is made pursuant to the first paragraph of this section, the facility shall clearly document: 1) The basis for the facility's concern for the inmate's safety; and 2) The reason why no alternative means of separation can be arranged. According to interviews with the facility superintendent, PREA Compliance Manager/Point Person and staff supervising inmates in segregated housing policies are in place to identify and document the basis for the facility's concern for the inmate's safety and the reason why no alternative means of separation can be arranged.

Review of: Directive #4948, Protective Custody Status, 3/13/15 – Entire and Forms 2168A, 2170A and 4948A confirm the agency has a policy ensuring every 30 days, the facility affords each such inmate a review to determine whether there is a continuing need for separation from the general population. According to interviews with the facility superintendent, PREA Compliance Manager/Point Person and staff supervising inmates in segregated housing policies are in place to ensure review of the inmate every 30 days to determine whether there is a continuing need for separation from the general population.

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

## REPORTING

### Standard 115.51: Inmate reporting

#### 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*)

Review of: Employee Manual Section – 2.20; Directive #4027A – Sexual Abuse Prevention and Intervention – 3/4/16 Inmate-on-Inmate, IV C; Directive #4028A – Sexual Abuse Prevention & Intervention – 3/4/16, Staff-on-Inmate, V B; Sexual Abuse Prevention and Response (SAPR) Lesson Plan, March 2015, pages 65-66; General Confinement: The Prevention of Sexual Abuse in Prison: “What Inmates Need to Know” Pamphlet (English and Spanish); and interviews with random sample of staff and inmates; confirms the agency has policies in place ensuring multiple internal ways for inmates to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. According to interviews with random sample of staff, an inmate may report an incident of sexual abuse, sexual threats or any act of retaliation verbally or in writing, anonymously and from third parties. Verbal reports are promptly documented. Interviews with random sample of inmates confirm that they are very aware of the many ways they can report sexual abuse and how to do so privately. Observations and answers to questions during the tour showed complete inmate knowledge of PREA and reporting opportunities available to them.

Review of: Letter: to Acting Commissioner from Chairman of the State Commission of Correction – 5/24/17 RE: Inmate and Resident reporting; Sexual Abuse Prevention and Response (SAPR) Lesson Plan, March 2015, pages 65-66; PREA Brochures; The Prevention of Sexual Abuse in Prison: “What Inmates Need to Know” (English/Spanish, male/female); and interviews with staff and inmates; confirm the agency has policies in place that ensures the agency provides at least one way for inmates to report abuse or harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials, allowing the inmate to remain anonymous upon request. Although DOCCS does not hold inmates for civil immigration purposes, they do have Consular information in all facilities. According to interview with PREA Compliance Manager and review of Chairman of State of New York – Executive Department, State of Commission of Correction letter dated 5/24/17 to Acting Commissioner DOCCS, the New York State Commission of Correction (SCOC) agrees to receive all written inmate and resident reports containing sexual abuse and sexual harassment allegations and then immediately forward them to department officials. SCOC will comply with any inmate or resident request to remain anonymous. Observations during facility tour found posters strategically posted throughout the facility and responses to questions confirm staff and inmates understand how to report abuse or harassment to a public or private entity or office that is not part of the agency.

Review of: Employee Manual Section – 2.20; Directive #4027A – Sexual Abuse Prevention and Intervention – 3/4/16, Inmate-on-Inmate, IV C; Directive #4028A – Sexual Abuse Prevention & Intervention – 3/4/16, Staff-on-Inmate, V B; Sexual Abuse Prevention and Response (SAPR) Lesson Plan, March 2015, pages 65-66 and interviews with random selection of staff and inmates; confirm the agency has policies directing staff accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document an verbal reports. According to interviews with random sample of staff when an inmate alleges sexual abuse or sexual harassment he can do so verbally, in writing, anonymously, and from third parties. Verbal reports are documented immediately. Interviews with random sample of inmates confirm they have received, read and understand the pamphlet “The Prevention of Sexual Abuse in Prison: What Inmates Need to know” and are aware of these opportunities to report sexual abuse or sexual harassment.

Review of: Sexual Abuse Prevention and Response (SAPR) Lesson Plan, March 2015, pages 65-66; and interviews with random sample of staff and inmates; confirm DOCCS has policies in place to ensure and provide a method for staff to privately report sexual abuse and sexual harassment of inmates. According to interviews with random samples of staff, employees may privately report any suspicion of sexual abuse or sexual harassment of an inmate by contacting the Office of Special Investigation directly. Staff is informed of this reporting procedure by policy and Sexual Abuse Prevention and Response training.

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

## Standard 115.52: Exhaustion of administrative remedies

### 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*)

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

The Department of Corrections and Community Supervision is exempt from this Standard in accordance with Exempt from Standard in accordance with Directive #4040, Inmate Grievance Program – 1/20/16 § 701.1 (j), § 701.3 (i). Any inmate grievance filed regarding a complaint of sexual abuse or sexual harassment is immediately reported by IGP Supervisor to the Watch Commander for future handling in accordance with agency policy. The facility is exempt from this standard.

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

### 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*)

Review of: Directive #4423, Inmate Telephone Calls – 1/15/14 III.C. and VIII C 2 and revision Notice 5/21/15; Directive #4404, Inmate Legal Visits – 1/27/16 – II. A. & E. IV. J; Directive #4421, Privileged Correspondence – 6/2/16 –II A 4, III A 2, C; Memo: from Associate Commissioner to all Superintendents, 4/4/14, RE: Just Detention International Resource Guide and Memo: from Associate Commissioner to Concerned Inmate, 4/4/14 RE: Just Detention International Resource Guide and interviews with random sample of inmates and inmates who reported a sexual abuse; facility specific sample of counseling services; confirm policies are in force to provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and, for persons detained solely for civil immigration purposes, immigrant services agencies. The facility enables reasonable communication between inmates and these organizations and agencies in as confidential a manner as possible. According to interviews with random sample of inmates they are aware of and have access to victim advocates for emotional support services available outside the facility for dealing with sexual abuse, if needed. The inmates confirmed the facility gives those mailing addresses and telephone numbers for the outside services. The auditor was able to interview an inmate who reported a sexual abuse and he

advised he was offered support services outside the facility. There were 3 reports of sexual abuse/harassment during the last 12 months that are ongoing.

Review of: Directive #4423, Inmate Telephone Calls – 1/15/14 III.C. and VIII C 2 and revision Notice 5/21/15; Directive #4404, Inmate Legal Visits – 1/27/16 – II. A. & E. IV. J; Directive #4421, Privileged Correspondence – 6/2/16 –II A 4, III A 2, C; Memo: from Associate Commissioner to all Superintendents, 4/4/14, RE: Just Detention International Resource Guide and Memo: from Associate Commissioner to Concerned Inmate, 4/4/14 RE: Just Detention International Resource Guide; and interviews with random sample of inmates and inmates who reported a sexual abuse; confirm policies are in place to ensure the facility informs inmates, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. According to interviews with random sample of inmates they are aware the facility informs them prior to giving them access to outside support services, the extent to which communications will be monitored and the mandatory reporting rules governing privacy, confidentiality, and/or privilege that apply to disclosures of sexual abuse made to outside victim advocates, including any limits to confidentiality under relevant federal, state, or local law.

Review of: NYS DOCCS Help for Victims of Sexual Abuse in Prison Pamphlet – 2015 versions in English and Spanish OR 2017 version for facilities with recently activated #77 service; Current contract extension between NYSCASA and designated rape crisis program; memo showing placement of inmate for emotional support system; and arrangement with Renewal House; confirms the agency maintains or attempts to enter into memoranda of understanding or other agreements with community service providers that are able to provide inmates with confidential emotional support services related to sexual abuse. The agency maintains copies of agreements or documentation showing attempts to enter into such agreements. According to interview with PREA Compliance Manager/Point Person, DOCCS inmates are furnished with name, address and telephone number for victim advocate service through Just Detention International New York Resource Guide. During the tour of the facility the auditor reviewed the Just Detention International New York Resource Guide that is available in both the regular library and the lawlibrary. In addition the PREA Compliance Manager and DOCCS Central Office have engaged in discussion with the local community based Rape Crisis Program in an effort to secure a more formal arrangement.

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

## Standard 115.54: Third-party reporting

### 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*)

Review of: DOCCS PREA Policy Web Page – 7/14/17 Entire; Facility Specific Example of third party report; Letter: to Acting Commissioner from Chairman of the State Commission of Correction – 5/24/17 RE: Inmate and Resident reporting; confirms the agency has established a Web Page that establishes a method to receive third-party reports of sexual abuse and sexual harassment and distribute publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate. The letter from the Chairman of the State Commission of Corrections says in accordance with the PREA standards regarding inmate and resident reporting, the New York State Commission of Correction (SCOC) agrees to receive all written inmate and resident reports containing sexual abuse and sexual harassment allegations and then immediately forward them to New York State Department of Corrections and Community Supervision officials. SCOC will comply with any inmate or resident request to remain anonymous.

According to interviews with the PREA Compliance Manager/Point Person and facility Superintendent the agency has established a Webpage that gives a link to process a third-party report of sexual abuse and sexual harassment. The auditor reviewed the Website for DOCCS and found the information available by clicking on the appropriate link. Gouverneur CF had one third party PREA report reviewed by the auditor. The allegation was process according to Department policy and PREA standards. In addition, the Office of Special Investigations has a page on the agency Website that provides a toll-free complaint line, e-mail address, and on-line complaint form.

Based on: Review of DOCCS PREA Policy Web Page – Entire and Facility Specific Example of Third party report and Letter: to Acting Commissioner from Chairman of the State Commission of Correction – 5/24/17 RE: Inmate and Resident review of policies; interviews with staff and viewing the DOCCS website the facility is in compliance with Standard 115.54 – Third-party Reporting.

## OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

### Standard 115.61: Staff and agency reporting duties

#### 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 person's 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*)

Review of: Directive #4027A – Sexual Abuse Prevention and Intervention -3/4/16 – Inmate-on-Inmate – IV C; Directive #4028A – Sexual Abuse Prevention and Intervention -3/4/16 – Staff-on-Inmate – V B; Employee Manual Section – 2.20; and interviews with random sample of staff; confirms policies are in place to ensure the agency shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility whether or not it is part of the agency; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. According to interviews with random sample of staff the agency requires all

staff, regardless of title, to report immediately any knowledge, suspicion, or information regarding and incident of sexual abuse or sexual harassment that occurred in a facility; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Staff is required to immediately notify his or her immediate supervisor, who immediately notifies the Watch Commander. The employee is required to report the specific details, in writing, to the Watch Commander immediately after verbal notification.

Review of: Directive #4027A – Sexual Abuse Prevention and Intervention -3/4/16 – Inmate-on-Inmate – IV C; Confirmed with review of: Directive #4028A – Sexual Abuse Prevention and Intervention -3/4/16 – Staff-on-Inmate – V B; Employee Manual Section – 2.20 and interviews with the Superintendent and random sample of staff; confirms agency policy requires apart from reporting to designated supervisors or officials, staff does not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions. According to interviews with the facility PREA Compliance Manager/Point Person and random sample of staff the agency requires all employees be aware of the sensitive nature of a situation where an inmate reports sexual abuse or sexual threats and reports are confidential and information, including but not limited to the identity of the victim is only to be shared with essential employees involved in the reporting investigation, discipline and treatment process, or as otherwise required by law.

Review of: Directive #4027A – Sexual Abuse Prevention and Intervention -3/4/16 – Inmate-on-Inmate – IV C; Confirmed with review of: Directive #4028A – Sexual Abuse Prevention and Intervention -3/4/16 – Staff-on-Inmate – V B; Office of Mental Health Memorandum of Understanding – 9/14/16 and interviews with medical and mental health staff; confirms policy is in place unless otherwise precluded by Federal, State, or local law, medical mental health practitioners are required to report sexual abuse pursuant to the first paragraph of this section and to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services. According to interviews with the facility medical and mental health staff at the initiation of services to an inmate they disclose the limitations of confidentiality and their duty to report. Staff reported they are required, and have reported, to report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment to a designated supervisor or official immediately upon learning of it. The auditor reviewed medical and mental health files for inmates and confirm documentation of incidents and activity.

If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable person's statute, the agency reports the allegation to the designated State or local services agency under applicable mandatory reporting laws. According to the interview with the PREA Coordinator, the DOCCS Office of Special Investigations, Sex Crimes Division ensures that outside agencies with jurisdiction are notified of the report. In particular, SCD notifies the Child Abuse Hotline when an allegation is received concerning an inmate under the age of 18. DOCCS is not included within the statutory jurisdiction of the State entity that investigates allegations concerning vulnerable adults. Gouverneur CF does not house any inmates under the age of 18.

Review of: Employee Manual Section – 2.20; Memo: from Associate Commissioner, 1/21/2016, RE: PREA Coordinated Response Plan; PREA Standard 115.65/265 and Sexual Abuse Response and Containment Checklist 1/21/16; Directive #0700 – Office of Special Investigations – 10/23/14 III D; and interview with the Superintendent; confirm the facility reports all allegations of sexual abuse and sexual harassment, including third party and anonymous reports, to the facility's designated investigators. According to interview with the facility Superintendent all allegations of sexual abuse and sexual harassment including those from third-party and anonymous sources are reported directly to designated facility investigators. The auditor reviewed inmate investigation files with investigators and

confirm all allegations are investigated. The Facility PREA Compliance Manager/Point Person reported Gouverneur CF had not received an anonymous PREA letter to date.

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

## Standard 115.62: Agency protection duties

### 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*)

Review of: Directive #4040 – Inmate Grievance Program – 1/20/16 and §701.6 Procedural Safeguards (m); Directive #4948 – Protective Custody Status – 6/29/17 – II A, C III D 1 – Form 2168; interviews with Agency Head, Superintendent, random sample of staff confirm when the agency learns that an inmate is subject to a substantial risk of imminent sexual abuse the facility takes immediate action to protect the inmate. According to the Agency Head each case is evaluated by the facility or Office of Special Investigations based upon the nature of the report and the potential harm. Supervisory rounds will also be increased as appropriate. An inmate at risk or a potential predator may be moved to another housing unit or transferred. If no other options are available, a potential victim may be temporarily placed in protective custody until other steps can be taken; confirm policy is in place when the agency learns that an inmate is subject to a substantial risk of imminent sexual abuse, it takes immediate action to protect the inmate. According to interview with the Agency Head and facility Superintendent and random sample of staff, when learning that an inmate is subject to a substantial risk of imminent sexual abuse each case is evaluated by the facility or Office of Special Investigations based upon the nature of the report and the potential harm. Supervisory rounds will be increased as appropriate; inmate at risk or potential predator may be moved to another housing unit or transferred. If no other options are available temporarily protective custody until other steps can be taken may be considered. During the past 12 months there were zero times the facility determined that an inmate was subject to a substantial risk of imminent sexual abuse.

Standard 115.62 requires facility documentation if and when the facility learns that an inmate is at a substantial risk of imminent sexual abuse (i.e., there is a specific, identified and immediate threat). In the event that such an event has occurred during the 12-month preceding the audit, secondary

documentation showing what protective measures were taken (e.g., notification to the Office of Special Investigations, bed change, housing unit change, admission to voluntary protective custody, etc.), and when those steps were taken must be included as secondary documentation. During the last 12 months there were no inmates determined to be subject to a substantial risk of imminent sexual abuse at the facility.

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

## Standard 115.63: Reporting to other confinement facilities

### 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*)

Review of: Memo: from Associate Commissioner RE: PREA Standard 115.63; PREA Standard 115.63/263 – 8/24/15 – Entire; Form 115.63 Report of Sexual Abuse – 8/2015; Jail Administrators contact information; interviews with PREA Compliance Manager/Point Person; and review of documentation of allegations-Facility specific: Report of Sexual Abuse notification made from Gouverneur C F to another facility; Facility specific: Report of Sexual Abuse notification from another facility to Gouverneur C F; confirm policy is in place where upon receiving an allegation that an inmate

was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred. According to interview with PREA Compliance Manager/Point Person, upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation must notify the head of the facility or appropriate office of the agency or facility where the sexual abuse is alleged to have occurred. Gouverneur CF received 2 notifications during the last 12 months of an allegation of sexual abuse the facility received from another facility and 2 notifications of allegations the facility received that an inmate was abused while confined at another facility. Interviews with staff and review of files found the reporting and action was per Department policy and PREA standards.

Review of: Memo: from PREA Coordinator RE: PREA Standard 115.63; PREA Standard 115.63/263, 8/24/15 – Entire; Form 115.63 Report of Sexual Abuse, 8/2015, Jail Administrators contact information confirms policy is in place showing such notification provided as soon as possible, but no later than 72 hours after receiving the allegation. According to interview with PREA Compliance Manager/Point Person, upon receiving an allegation that an inmate was sexually abused while confined at another facility, and review of files the head of the facility that received the allegation notified the head of the facility or appropriate office of the agency or facility where the sexual abuse is alleged to have occurred no later than 72 hours after receiving the allegation. Gouverneur CF received two notifications during the last 12 months of an allegation of sexual abuse the facility received from other facilities. The notification was sent to the Gouverneur CF and the other facility within the 72 hour timeframe and OSI is investigating the allegations.

Review of: Memo: from PREA Coordinator RE: PREA Standard 115.63; PREA Standard 115.63/263, 8/24/15 – Entire, Form 115.63 Report of Sexual Abuse, 8/2015, Jail Administrators contact information confirm policy is in place that the facility document that it has provided such notification. According to interview with PREA Compliance Manager/Point Person, upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation must notify the head of the facility or appropriate office of the agency or facility where the alleged sexual abuse occurred and the notification is documented. Review of inmate files confirm the notification is documented.

Review of: Memo: from PREA Coordinator RE: PREA Standard 115.63; PREA Standard 115.63/263, 8/24/15 – Entire, Form 115.63 Report of Sexual Abuse, 8/2015, Jail Administrators contact information confirm the policy is in place with the agency office that receives such notification ensuring that the allegation is investigated in accordance with these standards. According to interview with Agency Head allegations received at one facility involving a different facility are forwarded to the Superintendent of the facility where the abuse allegedly occurred, with a copy of the notification to the Office of Special Investigations. Allegations from other agencies are typically received by the Office of Special Investigations or the Associate Commissioner/PREA Coordinator. Interview with PREA Compliance Manager/Point Person, upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation ensures that the allegation is investigated in accordance with these standards. Interview with the facility Superintendent advises when the allegation is received it is logged in and referred to OSI and monitored.

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

## Standard 115.64: Staff first responder duties

### 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*)

Review of: Directive #4027B, Sexual Abuse Reporting & Investigation – Inmate-on-Inmate – 2/17/16 – V P: 3-5; Directive #4028B, Sexual Abuse Reporting & Investigation – Staff-on-Inmate -3/4/16 – V P: 3-6; Memo: from Associate commissioner – 1/21/16, RE: PREA Coordinated Response Plan, Sexual Abuse Response and Containment Checklist; Memo: from Deputy Commissioner and Deputy Commissioner/Chief Medical Officer and Associate Commissioner/PREA Coordinator – 10/1/15 RE: Response to Inmate Sexual Activity; Sexual Abuse Prevention and Response (SAPR) Lesson Plan, March 2015, Pages 61, 62, 64; Facility Specific Sample: KHRT for Course #35029; Facility Specific

FOM 0203– Coordinated Response Plan to an incident of Inmate Sexual Abuse; confirm policies are in place so upon learning of an allegation that an inmate was sexually abused, the first security staff member to respond to the report shall be required to: 1) separate the alleged victim and abuser; 2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence; 3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any action that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and 4) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating defecating, smoking, drinking or eating. According to interview with PREA Compliance Manager/Point Person the agency has a first responder policy for allegations of sexual abuse and first responders are required to follow 1-4 in the first paragraph. In the past 12 months there were 3 allegations of sexual abuse/sexual harassment. Of these allegations a security staff member was able to perform first responder action on one of the allegations. Interviewing random sample of staff, security staff and non-security staff first responders found they were very informed about their requirements in being a first responder and have acted according to Department policy and PREA standards. There was 1 allegation of the 3 allegations during the last 12 months when the first responder was within a time period that still allowed for the collection of physical evidence.

Review of: Directive #4027B, Sexual Abuse Reporting & Investigation – Inmate-on-Inmate – 2/17/16 – V; Directive #4028B, Sexual Abuse Reporting & Investigation – Staff-on-Inmate -3/4/16 – V; Memo: from Associate commissioner – 1/21/16, RE: PREA Coordinated Response Plan, Sexual Abuse Response and Containment Checklist; Memo: from Deputy Commissioner and Deputy Commissioner/Chief Medical Officer and Associate Commissioner/PREA Coordinator – 10/1/15 RE: Response to Inmate Sexual Activity; Sexual Abuse Prevention and Response (SAPR) Lesson Plan, March 2015, Pages 61, 62, 64; confirm policies are in place if the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff. There were no allegations during the last 12 month responded to by non-security staff.

According to interviews with PREA Compliance Manager/Point Person and random sample of staff, the agency has a first responder policy (security and non-security staff) for allegations of sexual abuse and first responders are required to follow 1-4 in the first paragraph During interviews with random sample of staff and review of the curriculum for first responder training provided for staff the auditor found the agency and facility consider this standard a priority and are prepared, by policy to respond per the requirements of this standard.

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

All 52 security and non-security staff interviewed were completely knowledgeable in the requirements of being a first responder and were comfortable in providing that service if necessary. In conclusion, based on review of policies; interviews with PREA Compliance Manager/Point Person; random sample of staff; and observations and questions answered during tour of facility; the facility meets the requirements of Standard 115.64 Staff First Responder Duties.

## Standard 115.65: Coordinated response

### 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*)

Review of: Memo: from Associate Commissioner – 1/21/16, RE: PREA Coordinated Response Plan – Entire; Gouverneur CF, FOM 0203 – Coordinated Response Plan to an Incident of Inmate Sexual Abuse P: 1-8; Sexual Abuse Response and Containment Checklist Entire; confirms policies are in place to ensure the facility develops a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners investigators, and facility leadership. According to interviews with the facility Superintendent and the PREA Compliance Manager/Point Person the facility has established and set forth clear facility-specific guidelines to coordinate actions taken in response to incidents of inmate sexual abuse among facility leadership, staff first responders, investigators, and facility medical and mental health practitioners. The Gouverneur CF written institutional plan is FOM 0203 P: 1-8.

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

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

### 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*)

Review of: Directive #2110, Employee Discipline-Suspension from Duty During the Continuation of Disciplinary Proceedings, 4/27/15 – III; Directive #2114, Functions of the Bureau of Labor Relations, 6/11/14 – IV I, K confirm policy is in place to ensure neither the agency or any other governmental entity responsible for collective bargaining on the agency's behalf enters into or renew any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted. According to an interview with the Agency Head the current collective bargaining agreement between the State of New York and the Public Employees Federation-CIO (PEF) is for the period of 2016-2019. The contract permits the agency to take appropriate action when warranted to remove alleged staff sexual abusers from contact with any inmate pending the outcome of an investigation or a determination of whether and to what extent discipline is warranted. The contract permits the agency to suspend an employee without pay or temporarily reassign an employee when a determination is made that there is probable cause that such employee's continued presence on the job represents a potential danger to persons or property or would severely interfere with operations. Requirements of the Standard 115.66 Preservation of ability to protect inmates from contact with abusers are covered by policy and enforced by the agency.

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

## Standard 115.67: Agency protection against retaliation

### 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 that 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*)

Review of: Employee Manual – 2.19 – Rev. 2013; Memo: from Associate Commissioner RE: Agency Protection against Retaliation, PREA Standard 115.67/267, 8/2015, Retaliation Monitoring Form 115.67 (8/2015), Form 115.67A (8/20/2015); confirm policy is in place to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff, and shall designate which staff members or departments are charged with monitoring retaliation. According to interview with the facility Superintendent the agency Retaliation Policy is in place and enforced and the PREA Compliance Manager/Point Person a Captain in the Security Department at the facility has been designated the Retaliation Monitoring Manager.

Review of: Memo: from PREA Coordinator RE: Agency Protection against Retaliation, PREA Standard 115.67/267, 8/20/15 Retaliation Monitoring Form 115.67 (8/2015), Form 115.67A (8/2015); confirm the agency employs 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 that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. According to interview with Agency Head decisions on protective measures are made on a case-by-case basis. Both the facility administration and the Office of Special Investigations consider whether the present housing placement is appropriate and, if not, consider whether a move to another housing unit or a transfer to another facility is appropriate. In any case involving transportation to a hospital for a forensic examination by a SAFE/SANE provider, the inmate is returned either to the facility infirmary or the infirmary at a designated catchment facility. This ensures both a proper medical follow-up and that the inmate is placed in a safe environment while options are considered. With respect to access to emotional support services, information on the Department's "#77" Enhanced Victim Services Pilot Project is widely distributed in the pilot facilities, and is provided by

medical staff when appropriate following a medical assessment for a significant exposure. All facilities have information from Just Detention International on other available support services. All inmates, parolees and staff who report sexual abuse or sexual harassment, or who cooperate with sexual abuse or sexual harassment investigations are protected from retaliation by other inmates or staff. This includes 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 that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. Retaliation monitoring includes review of the inmate disciplinary reports. The Department's protocols for retaliation monitoring are initiated for any individual who cooperates with an investigation and expresses a fear of retaliation. Monitoring for signs of retaliation is conducted by the Assistant Deputy Superintendent/PREA Compliance Manager or, where one is not assigned by a designated staff person such as the Captain who is designated as the PREA Point Person. Any complaint or evidence of retaliation is referred to the Office of Special Investigations, Sex Crimes Division for investigation and to be promptly remedied. The person responsible for monitoring retaliation is a Captain.

Review of: Memo: Memo: from Associate Commissioner RE: Agency Protection against Retaliation, PREA Standard 115.67/267, 8/20/15, Retaliation Monitoring Form 115.67 (8/2015), Form 115.67A (8/20/2015); Facility specific example: Retaliation Monitoring Form 115.67 (8/2015); Family specific example: Monitoring Form 115.67A Staff (8/2015) and Form 115.67A Inmate (8/2015); and interviews with the Agency Head, facility Superintendent and facility retaliation monitor; confirm for at least 90 days following a report of sexual abuse, the agency shall monitor the conduct and treatment of inmates or staff who reported the sexual abuse and inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff, and acts promptly to remedy any such retaliation. Items the agency should monitor include any inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The agency shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. Interviews with facility Superintendent and Retaliation Manager confirm the facility for at least 90 days following a report of sexual abuse or sexual harassment monitors the conduct and treatment of: an inmate or employee who reported an incident; and an inmate who was reported to have suffered sexual abuse or sexual harassment. Monitoring will be for all areas in previous paragraph and will continue beyond 90 days if needed. The number of times an incident of retaliation occurred in the past 12 months was zero.

Review of: Memo: from Associate Commissioner RE: Agency Protection against Retaliation, PREA Standard 115.67/267, 8/20/15, Retaliation Monitoring Form 115.67 (8/2015), Form 115.67A (8/20/2015) ;); Facility specific example: Retaliation Monitoring Form 115.67 (8/2015); Family specific example: Monitoring Form 115.67A Staff (8/2015) and Form 115.67A Inmate (8/2015) and interview with the facility Retaliation Monitor; confirms in the case of inmates, such monitoring includes periodic status checks. Interviews with the facility Retaliation Manger and random sample of staff confirms in case of inmates monitoring includes periodic in-person status checks approximately every 30 days. In-person status checks are also encouraged for any staff who reported an incident of sexual abuse or sexual harassment.

Review of: Employee Manual – 2.19 – Rev. 2013; Memo: from Associate Commissioner RE: Agency Protection against Retaliation, PREA Standard 115.67/267, 8/20/15, Retaliation Monitoring Form 115.67 (8/2015), Form 115.67A (8/20/2015); Facility specific example: Retaliation Monitoring Form 115.67 (8/2015); Family specific example: Monitoring Form 115.67A Staff (8/2015) and Form 115.67A Inmate (8/2015) and interviews with the Agency Head and the facility superintendent; confirms if any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation. According to interview with the

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

In conclusion, based on review of policies, interviews with the Agency Head, facility Superintendent, Assistant Deputy Superintendent/PREA Compliance Manager, and random sample of staff, and observations and questions answered during tour of the facility Gouverneur CF is compliant with Standard 115.67 Agency Protection against Retaliation.

## Standard 115.68: Post-allegation protective custody

### 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*)

Review of: Directive #4948, Protective Custody Status – 6/29/17 – II C, III D; Form 2168A and interviews with the facility Superintendent and staff who supervise inmates in Segregated Housing; confirm policy is in place to ensure any use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse is subject to the requirements of 115.43. Interviews with the facility Superintendent and staff who supervise inmates in segregated housing found the policies are in place to allow use of segregated housing to protect an inmate. However, it is a last resort and if used it will be for less than 30 days. The number of inmates who allege to have suffered sexual abuse who were held in involuntary segregated housing in the past 12 month for either 24 hours or 30 days was zero.

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

## INVESTIGATIONS

### Standard 115.71: Criminal and administrative agency investigations

#### 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*)

Review of: Directive #0700, Office of Special Investigations, 10/23/14 – Entire; OSI Policy & Procedure: Training Requirements for Sex Crimes Investigators, 9/1/15; Office of Special Investigations Sex Crimes Division: Inmate-on-Inmate Dispatch and Operational Guidelines – Entire; Office of Special Investigations Sex Crimes Division: Staff-on-Inmate Dispatch and Operational Guidelines – Entire; Power Point Presentation: PREA Specialized Training: Investigations, August 4, 2015 and interviews with investigative staff with review of sample of investigative records for allegations of sexual abuse or sexual harassment; confirm policies are in place to ensure when the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, it does so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. The two investigators interviewed reported the investigations are done promptly, thoroughly and objectively for all allegations. The length of time it takes to initiate an investigation following an allegation of sexual abuse or sexual harassment depends on the nature of the allegations, a case may be initiated immediately (call that an immediate dispatch). This would involve an allegation of recent sexual abuse or a case where evidence may only exist for a short time. Where an allegation involves misconduct that occurred many weeks or even months before the report, or where the allegation concerns harassment, it may take several days before an investigation is initiated. According to the investigators they follow all of the same investigative steps for anonymous or third-party reports of sexual abuse or sexual harassment, but they start by interviewing the alleged victim. He/she would be taken to medical and, if medically indicated, the hospital after he/she confirms that the report is correct.

Review of: OSI Policy & Procedure: Training Requirements for Sex Crimes Investigators 9/1/15; Power Point Presentation: PREA Specialized Training: Investigations, August 4, 2015 and interviews with investigative staff; confirm policies are in place to ensure where sexual abuse is alleged; the agency uses investigators who have received special training in sexual abuse investigations pursuant to 115.34. Interviews with two investigators confirm they receive training specific to conducting sexual abuse investigations in confinement setting. When joining the Office of Special Investigations they participate in a 3 week investigations school and then OJT with a seasoned investigator. They have had training conducted by the agency's PREA Coordinator around: PREA; a victim-centered approach to investigations; legal issues including Miranda, Garrity; and burdens of proof; DOCCS medical response policies; individualized credibility assessments; understanding trauma; working with victim advocates; and other factors. They have completed the NIC course "Investigating Sexual Abuse in a Confinement Setting" a course on interview and interrogation, and evidence collection courses.

Review of: Office of Special Investigations Sex Crimes Division: Inmate-on-Inmate Dispatch and Operational Guidelines – Entire; Office of Special Investigations Sex Crimes Division: Staff-on-Inmate Dispatch and Operational Guidelines – Entire; Letter to Superintendent New York State Police, 5/2/14 RE: Implementation of the PREA Standards; Power Point Presentation: PREA Specialized Training: Investigations, August 4, 2015 and interviews with investigative staff and review of investigative reports, record retention schedule, and copies of case records detailing allegations of abuse; confirm policies

are in place to ensure investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator. Interviews with two investigators found the first steps in initiating an investigation depend on the nature of the investigation. In an immediate dispatch situation, the investigator initiate a coordinated response by making contact with the facility Watch Commander or higher ranking supervisor and instruct the facility to contact the New York State Police Bureau of Criminal Investigations and report the allegation(s). The investigator confirms that the facility has initiated the sexual abuse response protocols and ensures the inmate/victim is evaluated by medical and a mental health referral is completed. If the incident was perpetrated by staff and occurred within the present shift the involved employee is escorted to the Superintendent, isolated from further interaction with staff or inmates, and placed under constant supervision. The investigator assess the case to identify any crime scene, ensures the crime scene(s) are properly secured, and ensure that a Crime Scene Attendance Log is being maintained of all persons that have contact with the alleged crime scene. Evidentiary materials associated with the reported crime scene are secured. The property and cell of all involved inmates are secured. If there is video surveillance, steps are taken to secure that as well. If the inmate is being taken to a hospital for a forensic rape exam the investigator goes to the hospital. To the extent possible the investigator speaks with the SANE and the victim advocate. If the inmate is able to participate in an interview he is interviewed there with the advocate present. In these situations the investigator often cannot conduct a full interview that soon after the incident, he will often just find out what he can and conduct a follow-up interview a few days later. If the inmate is returning to a facility from the hospital the investigator confirm that he/she will be place in an infirmary upon return. If the inmate remained at the facility a cell move may be requested or other action necessary to separate the inmate from the abuser.

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

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

Review of: Office of Special Investigations Sex Crimes Division: Staff-on-Inmate Dispatch and Operational Guidelines; Letter to Superintendent New York State Police, 5/2/14 RE: Implementation of PREA Standards; Power Point Presentation: PREA Specialized Training: Investigations, August 4,

2015 and interviews with investigative staff; confirm policies are in place to ensure when the quality of evidence appears to support criminal prosecution, the agency conducts compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution. Interviews with investigators found when they discover evidence that a prosecutable crime may have taken place they consult with prosecutors before they conduct compelled interviews.

Review of: Office of Special Investigations Sex Crimes Division: Staff-on-Inmate Dispatch and Operational Guidelines – Entire; Letter to Superintendent New York State Police, 5/2/14 RE: Implementation of the PREA Standards; New York Criminal Procedure Law 160.45 Polygraph Test; prohibition against; Power Point Presentation: PREA Specialized Training: Investigations, August 4, 2015; and interviews with investigative staff and inmates who reported a sexual abuse; confirms policy is in place to ensure the credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as inmate or staff. No agency shall require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation. The investigators interviewed reported they judge the credibility determinations of an alleged victim, suspect, or witness are based on: the individual-how they present during interviews; past dealings with them; how the evidence obtained matches up with their version of events; the motives they may have to lie and other verbal and nonverbal cues. The investigators said they would not under any circumstances, require an inmate who alleges sexual abuse to submit to a polygraph examination or truth-telling device as a condition for proceeding with an investigation as it is against state law to ask a victim of sexual abuse to take a polygraph.

Review of: Directive #2011 – Disposition of Departmental Records – 5/2/17 – Entire 1B1, 3 D2B, IIB Attachment A; Power Point Presentation: PREA Specialized Training: Investigations, August 4, 2015; confirm policies are in place to ensure administrative investigations: 1) Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and 2) Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. Interviews with the investigators reported the efforts they make during an administrative investigation to determine whether staff actions or failures to act contributed to sexual abuse included, during the investigation they follow-up on any statements or documentary evidence that shows a staff member may have been on notice of the abuse and failed to act.

Review of: Office of Special Investigations Sex Crimes Division: Staff-on-Inmate Dispatch and Operational Guidelines – Entire; Letter to Superintendent New York State Police, 5/2/14 RE: Implementation of the PREA Standards; Directive #2011 – Disposition of Departmental Records – 5/2/17 – Entire 1B1, 3 D2B, IIB Attachment A; Power Point Presentation: PREA Specialized Training: Investigations, August 4, 2015; and interviews with investigative staff with review of written reports; confirm policies are in place to ensure criminal investigations are documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible. According to the investigators criminal investigations are documented and their reports contain a description of the allegation; description of victim; witness and perpetrator interviews; description of DNA; physical, documentary and other evidence; and the cases closing summary.

Review of: OSI Policy & Procedure: Training Requirements for Sex Crimes Investigators 9/1/15; Office of Special Investigations Sex Crimes Division: Inmate-on-Inmate Dispatch and Operational Guidelines – Entire; Office of Special Investigations Sex Crimes unit: Staff-on-Inmate Dispatch and Operational

Guidelines – Entire; Office of Special Investigations Sex Crimes Division: Staff-on-Inmate Dispatch and Operational Guidelines – Entire; Letter to Superintendent New York State Police, 5/2/14 RE: Implementation of the PREA Standards; Power Point Presentation: PREA Specialized Training: Investigations, August 4, 2015; confirm policies are in place to ensure substantiated allegation of conduct that appears to be criminal are referred for prosecution. Interviews with the investigators reported they refer cases for prosecution any time there appears to be evidence that an incident of sexual abuse occurred. They will conference the case with the State Police Investigator or directly with the District Attorney's Office to evaluate whether or not there is enough evidence to pursue criminal charges, or to get direction on any further investigative steps. There are three allegations that are under criminal investigation that are ongoing.

Review of: Directive #2011 – Disposition of Departmental Records – 5/2/17 – Entire 1B1, 3 D2B, IIB Attachment A; OSI Policy and Procedure: Intake and Case Management unit – 2/5/16 Entire; Complaint Process & Case File Management; Power Point Presentation: PREA Specialized Training: Investigations, August 4, 2015; confirms policy is in place to ensure the agency shall retain all written reports referenced for as long as the alleged abuser is incarcerated or employed by the agency, plus five years. Interview with PREA Compliance Manager/Point Person confirm the agency retains all written reports with OSI in storage location as long as the alleged abuser is incarcerated or employed by the agency plus a minimum of seven years. Oversight of these files is the responsibility of the ICM Unit.

Review of: Office of Special Investigations Sex Crimes Division: Staff-on-Inmate Dispatch and Operational Guidelines – Entire; Letter to Superintendent New York State Police, 5/2/14 RE: Implementation of the PREA Standards P: 3; Power Point Presentation: PREA Specialized Training: Investigations, August 4, 2015; confirms policy is in place to ensure the departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation. Interviews with investigators report they continue their investigations when a staff member alleged to have committed sexual abuse terminates employment prior to a completed investigation into his/her conduct and, if there is sufficient evidence to prosecute, they present the case to the State Police or the district Attorney's Office for possible prosecution. Also they continue the investigation when a victim who alleges sexual abuse or sexual harassment or an alleged abuser leaves the facility prior to a completed investigation into the incident. Sometimes one of the other SCD investigators will assist with interviews if the inmate is a considerable distance away.

Review of: Letter to Superintendent New York State Police, 5/2/14 RE: Implementation of the PREA Standards; confirm policy is in place to ensure any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements. The DOCCS is responsible for all administrative and criminal investigations, with assistance from the State Police when required, who follow all the requirements of this Standard. There is no Department of Justice involvement.

Review of: Office of Special Investigations Sex Crimes Division: Staff-on-Inmate Dispatch and Operational Guidelines – Entire; Letter to Superintendent New York State Police, 5/2/14 RE: Implementation of the PREA Standards; Power Point Presentation: PREA Specialized Training: Investigations, August 4, 2015; Letter to Superintendent New York State Police, 5/2/14 RE: Implementation of the PREA Standards; confirm when outside agencies investigate sexual abuse, the facility cooperates with outside investigators and shall endeavor to remain informed about the progress of the investigation. Interview with the PREA Coordinator he said DOCCS Office of Special Investigations, Sex Crimes Division is the lead investigative body for DOCCS sexual abuse investigations. OSI will work cooperatively with the New York State Police (NYSP). The BCI will conduct any interview of the accused employee in a potentially criminal case to ensure that there are

no *Garrity* issues. However, DOCCS OSI SCD and the NYSP BCI exchange information throughout the investigation. Interviews were also held with the facility Superintendent, PREA Compliance Manager/Point Person and Investigative Staff report never had a case investigated by an outside agency. Sometimes the State Police BCI Investigators work with the DOCCS investigators.

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

## Standard 115.72: Evidentiary standard for administrative investigations

### 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*)

Review of: Memo: from Deputy Chief of Investigations, 7/29/15 – RE: Sex Crimes Division (SCD) Close Out Procedures and Sexual Abuse Prevention and Response Lesson Plan, 5/13/16 confirm policies are in place to ensure the agency imposes no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. Interviews with investigators that responded to the standard of evidence they require to substantiate allegations of sexual abuse or sexual harassment is a preponderance of the evidence, that is, when the weight of the evidence indicates that the allegation is more likely to be true than not true.

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

## Standard 115.73: Reporting to inmates

### 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*)

Review of: Memorandum from Chief, Office of Special Investigations, 9/14/15, RE: notification of Investigative Determination; Memo: from Deputy Chief, Office of Special Investigations, 7/29/15, RE: Sex Crimes Division (SCD) Close Out Procedures; and Sample of Notification email from Office of Special Investigation for unsubstantiated/substantiated case and/or unfounded case; Samples of Notification letters to inmates in unfounded cases; confirm policies are in place to ensure following an investigation into an inmate's allegation that he or she suffered sexual abuse in an agency facility, the agency informs the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. Interviews with facility Superintendent and investigative staff confirm agency procedures require that an inmate who makes an allegation of sexual abuse must be informed as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation. The number of criminal/administrative investigations of alleged inmate sexual abuse that were completed by the agency/facility in the past 12 months were 0 as the three allegations are on-going and have not been closed.

If the agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate. The agency is responsible for conducting administrative and criminal investigations. Therefore, this part of Standard 115.73 is non-applicable.

Review of: Memo: from Deputy Chief, Office of Special Investigations, 7/29/15, RE: Sex Crimes Division (SCD) Close Out Procedures confirm policies are in place to ensure following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the agency subsequently informs the inmate (unless the agency has determined that the allegation is unfounded) whenever: 1) The staff member is no longer posted within the inmate's unit; 2) The staff member is no longer employed at the facility; 3) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or 4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility. Interview with the PREA Compliance Manager/Point Person confirms the agency informs the inmate (unless the agency has determined that the allegation is unfounded) whenever the staff member: is no longer posted within the inmate's unit; no longer employed by the facility; agency learns staff member indicted on a charge related to sexual abuse within the facility; or agency learns staff member has been convicted on a charge related to sexual abuse within the facility. Interviews with inmates, allegations at another facility, confirm they were notified per policy.

Review of: Memo: from Deputy Chief, Office of Special Investigations, 7/29/15, RE: Sex Crimes Division (SCD) Close Out Procedures confirm policies are in place to ensure following an inmate's allegation that he or she has been sexually abused by another inmate, the agency subsequently informs the alleged victim whenever: 1) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or 2) The agency learns that the alleged abuser has been convicted on charge related to sexual abuse within the facility. Interview with PREA Compliance Manager/Point Person confirmed that following an inmate's allegation that he or she has been sexually abused by another inmate, the agency informs the alleged victim whenever: agency learns alleged abuser has been indicted on a charge related to sexual abuse within the facility or the agency learns the alleged abuser has been convicted on charge related sexual abuse in the facility.

Review of: Memo: from Deputy Chief, Office of Special Investigations, 7/29/15, RE: Sex Crimes Division (SCD) Close out Procedures confirms policies are in place to ensure all such notifications or attempted notifications are documented. Interview with facility Superintendent and PREA Compliance Manager/Point Person confirm all notifications or attempted notification are documents showing the date and time of the notification in case chronology. If the inmate refused to discuss the outcome, it is noted the date and time of the attempted notification and the fact that the inmate refused. During the last 12 months the 3 allegations remain open at the time of the audit so 0 inmates were provided notifications that were documented.

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

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

#### 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 that 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 that 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*)

Review of: Directive #4028A – Sexual Abuse Prevention & Intervention – 3/4/16, Inmate-on-Inmate; Directive #4028B – Sexual Abuse Prevention & Intervention – 3/4/16, Staff-on-Inmate; Directive #2110 – Employee Discipline – Suspension from Duty During the Continuation of Disciplinary Proceedings – 4/27/15 – III Attachment A, Attachment B, Attachment C; Employee Manual – Rev. 2013 – 2.19; Directive #2605 – Sexual Harassment in the Workplace – 5/2/17 – VI; Memo: Deputy Commissioner for Administrative Services – 2/5/16 RE: Prison Rape Elimination Act/Presumptive Disciplinary Sanction for Staff Sexual misconduct; Directive #2111 – Report of Employee Misconduct – 1/5/16 – I, II, III A 3, 4 & 6, IV; confirms policies are in place to ensure staff is subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. Interviews with PREA Compliance Manager/Point Person and Human Resource Manager confirm staff is subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. Gouverneur CF has not had an employee terminated due to an incident of sexual harassment or sexual misconduct incident during the last 12 months.

Review of: Directive #2605 – Sexual Harassment in the Workplace – 5/2/17 – VI; Memo: from Deputy Commissioner for Administrative Service to Director of Labor Relations RE: Prison Rape Elimination Act – Presumptive Disciplinary Sanction for Staff Sexual Misconduct, 2/5/2016; confirms policies are in place to ensure termination is the presumptive disciplinary sanction for staff who have engaged in sexual abuse. Interviews with PREA Compliance Manager/Point Person and Human Resource Manager confirm that termination is the presumptive disciplinary sanction for staff who has engaged in sexual abuse of an inmate. Accordingly, any Notice of Discipline implementing disciplinary action based upon substantiated charges of staff sexual misconduct committed by an employee regardless of bargaining unit shall seek termination of employment as the penalty. The facility has not had an employee terminated due to an incident of sexual harassment or sexual misconduct incident.

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

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

Review of: Directive #4028B, Sexual Abuse Reporting & Investigation – staff-on-Inmate, 8/17/11 –II; confirm policies are in place to ensure all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, are reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies. Interviews with PREA Compliance Manager and Human Resource Manager confirm terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, are reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies. Gouverneur CF in the last 12 months had zero staff from the facility that have been reported to law enforcement or licensing boards following their termination (or resignation prior to termination) for violating agency sexual abuse or sexual harassment policies.

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

## Standard 115.77: Corrective action for contractors and volunteers

### 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*)

Review of: Directive #4750, Volunteer Service Program – 2/8/16 – IV C 4 a; Office of Special Investigations: Reporting of Misconduct to Outside Agencies – 2/3/16 – Policy II; Directive #2605 – Sexual Harassment in the Workplace – 5/2/27 – VI A, B; Memo: from Acting Commissioner – 9/4/13, RE; Policy on the Prevention of Sexual Abuse of Offenders (revised) Office of Ministerial, Family and Volunteer Services 2015 – Signature Form; Division of Ministerial, Family and Volunteer Services, Volunteer Information Packet, Rev. 6/10/14, Page 20; Facility specific example of: Acknowledgement of Orientation for new volunteer or contractor; confirms policies are in place to ensure the facility takes appropriate remedial measures, and considers whether to prohibit further contact with inmates, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer. Interviews with PREA Compliance Manager confirms the facility takes appropriate remedial measures, and considers whether to prohibit further contact with inmates, in the case of any other violation.

Review of: Directive #2605 – Sexual Harassment in the Workplace – 5/2/27 – VI A, B; Memo: from Acting Commissioner – 9/4/13, RE; Policy on the Prevention of Sexual Abuse of Offenders (revised) Office of Ministerial, Family and Volunteer Services 2015 – Signature Form; Division of Ministerial, Family and Volunteer Services, Volunteer Information Packet, Rev. 6/10/14, Page 20; Facility specific example of: Acknowledgement of Orientation for new volunteer or contractor; and interview with the facility Superintendent; confirm the facility takes appropriate remedial measures, and considers whether to prohibit further contact with inmates, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer. Interviews with the facility Superintendent and PREA Compliance Manager/Point Person confirms under Section 130.05 of the Penal Law, an offender is incapable of consent to any sexual act with an employee where that employee performs duties in a state correctional facility in which the victim is confined at the time of the offense consisting of providing custody, medical or mental health services, counseling services, educational programs, vocational training, institutional parole services or direct supervision to inmates. The law also applies to any contract employee or volunteer who regularly provides services to inmates. Any contractor or volunteer, who engages in sexual abuse is prohibited from contact with inmates and is reported to law enforcement agencies, unless the activity was not criminal, and to relevant licensing bodies. In the past 12 months zero contractors or volunteers were reported to law enforcement for engaging in sexual abuse of inmates.

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

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

## Standard 115.78: Disciplinary sanctions for inmates

### 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*)

Review of: Hearing Officer Reference book for Incidents Occurring on or after 4/1/17; Directive #4932 – Chapter V, Standards Behavior & Allowances – 1/20/16 Entire; confirm policies are in place to ensure inmates are subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse. Interviews with PREA Compliance Manager/Point Person confirms having a consistent, fair and reasonable disciplinary process is the Department’s most valuable tool to address inmate misconduct, while ensuring the safety of all employees and inmates and the security of the facility. In the past 12 months the numbers of administrative findings of inmate-on inmate sexual abuse that have occurred at the facility were zero. During the last 12 months there have been zero findings of guilt for inmate-on-inmate sexual abuse that have occurred at the facility.

Review of: Hearing Officer Reference Book for Incidents Occurring on or After 4/1/17; and interview with superintendent; confirm sanctions are commensurate with the nature and circumstances of the abuse committed, the inmate’s disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories. Interviews with facility Superintendent the disciplinary sanctions inmates are subject to following an administrative or criminal finding that the inmate engaged in inmate-on-inmate sexual abuse are progressive disciplinary system based on guidelines. The sanctions are proportionate to the nature and circumstances of the abuses committed, the inmates’ disciplinary histories, and the sanctions imposed for similar offenses by other inmates with similar histories. Mental disability and mental illness are considered when determining sanctions.

Review of: Hearing Officer Reference book for Incidents Occurring on or after 4/1/17; Directive #4932 – Chapter V, Standards Behavior & Allowances – 1/20/16 Entire; and interview with Superintendent; confirm the disciplinary process considers whether an inmate’s mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. Interviews with the facility Superintendent and PREA Compliance Manager/Point Person confirms mental disability and mental illness are considered when determining sanctions.

Review of: Sex Offender Counseling and Treatment Program Guidelines November 2008; E Form referral: on-Sex Offense referral Sex Offender Counseling and Treatment Program; confirm policies are in place to ensure if the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility considers whether to require the offending inmate to participate in such interventions as a condition of access to programming or other benefits. Interviews with PREA Compliance Manager and medical and mental health staff confirm the facility offers therapy, counseling and other intervention services designed to address and correct the underlying reasons or motivations for sexual abuse and offers these services to the offending inmate. The facility does not require an inmate’s participation as a condition of access to programming or other benefits.

Review of: Standards of Inmate Behavior All Institutions – 101 series; Facility Specific Example of Misbehavior Report for 101 series violations; Directive #4028A, sexual Abuse Prevention & Intervention – Staff-on-Inmate – 3/4/16 – V B 5 P: 1-2; confirm policies are in place to ensure the agency may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact. An interview with PREA Compliance Manager/Point Person confirms an inmate may be disciplined for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

Review of: Directive #4028A, Sexual Abuse Prevention & Intervention – Staff-on-Inmate – 3/4/16 – V B 5 P: 4; Directive #4027A, Sexual Abuse Prevention & Intervention – Inmate-on-Inmate – 3/4/2016 – II, IV D P: 4; Facility Specific example of Misbehavior report for 101 series violations; E-form referral: Non-Sex Offense referral Sex Offender Counseling and Treatment Program; confirm the policies are in place to ensure for the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred does not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation. An interview with PREA Compliance Manager/Point Person confirms no reprisals of any kind shall be taken against an inmate or employee for good faith reporting of sexual abuse or sexual threats.

Review of: Directive #4027A, Sexual Abuse Prevention & Intervention – Inmate-on-Inmate, 3/4/16 – II, IV D P: 1-2 confirm policies are in place to ensure that the agency may, in its discretion, prohibit all sexual activity between inmates and may discipline inmates for such activity. An agency may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced. Interviews with PREA Compliance Manager/point Person confirm the agency prohibits all sexual activity between inmates and disciplines inmates for such activity, the agency deems such activity to constitute sexual abuse only if it determines that the activity is coerced.

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

## MEDICAL AND MENTAL CARE

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

#### 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*)

Review of: Memo: from Deputy Commissioner/Chief Medical Officer, 3/16/15, RE: Health Screening Forms 3278RC/3278TR, Attachment B, Attachment C; Directive #4301 – Mental Health Satellite Services and Commitments to CNYPC 0 8/18/15 IV, DOCCS – Mental Health Referral Form 3150 and interviews with inmates who disclosed sexual victimization at risk screening and intake staff; confirm that policies are in place to ensure if the screening pursuant to 115.41 indicates that a prison/jail inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff ensures that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening. Interview with the Sergeant who is responsible for risk screening confirms that if a screening indicates that an inmate previously perpetrated sexual abuse, the facility offer a follow-up meeting with a mental health practitioner. The auditor interviewed medical and mental health staff who confirmed that the follow-up meeting is offered within 7 days and was received by 100% of those who reported experiencing prior sexual victimization.

Review of: Memo: from Deputy Commissioner/Chief Medical Officer, 3/16/15, RE: Health Screening Forms 3278RC/3278TR, Attachment B, Attachment C; Directive #4301 – Mental Health Satellite Services and Commitments to CNYPC 0 8/18/15 IV, DOCCS – Mental Health Referral Form 3150; HSPM 1.12B – Inmate Bloodborne Pathogens Significant Exposure Protocols – 1/26/16 II and interview with intake staff; confirm that policies are in place to ensure if the screening pursuant to 115.41 indicates that a prison inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff ensures that the inmate is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening. Interview with the Sergeant who is responsible for risk screening confirms if a screening indicates that an inmate previously perpetrated sexual abuse they are offered a follow-up meeting with a medical health practitioner to be held immediately. In the past 12 months, 100 percent of inmates who have previously perpetrated sexual abuse, as indicated during the screening, were offered a follow up with a mental health practitioner. Mental health staff maintain secondary materials (e.g. form, log) documenting compliance with the requirements of this standard. The auditor reviewed inmate files in the medical and mental health departments and found follow-up meetings were held, documented, logged and completed per agency policy. The auditor interviewed medical and mental health staff who confirmed that the follow-up meeting is offered within 7 days.

Review of: Memo: from Deputy Commissioner/Chief Medical Officer, 3/16/15, RE: Health Screening Forms 3278RC/3278TR, Attachment B, Attachment C; Email: PREA – Office of Mental Health Memorandum of Understanding to: All Superintendents (Interim MOU between OMH and DOCCS), 9/14/16; HSPM 1.44 – Health Screening of Inmates – 2/19/16 II B; confirm that policies are in place to ensure any information related to sexual victimization or abusiveness that occurred in an institutional setting is strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, program assignments, or as otherwise required by Federal, State, or local law. Interviews with the Sergeant who is responsible for risk screening, medical and mental health staff and PREA Compliance Manager/Point Person confirms information related to sexual victimization or abusiveness that occurred in an institutional setting is not strictly limited to medical and mental health practitioners. The information shared with other staff is strictly limited to informing security and management decisions, including treatment plans, housing, bed, work, education, and program assignments, or as otherwise required by federal, state, or local law.

Review of: Memo: from Deputy Commissioner/Chief Medical Officer, 3/16/15, RE: Health Screening Forms 3278RC/3278TR, Attachment B, Attachment C; HSPM 1.44 – Health Screening of Inmates – 2/19/16 II B; Memo: from Assistant Commissioner/Executive Assistant, 8/5/14, RE: Confidentiality Disclaimer and interview with medical and mental health staff; confirm policies are in place to ensure medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18. Interview with PREA Compliance Manager/Point Person and medical and mental health staff confirm medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18. The auditor reviewed inmate files in medical and mental health and reviewed copies of the signed consent forms.

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

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

### 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*)

Review of: Directive #4027B – Sexual Abuse Reporting Investigation 2/17/16, Inmate-on-Inmate – V C 3 P:1, 4; and HSPM 1.60 – Sexual Assault, 8/3/15 – II, III b, c, B SAFE/SANE Hospitals; and Facility Specific Example of Progress Notes/Ambulatory Health Record/Patient Referral Form/Emergency Services; confirm that policies are in place to ensure inmate victims of sexual abuse receive timely unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment. Interviews with medical and mental health staff and PREA Compliance Manager confirm inmates' victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and

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

Review of: Directive #4028B – Sexual Abuse Reporting & Investigation, Staff-on-Inmate, 3/4/16 – V C 3; confirms policies are in place to ensure if no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim pursuant to 115.62 and immediately notify the appropriate medical and mental health practitioners. Interviews with security staff and non-security staff first responders found during the past 12 months there was one allegation requiring first responder activity. However, security staff and non-security staff are all prepared to act as a first responder if required. Interviews with security and non-security staff found they carry a card with instructions on being a first responder and are very prepared.

Review of: HSPM 1.60 – Sexual Assault, 8/3/15 – II, III b, c, B SAFE/SANE Hospitals confirm policies are in place to ensure inmate victims of sexual abuse while incarcerated are offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. Interviews with medical and mental health staff confirm that inmate victims of sexual abuse while incarcerated are offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis in accordance with professionally accepted standards of care, where medically appropriate. Medical and mental health staff maintain secondary materials (e.g. form, log) documenting the timeliness of emergency medical treatment and crisis intervention services that were provided; the appropriate response by non-health staff in the event health staff are not present at the time the incident is reported; and the provision of appropriate and timely information and services concerning contraception and sexually transmitted infection prophylaxis. The auditor reviewed files in the medical and mental health departments and found the services were offered, documented and per agency policy.

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

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

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

**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*)

Review of: HSPM 1.60 – Sexual Assault, 8/3/15 – Entire; Memo: PREA – Office of Mental Health Memorandum of Understanding to: All Superintendents, 1/3/17; and Office of Mental Health Memorandum of Understanding 9/14/16; confirm policies are in place to enable offering medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility. Interviews with PREA Compliance Manager/Point Person and medical and mental health staff confirm the facility offers medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.

Review of: HSPM 1.60 – Sexual Assault, 8/3/15 – Entire; Memo: PREA – Office of Mental Health Memorandum of Understanding to: All Superintendents, 1/3/17; and Office of Mental Health Memorandum of Understanding 9/14/16; confirm policies are in place that ensure the evaluation and treatment of such victims include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. Interviews with PREA Compliance Manager/Point Person and medical and mental health staff confirm evaluation and treatment of inmates who have victimized includes treatment services including: follow-up services; treatment plans; treatment groups; and when necessary referrals for continued care after leaving the facility. The auditor reviewed inmate files in medical and mental health and found documentation of treatment plans for inmates that have victimized.

Review of: HSPM 1.60 – Sexual Assault, 8/3/15 – Entire; Memo: PREA – Office of Mental Health Memorandum of Understanding to: All Superintendents, 1/3/17; and Office of Mental Health Memorandum of Understanding 9/14/16; confirm policies are in place to ensure the facility provides such victims with medical and mental health services consistent with the community level of care. Interviews with PREA Compliance Manager/Point Person and medical and mental health staff confirm the medical and mental health services offered at the facility are consistent with community level of care.

Review of: HSPM 1.60 – Sexual Assault-8/3/15 – Entire; HSPM 1.12B Inmate Bloodborne Pathogens Significant Exposure Protocol – 1/26/16 – 1, 2, 3; confirm inmate victims of sexually abusive vaginal penetration while incarcerated are offered pregnancy test and if pregnancy results from the conduct such victims receive timely and comprehensive information about and timely access to all lawful pregnancy related medical services. Gouverneur CF is an all-male facility. This part of the standard is N/A.

Review of: HSPM 1.60 – Sexual Assault – 8/3/15 – Entire; HSPM 1.12B Inmate Bloodborne Pathogens Significant all Exposure Protocol – 1/26/16 – 1, 2, 3; interviews with inmates who reported a sexual abuse; and review of medical records; confirm policies are in place to ensure inmate victims of sexual abuse while incarcerated are offered test for sexually transmitted infections as medically appropriate. Interviews with PREA Compliance Manager/Point Person and medical and mental health staff confirm

inmate victims of sexual abuse while incarcerated are offered test for sexually transmitted infections as medically appropriate.

Review of: HSPM 1.60 – Sexual Assault, 8/3/15 – Entire; and interviews with inmates who reported a sexual abuse; confirm policies are in place to ensure treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. Interviews with PREA Compliance Manager/Point Person and medical and mental health staff confirm treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

Review of: HSPM 1.44 – Health Screening of Inmates, 2/19/16 – I P: 1-2; and Facility specific example of progress notes/ambulatory health record; confirm policies are in place to ensure all prisons attempt to conduct a mental health evaluation of all know inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners. Interviews with PREA Compliance Manager/Point Person and medical and mental health staff confirm mental health conducts a mental health evaluation of all known inmate-on inmate abusers and offer treatment if appropriate. This mental health evaluation is conducted within 60 days of learning of such abuse history.

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

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

#### 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*)

Review of: Memo: from Deputy Commissioner and Associate Commissioner – 5/9/14, RE: Prison Rape Elimination Act Procedural Enhancements Sexual Abuse Response and Containment Checklist; Sexual Abuse Incident Reviews and Security Staffing Audits - Entire; Sexual Abuse Incident Review Checklist – 8/1/16 Entire; Copies of all completed Sexual Abuse Incident Reviews for 12 – months preceding the submission of the Pre-Audit Questionnaire; confirm policies are in place to ensure the facility conducts a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded. Interviews with PREA Compliance Manager/Point Person the facility conducts a sexual abuse incident review at the conclusion of every criminal or administrative sexual abuse investigation, unless the allegation has been determined to be unfounded. In the past 12 months, there were 3 allegations and

the investigations are on-going so there were no completed investigations so there were no Sexual Abuse Incident Reviews that needed to be completed during the 12 months preceding the audit.

Review of: Memo: from Deputy Commissioner and PREA Coordinator, 5/9/14 RE: Prison Rape Elimination Act Procedural Enhancements Sexual Abuse Response and Containment Checklist, Sexual Abuse Incident Reviews and Security staffing Audits – Entire; confirm polices are in place to ensure such review shall ordinarily occur within 30 days of the conclusion of the investigation. An interview with PREA Compliance Manager/Point Person confirms the facility ordinarily conducts a sexual abuse incident review within 30 days, excluding “unfounded” incidents. In the past 12 months there have been zero criminal and/or administrative investigations of alleged sexual abuse completed at the facility that were followed by a sexual abuse incident review within 30 days. During the last 12 months there were three allegations and the investigations are on-going.

Review of: Memo: from Deputy Commissioner and PREA Coordinator, 5/9/14 RE: Prison Rape Elimination Act Procedural Enhancements Sexual Abuse Response and Containment Checklist, Sexual Abuse Incident Reviews and Security staffing Audits – Entire; confirm the review team includes upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioner. Interviews with the facility Superintendent, members of the Incident Review Team and PREA Compliance Manager/Point Person confirm the sexual abuse incident review team includes upper-level management officials and allows for input from line supervisors, investigators, and medical or mental health practitioners.

Review of: Memo: from Deputy Commissioner and PREA Coordinator, 5/9/14 RE: Prison Rape Elimination Act Procedural Enhancements Sexual Abuse Response and Containment Checklist, Sexual Abuse Incident Reviews and Security staffing Audits – Entire, confirms policies are in place and ensure the review team: 1) Considers whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; 2) Considers whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility; 3) Examines the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; 4) Assess the adequacy of staffing levels in that area during different shifts; 5) assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and 6) Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1)-(d)(5) of this section, and any recommendations for improvement and submit such report to the facility head and PREA compliance manager. Interviews with facility Superintendent, Incident Review members and PREA Compliance Manager/Point Person confirms the facility prepares a report of its findings from sexual abuse incident reviews, including but not necessarily limited to determinations made pursuant to above paragraph 1-6 of this section and any recommendations for improvement, and submits such report to the facility Superintendent and PREA Compliance Manager/Point Person.

Review of: Memo: from Deputy Commissioner and Associate Commissioner – 5/9/14, RE: Prison Rape Elimination Act Procedural Enhancements Sexual Abuse Response and Containment Checklist; Sexual Abuse Incident Reviews and Security Staffing Audits - Entire; Sexual Abuse Incident Review Checklist – 8/1/16 Entire; documentation showing implementation of recommendations or reasons for not implementing recommendations for each completed incident review; interviews with PREA Compliance Manager/Point Person; confirm that the facility implements the recommendations for improvement or documents its reasons for not doing so. The review is intended to identify any gaps in policy, practice, or

protocol, and recommend improvements when appropriate. The review examines whether policies were followed and whether they need to be changed; whether physical plant and staffing are appropriate to minimize the risk of sexual abuse; whether gang and other group dynamics were a factor in the reported incident, as well as other factors. A form has been developed to capture the review and any recommendations of the review team and includes documentation as to reasons for not enforcing the recommendations.

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

## Standard 115.87: Data collection

### 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*)

Review of: Office of Program Planning Research and Evaluation; PREA Data Collection, Review, Retention and Publication Manual 8/18/15 (revised) – Entire; Directive #4027B, Sexual Abuse Reporting & Investigation, Inmate-on-Inmate, VII B P: 6-8. and Attachment A; Form 2103SA11; Directive #4028B, Sexual Abuse Reporting a& Investigation, Staff-on-Inmate, VII B. and Attachment A P: 6-8; Form 2103SASI; Facility Specific Examples of Form 2103SA11 and 2103SASI; confirm the policies are in place and enforced to ensure the agency collects accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. An interview with the PREA Compliance Manager/Point Person and review of the DOCCS Annual Report on Sexual Victimization 2015 confirm the agency collects accurate uniform data using a standardized instrument and set of definitions. The incident-based data collected includes, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence (SSV) conducted by the Bureau of Justice Statistics. This includes, but is not limited to Office of Special Investigations, Sex Crime Division data, sexual abuse incident review information, unusual incidents, personnel records, confidential security information, inmate records, disciplinary data, and the inmate locator system. Including reports, investigation files, and sexual abuse incident reviews and ensures that the resulting data are securely retained. As a result of comprehensive data collection and review, the PREA Analyst maintains separate incident based data from all available incident-based documents. Definitions are found in Appendix B of the DOCCS Annual Report on Sexual Victimization 2015.

Review of: Office of Program Planning Research and Evaluation: PREA Data Collection, Review, Retention and Publication Manual, 8/18/15 (revised) – Entire; confirm policies are in place and enforced to ensure the agency aggregates the incident-based sexual abuse data at least annually. An interview with PREA Compliance Manager/Point Person confirms the agency aggregates the incident-based sexual abuse data at least annually. After preliminary review and preparation of all Office of Special Investigations Sex Crimes Division allegations, sexual abuse data is extracted, coded and prepared for a secondary review with a SCD investigator. The reconciled data is aggregated for a final review to include, but is not limited to, substantiated incidents of sexual abuse. A final review team consisting of the Associate Commissioner/PREA Coordinator, the chief of the Office of Special Investigations, the Deputy Chief of Investigations of the Sex Crimes Division and the PREA Analyst meet annually to review substantiated PREA allegations prior to submission of data to the Bureau of Justice Statistics. All confidential information is securely retained by the Office of Special Investigations and the PREA Analyst.

Review of: Office of Program Planning Research and Evaluation: PREA Data Collection, Review, Retention and Publication Manual, 8/18/15 (revised) – Entire; confirm policies are in place and enforced to ensure the incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice. Interviews with PREA Compliance Manager/Point Person confirms the agency maintains, reviews and collects data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident review. The PREA Analyst prepares and aggregates data collected in coordination with the Sexual Abuse Prevention & Education Office and the Office of Special Investigations Sex Crimes Division in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices and training throughout the year. The incident-based data collected includes, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence (SSV) conducted by the Bureau of Justice Statistics.

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

Review of: Data Dictionary: Defines data elements collected by the Office of Program, Planning, Research and Evaluation from all available incident-based documents including reports, investigation files and sexual abuse incident reviews; confirm policies are in place and enforced to ensure the agency obtains incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates. Gouverneur CF does not contract for the confinement of its inmates. Therefore, this part of the standard is non-applicable. An interview with PREA Compliance Manager/Point Person confirms the facility does not contract for the confinement of its inmates.

Review of: Data Dictionary: Defines data elements collected by the Office of Program, Planning, Research and Evaluation from all available incident-based documents including reports, investigation files and sexual abuse incident reviews; confirm policies are in place and enforced to ensure upon request, the agency provides all such data from the previous calendar year to the Department of Justice no later than June 30 or when requested by DOJ. An interview with PREA Compliance Manager/Point Person confirms the agency provided data from the previous calendar year, as requested, to the Department of Justice. A final review team consisting of the Associate Commissioner/PREA Coordinator, the Chief of the Office of Special Investigations, the Deputy Chief of Investigations of the Sex Crimes Division and the PREA Analyst meet annually to review substantiated PREA allegations prior to submission of data to the Bureau of Justice Statistics in a timely manner and as required.

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

## Standard 115.88: Data review for corrective action

### 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*)

Review of: Office of Program Planning Research and Evaluation; PREA Data Collection, Review Retention and Publication Manual, 8/18/15 (revised) – Entire and The “Annual Report on Sexual

Victimization 2015”; confirm policies are in place to ensure the agency reviews data collected and aggregated pursuant to 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: 1) Identifying problem areas; 2) Taking corrective action on an ongoing basis; and 3) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole. In the interview with the Agency Head he advises the agency at this juncture, incident-based data is primarily used to identify facilities or locations within facilities that have recurring reports of abuse. DOCCS Research Office has a researcher dedicated to work full-time on PREA matters. She works directly with the Associate Commissioner/PREA Coordinator in an effort to identify patterns and trends including common characteristics of victim prone inmates, common characteristics of inmate abusers, and any other trends that may be addressed through training or policy changes. The data also plays a key role in keeping the Department’s training on sexual abuse prevention and response current. The Department is establishing an Analysis Unit within the Office of Special Investigations that will further enhance DOCCS ability to assess and improve sexual abuse prevention, detection, and response policies. The Agency Head, Acting Commissioner, approves the annual reports.

According to the PREA Coordinator he prepares and publishes an annual report of the allegations of sexual abuse and sexual harassment as reported to the Department, including information concerning reports at each facility. The Report addresses facility- specific and Department-wide corrective action. The PREA Coordinator confirms the agency reviews data collected and aggregated pursuant to Standard 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies and training, including: identifying problem areas; taking corrective action on an ongoing basis; and preparing an annual report of its findings from its data review and any corrective actions for each facility, as well as the agency as a whole. The agency takes corrective action on an ongoing basis based on these data. The PREA Coordinator reviews both regular and ad hoc reports produced by Research for him. In addition, the Office of Special Investigations is in the process of establishing a new Analysis Unit. They are working closely with the PREA Program Research Specialist on this project. DOCCS continue to adjust their prevention strategies based on the analysis of the data.

Review of: Office of Program Planning Research and Evaluation; PREA Data Collection, Review Retention and Publication Manual, 8/18/15 (revised) – Entire and The “Annual Report on Sexual Victimization 2015” confirm policies are in place to ensure such report include a comparison of the current year’s data and corrective actions with those from prior years and shall provide an assessment of the agency’s progress in addressing sexual abuse. Interviews with PREA Coordinator confirms the annual report includes a comparison of the current year’s data and corrective actions with those from prior years and the annual report provides an assessment of the agency’s progress in addressing sexual abuse.

Review of: Office of Program Planning Research and Evaluation; PREA Data Collection, Review, Retention and Publication Manual 8/18/15 (revised) – Entire; PREA Page with link to Annual Report on the Department of Corrections and Community Supervision Website 7/14/17, Link to “Annual Report on Sexual Victimization” 2015; and interviews with the Agency Head and the PREA Coordinator; confirm policies are in place to ensure the agency’s report is approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means. Interviews with the Acting Commissioner and PREA Coordinator confirm the Acting Commissioner

approves the agency's report and the agency makes its annual report readily available to the public at least annually through its website.

Review of: Office of Program Planning Research and Evaluation; PREA Data Collection, Review Retention and Publication Manual, 8/18/15 (revised) – Entire; The “Annual Report on Sexual Victimization 2015”; and interviews with the Agency Head and PREA Coordinator; confirm policies are in place to ensure the agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted. The Associate Commissioner/PREA Coordinator advises DOCCS does not redact any material. The annual report does not provide case specific information and only aggregated data is presented to avoid identifying any individual or confidential information.

In conclusion, the facility is compliant with this standard, based on: review of policies, procedures, forms and files; interviews with Agency Head and PREA Coordinator; review of DOCCS Annual Report on Sexual Victimization 2015; observing the DOCCS PREA Website and observations and questions answered during tour. Gouverneur CF is compliant with Standard 115.88 Data Review for Corrective Action.

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

### 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*)

Review of: Office of Program Planning Research and Evaluation; PREA Data Collection, Review, Retention and Publication Manual, 8/18/15 (revised) – Entire; confirm policy is in place to ensure the agency ensures that data collected pursuant to 115.87 are securely retained. An interview with Associate /PREA Coordinator confirms the agency ensures that incident-based and aggregate data are securely retained in the agency office with a program research specialist in DOCCS Program Planning Research and Evaluation department who is dedicated to PREA matters. All of her raw data files and her final reports are stored in restricted drives set up by the State Office of Information Technology Services (ITS). Her paper records are all stored in locked file cabinet. His copies of the final data reports and other ad hoc reports are stored in his office in locked file cabinets.

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

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

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

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

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

#### 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*)

Review of NYS DOCCS website <http://www.doccs.ny.gov/PREA/PREAINfo.html> 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 1<sup>st</sup> cycle August 20,

2013 up to October 23, 2017, 36 facilities have been audited and the Audit Reports are on the NYS DOCCS website. The auditor received a schedule of audits from the PREA Coordinator who confirms that beginning in Audit year 3 of cycle 1, ensured that at least one-third of each facility type operated by the agency was and is scheduled to be audited. A total of 19 facilities are scheduled for Audit Year 2 of Cycle 2, including 18 Adult Prisons and 1 Community Confinement Facilities.

NYS DOCCS has entered into agreements with private organizations for 6 Community Based Residential Programs. Each contract permits contract monitoring and requires the Program to achieve and maintain PREA Compliance, and to arrange for PREA Audits on a schedule set in consultation with the DOCCS Agency-wide PREA Coordinator ensuring that on-third of each facility type operated by a private organization on behalf of the agency will be audited during each forthcoming audit year.

During the audit the facility staff provided the auditor: access to, and the ability to observe, all areas of Gouverneur CF; copies of all relevant documents required; private room and access to random selection of inmates for interviews; and posted signs advising how inmates could send confidential information or correspondence to the auditor like legal counsel. Based on the above the agency/facility meets Standard 115.401 Frequency and scope of audit requirements.

## Standard 115.403: Audit contents and findings

### 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*)

Review of 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 if it has one (NYS DOCCS has a website as identified above) or is otherwise made readily available to the public. A review of the website found the Final Audit Reports for 36 PREA Audits of NYS DOCCS Facilities. There were 15 audits from 2017, 18 audits from 2016 and 3 audits from 2015. The most recent audit was September 27-29, 2017 with the Audit Report date of 10/17/17 appearing on the NYS DOCCS

website on October 23, 2017 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.

Marilyn McAuley

October 25, 2017

**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.