

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

Interim Final

Date of Report April 15, 2018

Auditor Information

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Date of Facility Visit: February 28 – March 2, 2018

Agency Information

Name of Agency:

**New York State Department of Corrections and
Community Supervision**

Governing Authority or Parent Agency (If Applicable):

Physical Address: 1220 Washington Avenue

City, State, Zip: Albany, New York 12226-2050

Mailing Address: Click or tap here to enter text.

City, State, Zip: Click or tap here to enter text.

Telephone: 518-457-8126

Is Agency accredited by any organization? Yes No

The Agency Is:

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

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

Agency Website with PREA Information: <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

Name: Jason D. Effman	Title: Associate Commissioner
Email: Jason.effman@doccs.ny.gov	Telephone: 518-457-3955
PREA Coordinator Reports to: Acting Commissioner	Number of Compliance Managers who report to the PREA Coordinator 15 Assistant Deputy Superintendent PREA Compliance Managers

Facility Information

Name of Facility:	Orleans Correctional Facility		
Physical Address:	3531 Gaines Basin Road Albion, New York 14411		
Mailing Address (if different than above):	Click or tap here to enter text.		
Telephone Number:	585-589-6820		
The Facility Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Private not for profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
Facility Type:	<input type="checkbox"/> Jail	<input checked="" type="checkbox"/> Prison	
Facility Mission:	To improve public safety by providing a continuity of appropriate treatment services in safe and secure facilities where all inmates' needs are addressed, and they are prepared for release, followed by supportive services for all parolees under community supervision to facilitate a successful completion of their sentence.		
Facility Website with PREA Information:	http://www.doccs.ny.gov/PREA/PREAinfo.html		

Warden/Superintendent

Name: Karen Crowley	Title: Superintendent
Email: Karen.Crowley2@doccs.ny.gov	Telephone: 585-589-6820 ext: 2000

Facility PREA Compliance Manager

Name: Amanda Leone	Title: Assistant Deputy Superintendent PREA Compliance Manager
Email: Amanda.Leone@doccs.ny.gov	Telephone: 585-589-6820 ext 2160

Facility Health Service Administrator

Name: Wayne Ortiz	Title: Clinical Physn 2
Email: Wayne.Ortiz@doccs.ny.gov	Telephone: 585-589-6820 ext 6000

Facility Characteristics

Designated Facility Capacity: 1,082		Current Population of Facility: 861 (first day of audit)		
Number of inmates admitted to facility during the past 12 months				1,833
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:				1,583
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:				1,807
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:				13
Age Range of Population:	Youthful Inmates Under 18: N/A	Adults: 19-83		
Are youthful inmates housed separately from the adult population?		<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> NA
Number of youthful inmates housed at this facility during the past 12 months:				N/A
Average length of stay or time under supervision:				345 days
Facility security level/inmate custody levels:				Max/Med
Number of staff currently employed by the facility who may have contact with inmates:				396
Number of staff hired by the facility during the past 12 months who may have contact with inmates:				19
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:				4
Physical Plant				
Number of Buildings: 47		Number of Single Cell Housing Units: 1 SHU		
Number of Multiple Occupancy Cell Housing Units:		1 (S Block)		
Number of Open Bay/Dorm Housing Units:		7 (2-sided building equaling 14)		
Number of Segregation Cells (Administrative and Disciplinary):		32 single cells and 100 double bunk cells		
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.):				
18 perimeter cameras monitored through the control center				
Medical				
Type of Medical Facility:		Level 1		
Forensic sexual assault medical exams are conducted at:		Local hospital: Erie County Medical Center		
Other				
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:				48 Volunteers, 37 Contractors
Number of investigators the agency currently employs to investigate allegations of sexual abuse:				32

Audit Findings

Audit Narrative

The Prison Rape Elimination Act (PREA) Audit of the Orleans Correctional Facility in Albion, New York, a facility under the operation of the New York State Department of Corrections and Community Supervision (DOCCS) was conducted on February 28-March 2, 2018 by Auditor Barbara King as a consultant through the American Correctional Association (ACA). ACA notified the auditor of the assignment on December 7, 2017. The audit process began with communication between the PREA Compliance Manager, Superintendent, and the auditor in December. The auditor explained the audit process detailing that compliance is assessed through written policies and procedures, observed practices, and interviews with offenders and staff. The Superintendent indicated this was the facility's first PREA audit.

The Audit Posting was sent to the facility by the American Correctional Association (ACA). The facility acknowledged receiving the audit posting from ACA and the postings were placed throughout the facility. The PREA Manager emailed a photo of the Audit Posting for verification of posting on January 17, 2018.

About a month prior to the audit, the auditor received the PREA Pre-Audit Questionnaire and supporting documents on a thumb drive provided by the agency. The thumb drive contained two parts: a master folder of supporting documentation for all 43 PREA standards and the Pre-Audit Questionnaire. The master folder contained separate files for each standard that included relevant policies and procedures and supporting documentation to demonstrate compliance. After the review of the Pre-Audit Questionnaire and documentation, on February 6, 2018 the auditor emailed the agency and facility requesting further documentation for clarification and review on various standards. Some of this information was provided electronically prior to the audit and the remaining documentation was provided during the audit visit. The auditor reviewed the 2013-2015 Annual Report on Sexual Victimization and the PREA information on the New York State Department of Corrections and Community Supervision (DOCCS) website prior to the audit. The auditor reviewed the interviews of the Agency Head Designee, PREA Coordinator, and the Contract Administrator prior to the audit that was completed previously by another auditor. Prior to the on-site visit, contact was made with the PREA Compliance Manager and Superintendent to discuss the audit process and set a tentative time schedule for the on-site audit.

Also on December 20, 2017, the auditor requested the following information be provided the first day of the audit: daily population report (use February 23), staff Roster to include all departments (include title, shift, and good days), offender roster by housing unit and alpha listing, list of staff who perform risk assessments, list of medical/mental health staff, list of contractors and volunteers (include times available during audit), list of offenders with a PREA classification, list of LGBTI offenders, list of PREA allegations in the past 12 months (type of case, victim name, investigation outcome), list of offenders that reported sexual abuse, list of disabled and limited English proficient offenders, list of the first responders from the reported allegations, and list of how the allegations were reported (i.e. verbal to staff, OSI, grievance...). This information will be

utilized to establish interviews schedules. The facility provided the requested information the night prior to the audit beginning to be used for the random selection of offenders and staff to be interviewed (random and specific category) including an alpha and housing listing of all offenders housed at the facility, lists of staff by duty position and shifts, lists of offenders for specific categories to be interviewed, list of staff who perform risk assessments, and a list of volunteers on site during the audit. Additional information in the packet included the daily population reports.

Before the start of the audit, the auditor met with the Superintendent, Deputy Superintendents, Captains, and the PREA Compliance Manager. A detailed schedule for the audit was discussed including the facility tour, interviews schedules, review of audit documentation. It was established that the auditor would meet with the Superintendent and any identified staff at the close of each day to review the day's activities and prepare for the next audit day. The facility was informed no correspondence was received from an offender or staff member prior to the audit. Key facility staff during the audit included the Superintendent, Deputy Superintendents, Captains, PREA Compliance Manager, and Agency PREA Coordinator.

The auditor utilized the Auditor Compliance Tool, Instructions for the PREA Audit Tour, the Interview Protocols, Process Map, Auditors Summary Report, and the PREA Auditor Handbook for guidance during the audit process. These documents were available through the National PREA Resource Center.

A facility tour was completed in the afternoon with key staff upon completion of the American Correctional Association (ACA) Accreditation audit. The housing units were toured. The program, service areas, food service, and medical areas were toured by the auditor on a separate day. During the tour, the auditor made visual observations of the program areas and housing units including bathrooms, officers post sight lines, and camera locations. The auditor spoke to random staff and offenders regarding PREA education and facility practices. Review of the housing unit log books was conducted to verify immediate/ higher level staff rounds.

During the tour, the auditor identified sight line concerns in the utility storage building and the garage which are offender work areas. The facility took immediate action by installing mirrors to eliminate the blind spots in both the areas. The mirrors were installed while the auditor was on site.

All required facility staff and offender interviews were conducted on-site during the three (3) day audit. The auditor began the interview process with offender interviews at the facility. The formal offender interviews were held in a multi-purpose room in the recreation department that afforded privacy for the interviews. The PREA Auditor Handbook table for offender interviews indicated for offender population size of 501-1,000 offenders; a requirement of 30 offender interviews with at least 15 from the target groups and 15 random interviews. Thirty-eight (38) formal offender interviews were conducted and one hundred forty-six (146) offenders were informally interviewed during the facility tours, (21.4% of the 861 offender population). The random interviewees were selected by the auditor from the housing rosters and designated lists of offenders provided by the facility. Random offender interviews from different housing units (24), Disabled and Limited English Speaking Ability (7), LGBTI (2), Offender Who Reported Sexual Abuse (1), and Who Disclosed Sexual Victimization (4) were interviewed. Offenders were selected randomly from each housing unit and from the lists provided for the specialized interviews. Interviews were not conducted for youthful offenders and offenders placed in

segregation housing for risk. The complex is an adult male facility only and does not house youthful offenders. There were no offenders placed or housed in segregation housing for risk during the audit period. There were four (4) offenders that refused interviews. The offenders interviewed acknowledged they had been screened during the intake process, education was provided which began at intake, and they knew how to report. Offenders also indicated they felt safe at the facility, acknowledged the zero tolerance of sexual abuse and sexual harassment, and their right to be free from retaliation for reporting.

A total of forty-one (41) staff was formally interviewed and an additional one hundred fifty-two (152) informal staff interviews were also conducted during the facility tours (48.7% of 396 staff). The formal interviews were held in an administration office within the Administration Building. Staff was randomly selected from each of the three (3) shift rosters and different departments within the facility (15). Additionally, specialized staff were interviewed including the Superintendent (1), PREA Compliance Manager (1), Intermediate-Higher Level Staff (6), Medical and Mental Health (3), Human Resources (1), SAFE/SANE (1), Volunteers/Contractors (3), Investigator (2), Staff Who Perform Risk Screening (2), Staff Who Supervise Segregated Housing (1), Incident Review Team (2), Staff Who Monitor for Retaliation (1), First Responders (1), and Intake staff (1). The interviews of the PREA Coordinator (1), Contract Administrator (1), and Agency Head Designee (1) were reviewed from previous interviews conducted by another auditor. The staff interviewed acknowledged they have received training and understood the PREA policies and procedures. They acknowledged their responsibilities to prevent, detect, report, and response to sexual abuse and sexual harassment. They understood their roles in reporting and responded to all allegations. The auditor reported to the Superintendent responses from an officer's interview that may place staff and offenders at risk and harm as part of the mandatory reporting.

There were three (3) allegations reported during the audit period. All the allegations were staff sexual misconduct with offender. The administrative findings of the allegations of staff sexual misconduct were one (1) unfounded and two (2) unsubstantiated. A review of all three (3) administrative investigations was conducted.

An exit meeting was conducted by the auditor at the completion of the on-site audit. While the auditor could not give the facility a final finding, the auditor did provide a preliminary status of their findings and request for further documentation needed to demonstrate compliance on four (4) standards. Standards 115.12, 115.42, 115.87, and 115.89 could not be cleared at the end of the on-site audit process. All the standards required additional policy documentation for compliance. Standard 115.12, the policy and practice needed to be documented of the position responsible for monitoring contracts for compliance with PREA. Standard 115.42, the policy was needed to address the agency shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status. For standards 115.87 and 115.89, the policy or directive was needed to document that each private facility under contract will obtain and share incident based and aggregated data for parolees.

The auditor shared with the Superintendent and the facility's administration feedback from the offender population; the offenders stated they felt safe at the facility and felt staff would be responsive if an allegation was made. The auditor also shared the that staff was professional

and well trained in their PREA knowledge and responsibilities. The audit team thanked New York State Department of Corrections and Community Supervision, Superintendent Crowley, the Orleans Correctional Facility's staff for their hard work and commitment to the Prison Rape New York Elimination Act.

Policies and directives were forwarded to the auditor by the PREA Coordinator that documented compliance with the outstanding standards on March 2, 2018. No further action was necessary. The auditor also contacted the agency's PREA Coordinator during the writing of the report to clarify certain information for the report.

The auditor based the decision of standard compliance on: data gathering; review of documentation; observations during the tour of the facility; sampling techniques for interviews with staff, offenders, and files; interviews; and the facility's policy and practices.

Facility Characteristics

Orleans Correctional Facility is operated by the New York State Department of Corrections and Community Supervision and is classified as a medium security general confinement facility for males 18 years of age or older. The facility is located in the town of Albion about 18 miles from Batavia, 30 miles from Rochester and 55 miles from Buffalo. The facility was built on 120 acres in Orleans County near the Erie Canal. The facility was constructed as a prototype "cookie cutter" facility to accommodate the rapidly increasing prison population of the 1980s. The original design was for eleven buildings with only one building outside the double fence security which was the Administration Building. Since its opening the facility has grown to 47 buildings. The facility was opened in December 1984 as a 542-medium security male facility. The Special Housing Unit S Block was constructed in 1998 and added 200 beds. The Orleans Correctional Facility's design capacity is 1,084; which houses medium and maximum custody levels. The offender population was 861 on the first day of the audit. The average daily population for the audit period was 882. The average length of stay is 11 months and 5 days. The average age of the offender population is 36.

The physical plant of the Orleans Correctional Facility contains forty-seven buildings, five of those outside the secure perimeter. The compound contains forty-two buildings. The seven housing units of dorm housing is located on the right side of the compound. The two special housing units are located in the rear of the compound. The program and service buildings are located to the left of the compound.

General population housing is dormitory style. There are seven housing buildings (A, B, C, D, E, F, G Blocks) comprised of two distinct dorm housing units with sixty (60) offenders in each. There is one officer assigned per housing unit in a direct supervision capacity with officer's desk located within the dorm. Each dormitory has an open bay configuration with individual "cubes" with waist high privacy walls. Each cube contains a bed, locker storage space, chair and small table. A few cubes contain bunk beds. Each housing unit has a common dayroom. The dayroom contains

the telephones, televisions, seating and tables for the offenders. Located off the dayroom is the bathroom area (8 showers, 9 wash basins, 4 toilets and 3 urinals) and the laundry room. Officers make rounds of the bathroom area. The shower area has curtains and there are doors on the bathroom stalls. The laundry room is locked when not in use and is only accessible by the officer. Only one offender will work in the area.

There are two special housing units. The smaller SHU, Building 16, consists of 32 single occupancy cells and is single story. Housing in this unit is for facility inmates who have pre-hearing detention or relatively short disciplinary segregation sentences. Offenders who are serving sanctions of less than 30 days confinement typically serve their sentence in this unit. The S Block Special Housing Unit contains 100 double occupancy cells, capacity of 200. This housing is for long term disciplinary confinement for offenders transferred from other agency facilities. This building is a two-story structure.

Other housing is located in the medical building. There are eight beds in the infirmary, and one bed in each of the isolation rooms.

There are a number of non-housing buildings within the secure perimeter. These include the offender visitation, programs building which includes the vocational/education/ and academic classrooms, recreation and activities building, kitchen and dining hall, recycling warehouse, utility crew, commissary and laundry building, fire safety building, support services/maintenance building, and the health clinic. Outside the secure perimeter is the administrative building, vehicle maintenance, Generator building, staff training center and visitors processing building. All of the areas were toured. PREA informational posters were posted throughout the compound. Logbooks were reviewed for supervisor rounds. The auditor also looked for sight line concerns and blind spots in the offender working areas. During the tour, the auditor identified sight line concerns in the utility storage building and the garage which are offender work areas. The facility took immediate action by installing mirrors to eliminate the blind spots in both the areas. The mirrors were installed while the auditor was on site.

The Mission of the State of New York Department of Corrections and Community Supervision (DOCCS) and Orleans Correctional Facility is to “improve public safety by providing a continuity of appropriate treatment services in safe and secure facilities where offenders’ needs are addressed, and they are prepared for release followed by supportive services under community supervision to facilitate a successful completion of their sentence.”

The facility is managed by a Superintendent and three Deputy Superintendents.

Summary of Audit Findings

The PREA Audit of the Orleans Correctional Facility found forty-three (43) standards in compliance with seven (7) of those standards exceeding the requirement of the standard. These standards are: 115.11 Zero Tolerance of Sexual Abuse and Sexual Harassment; PREA Coordinator; 115.16 Inmates with Disabilities and Inmates who are limited English Proficient;

115.33 Inmate Education, 115.34 Specialized Training: Investigators; 115.41 Screening for Risk of Sexual Victimization and Abusiveness, 115.53 Inmate Access to Outside Confidential Support Services, and 115.71 Criminal and Administrative Agency Investigations. Two standards were found non-applicable: 115.14 Youthful Inmates and 115.52 Exhaustion of Administrative Remedies. An explanation of the findings related to each standard showing policies, practice, observations, and interviews are provided under each standard in this report.

Number of Standards Exceeded: 7

115.11, 115.16, 115.33, 115.34, 115.41, 115.53, 115.71

Number of Standards Met: 36

115.12, 115.13, 115.15, 115.17, 115.18, 115.21, 115.22, 115.31, 115.32, 115.35, 115.42, 115.43, 115.51, 115.54, 115.61, 115.62, 115.63, 115.64, 115.65, 115.66, 115.67, 115.68, 115.72, 115.73, 115.76, 115.77, 115.78, 115.81, 115.82, 115.83, 115.86, 115.87, 115.88, 115.89, 115.401, 115.403

Number of Standards Not Applicable: 2

115.14, 115.52

Number of Standards Not Met: 0

Summary of Corrective Action (if any)

Standards 115.12, 115.42, 115.87, and 115.89 could not be cleared at the end of the on-site audit process. All the standards required additional policy documentation for compliance. Standard 115.12, the policy and practice needed to be documented of the position responsible for monitoring contracts for compliance with PREA. Standard 115.42, the policy was needed to address the agency shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status. For standards 115.87 and 115.89, the policy or directive was needed to document that each private facility under contract will obtain and share incident based and aggregated data for parolees.

Policies and directives were forwarded to the auditor by the PREA Coordinator that documented compliance with the outstanding standards on March 2, 2018. No further action was necessary. The auditor also contacted the agency's PREA Coordinator during the writing of the report to clarify certain information for the report.

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 State of New York Department of Corrections and Community Supervision (DOCCS) has written directives mandating zero tolerance towards all forms of sexual abuse and sexual harassment. Directives #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate

and #4028A Sexual Abuse Prevention and Intervention Staff on Inmate address zero tolerance towards all forms of sexual abuse and sexual harassment. These policies also outline the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment. The Department's Employee Manual also outlines the zero-tolerance policy in Sections 2.19 and 2.20. Through observation of bulletin boards, posters, handouts and materials, review of inmate and staff handbooks, and interviews with staff and offenders it was apparent that the Orleans Correctional Facility is committed to zero tolerance of sexual abuse and sexual harassment. Each staff member also carries an informational card that outlines the first responder requirements, reporting requirements, and how to report.

The Associate Commissioner is the agency's PREA Coordinator; the appointment is documented through directive memo of March 14, 2012. He has direct access to the Commissioner and has the authority to manage the agency's PREA Program. He stated in his interview that his time is almost exclusively devoted to PREA compliance and the prevention of sexual abuse and sexual harassment. His interview also indicated his office supervises the fifteen (15) Assistant Deputy Superintendent (ADS) PREA Compliance Managers and has routine interaction with them. The office also provides training and guidance as needed. Agency updates and changes are forwarded from this office to the facilities. Information updates, policy updates, new initiatives, and directives are shared during weekly conference calls with the PREA Compliance Managers. At least annually, the section meets for training in conjunction with the Office of Special Investigations Sex Crimes Division staff.

The Assistant Deputy Superintendent (ADS) PREA Compliance Managers was present during the audit. She was knowledgeable of the PREA standards and the agency's compliance measures. As the facility's PREA Compliance Manager, she works with the PREA Point Person at the facility. She works at the facility an average of one day per week. She attends the weekly executive staff meetings to share PREA updates and concerns; she participates in inmate orientation training, makes rounds within the facility, and participates in the inmate population meeting. She also chairs or would be part of the committee for sexual abuse incident reviews.

Each facility within the agency is to identify a "point person" that will ensure that effective practices and procedures are in place at the facility to ensure compliant with standards. The Department has designated the Correctional Captain to serve in this role, per directive memo dated August 31, 2017. The point person will liaison with the facility's designated Assistant Deputy Superintendent (ADS) PREA Compliance Managers and provide guidance on operational matters with respect to the implementation of the PREA standards. The memo also states the PREA Point Person has unrestricted access to the Superintendent and/or members of the Executive Team. The PREA Point Person (Captain) was interviewed for the PREA Compliance Manager and indicated he had sufficient time to manage all of the PREA related responsibilities. These responsibilities included interaction with staff and offenders on PREA concerns; incident review committee; investigations; informing Superintendent and Assistant Deputy Superintendent (ADS) PREA Compliance Managers of any issues and work for resolution; coordinate the facility's PREA compliance; and monitor retaliation.

The agency exceeds the standard through the structure created to manage the PREA responsibilities of the agency and facilities. A PREA Program office is under the direction of the PREA Coordinator with staff to coordinate and oversee the agency compliance within the

facilities. This is expanded by the fifteen (15) Assistant Deputy Superintendent (ADS) PREA Compliance Managers that work with the facilities. And then a PREA point person for each of the facility.

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 State of New York Department of Corrections and Community Supervision (DOCCS) has fifteen (15) contracts for Community Based Residential Programs (CBRP). The Community Based Residential Program is a residential initiative to assist parolees under the jurisdiction of DOCCS to attain stability in the community while providing for individual case needs and community safety. The programs provide up to six months of housing and treatment for parolees. The Community Based Residential Program contracts have contract three different contract periods. Three of the contracts are extensions from May 1, 2017 through April 30, 2018. Six contracts are time periods of May 1, 2017 through April 30, 2022. And another six contractors with time periods from October 1, 2017 through September 30, 2022.

The contracts state: The Contractor must adopt and comply with the applicable Prison Rape Elimination Act (PREA) Standards in accordance with the national Prison Rape Elimination Act (PREA) standards, 28 C.F.R. § 115.212, shall include the BRP's obligation to adopt and comply with the PREA standards 28 C.F.R. Part 115, specifically General Provisions (28 C.F.R. §§ 115.5-6), and Subpart C - Standards for Community Confinement Facilities (28 C.F.R. §§ 115.211-293). The Contractor agrees to comply with the standards and any subsequent amendments adopted by the United States Department of Justice. Further, The Contractor shall develop a written policy mandating zero tolerance toward all forms of Sexual Abuse and Sexual Harassment. The Contractor's policy shall address and meet all requirements of the National Prison Rape Elimination Act Standards for Community Confinement Facilities adopted by the United States Department of Justice. Any contract resulting from this Request for Applications shall permit agency contract monitoring to ensure that the contractor is complying with the PREA standards and shall require the contractor to comply with PREA audit requirements set forth at 28 C.F.R. §115. 401-405, including coordinating with the DOCCS Agency PREA Coordinator regarding the dates of all scheduled audits, and providing the DOCCS Agency PREA Coordinator with the name and contact information of the auditor, a copy of the interim audit report, a copy of any audit corrective action plan, and a copy of the final audit report.

A memo from the PREA Coordinator dated December 18, 2017 states: Each contract permits contract monitoring and requires the Program to achieve and maintain PREA compliance and to arrange for PREA audits on a schedule set in consultation with the DOCCS PREA Coordinator. Audits are scheduled at approximately two per year per contract beginning about one year after the start of the contract. A schedule of the Community Based Residential Program PREA audits was provided. The Agency Contract Administrator interview indicated that all contracts require full PREA compliance and include quarterly goals to ensure that each program is able to achieve full compliance with the PREA Community Confinement Facilities Standards within one year.

Directive 4028B Sexual Abuse Reporting and Investigation – Staff on Inmate/Staff on Parolee Section V requires any community-based employee who receives a report of sexual abuse, sexual harassment, sexual threats, staff voyeurism or any act of retaliation for reporting must report any information to the Parole Office (Bureau Chief) who shall immediately notify the Regional Director. In the event the Supervising Parole Officer is not available, the employee shall immediately notify the Regional Director. In the event the Regional Director is not immediately available, the Assistant Regional Director shall be notified to avoid any delay.

The PREA Coordinator will work directly with the Contract Management Unit Staff and Re-Entry Staff to ensure the contract agencies are knowledgeable and compliant with the PREA requirements. The PREA Coordinator indicated that the DOCCS also provides PREA brochures and PREA posters to each contract agency. The brochure, "The Prevention of Sexual Abuse: Community Supervision Residential Program Information," is to be included in the orientation materials at the facility. The posters are to be posted in the inmate common areas for notification of the zero-tolerance policy.

Standard 115.13: Supervision and monitoring

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

115.13 (a)

- Does the agency ensure that each facility has developed a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? Yes No
- Does the agency ensure that each facility has documented a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the generally accepted detention and correctional practices in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration any judicial findings of inadequacy in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from Federal investigative agencies in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from internal or external oversight bodies in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration all components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated) in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the composition of the inmate population in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the number and placement of supervisory staff in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the institution programs occurring on a particular shift in calculating adequate staffing levels and determining the need for video monitoring? Yes No NA
- Does the agency ensure that each facility's staffing plan takes into consideration any applicable

State or local laws, regulations, or standards in calculating adequate staffing levels and determining the need for video monitoring? Yes No

- Does the agency ensure that each facility's staffing plan takes into consideration the prevalence of substantiated and unsubstantiated incidents of sexual abuse in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring? Yes No

115.13 (b)

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

115.13 (c)

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

115.13 (d)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

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

The Orleans Correctional Facility has developed a staffing plan that is based on the eleven criteria of this standard to include generally accepted detention and correctional practices; any judicial finding of inadequacy; and findings of inadequacy from Federal investigative agencies; any findings of inadequacy from internal and external oversight bodies; all components of the facilities physical plant (including “blind spots” or areas where staff or inmates may be isolated); the composition of inmate population; the number and placement of supervisory staff; institutional programs occurring on a particular shift; any applicable State, or local laws, regulations, or standards; the prevalence of substantiated and unsubstantiated incidents of sexual abuse; and any other relevant factors. Based on the review of the staffing plan and interviews with the PREA Coordinator and the Superintendent, the staffing plan was developed by the leadership of the Orleans Correctional Facility with input from the PREA Coordinator. The facility makes its best efforts to comply with the plan. When deviations occur, the position deviated and the reasons for the deviation are documented on the staffing charts and staff tracking sheet reports.

The Superintendent indicated during her interview that the staffing reports are reviewed daily by the shift planning Lieutenant. The Deputy Superintendent of Security reviews staffing reports the following day. The Superintendent reviews the compliance of the staffing plan every two weeks. If there are deviations causing overtime, comp, or coverage issues the Lieutenant will inform the Superintendent. The Superintendent indicated that non-compliance with the staffing plan is rare and would be covered by closing posts or covering with overtime. If a post is closed, usually for emergency trips, the post is reopened when a staff member reports. Post closures are documented on the Post Closure Report. The most common reasons for deviation listed in the questionnaire were emergency medical trips, facility area frisks, special watches, and holidays. In December 2014 the facility conducted a Chart and Staffing review. This process evaluated overtime, staff utilization, additional service usage, post closures, preplanning practices, leave policies, schedules, local agreements, supervisory charts, and job descriptions. The last Annual Supervision and Monitoring Plan Review of the staffing plan was completed in January 5, 2018 with the approval of the PREA Coordinator on January 5, 2018. The plan indicated the facility has 257 security staffing positions and the current staffing is within general accepted guidelines and practices. There is no warrant for changes to the staffing plan. And Staffing levels will continue to be closely monitored by the facility Executive Team.

Intermediate and higher-level staff conduct unannounced rounds. Through reviews of housing area logs, weekly administrative Activity Logs, and Daily Security Supervisor Reports documented that rounds were completed. Interviews with staff and offenders, it was confirmed that unannounced rounds are done randomly throughout the facility. The intermediate and higher-level security staff stated during interviews that they conduct random rounds by changing the pattern and times of their rounds and they listen to radio traffic to ensure announcements

are not made to the units. The Superintendent establishes a schedule for management staff to conduct rounds. These rounds are documented on the Weekly Administrative Activity Report Form. The agency's Directive, #4001 Facility Administrative Coverage and Supervisory Rounds and Employee Manual, prohibits staff from alerting other staff members that supervisory staff rounds are occurring. The supervisory staff indicated in their interviews that staff are trained and reminded in line-up and during rounds that alerting is prohibited.

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*)

Orleans Correctional Facility does not house youthful offenders. Directive #0081 Orleans Correctional Facility states the facility is used for the general confinement of males 18 years of age or older.

Standard 115.15: Limits to cross-gender viewing and searches

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

115.15 (a)

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

115.15 (b)

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

115.15 (c)

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

Through a review of Directive #2230 Guidelines for Assignment of Male and Female Correction Officers, Healthcare Service Policy Manual #1.37 Body Cavity Search, and #4910 Control and Search for Contraband, governing inmate searches and cross gender searches confirms, it confirms the policies and procedures address the standard. Interviews with staff and offenders and observation of actual searches conducted during the audit indicated that Orleans Correctional Facility does not conduct cross gender strip searches. The policy does allow cross gender strip searches only in emergency situations or when performed by medical practitioners. There were no cross-gender searches conducted or logged for exigent situations during this audit period. All body cavity searches are completed only by medically trained professionals. The directive #4910 Control and Search for Contraband also prohibits staff from frisking or

searching transgender and intersex inmates for the purpose of determining genital status. The review of the training lesson plans showed the policy in the annual training.

Staff receive training in conducting pat down searches, cross gender pat down searches, searches of transgender and intersex inmates in a professional and respectful manner. Other than annual training, this training is also part of the initial pre-service training. The staff interviewed were able to explain the process of pat searching a transgender or cross-gender indicating that the blade of the hand it utilized. Orleans Correctional Facility is an all- male facility. There were no cross-gender pat down searches of female offenders. Documentation was provided that showed that security staff have signed showing they have received and understood the cross-gender pat down searches and searches of transgender offenders.

The agency's directives #2230 Guidelines for Assignment of Male and Female Correction Officers and #4910 Control and Search for Contraband, and the Memo dated 5/14/14 from Deputy Commissioner/PREA Coordinator confirms that policy and procedures enable all inmates will be able to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances. This was confirmed through interviews with offenders and staff. Offenders felt they received a sense of privacy for these functions.

The agency's directives #2230 Guidelines for Assignment of Male and Female Correction Officers Procedures and #4001 Facility Administrative Coverage and Supervisory Rounds require that staff of the opposite gender announce their presence when entering offender housing areas; this was observed during the audit. Female staff loudly announced female in the dorm or female on the floor when entering the housing area. When a female staff member entered the housing area, it was noted that male officers also announce female in the unit. Staff are also provided training on rounds to help assure compliance with the standard that limits cross gender viewing. An annual Training Bulletin PREA: Sexual Abuse Prevention and Response must be read at line-up for 72 hours each year. This is a two-page training bulletin which includes supervision and monitoring and limits to cross-gender viewing and searches. The Supervision and Monitoring section covers that supervisors are required to conduct, and document unannounced rounds and employees are prohibited from alerting other employees that supervisory rounds are occurring. The limits to cross-gender viewing and searches section cover the requirement that staff of the opposite gender shall verbally announce their arrival on a housing unit to avoid unnecessary invading the privacy of offenders of the opposite gender.

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

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

115.16 (a)

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect,

and respond to sexual abuse and sexual harassment, including: inmates who are deaf or hard of hearing? Yes No

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

115.16 (b)

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

115.16 (c)

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

Auditor Overall Compliance Determination

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

The agency's Directives #4490 Cultural and Language Access Services and #2612 Inmates with Sensorial Disabilities with the Directive Memo Reasonable Accommodations PREA Information has established procedures to provide disable offenders equal opportunity to participate in and benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Facility staff, the Office of Cultural and Language Access Services staff interpreters, and a Language Line Service is available to the facility for interpretation services. PREA handouts, PREA DVD "Ending Sexual Abuse Behind the Walls: An Orientation," and the inmate handbook are available in English, Spanish, Italian, Simplified Chinese, Russian, Korean, Polish, and Haitian Creole. Audio education is available to the visually impaired through CDs and cassette tapes. The PREA posters are posted in English and Spanish throughout the facility. During the audit, four interviews were conducted with limited English offenders through an interpreter. Those offenders, as well as other offenders with limited English proficiency interviewed during the facility tour, all indicated they have received the PREA information and knew how to report if needed. They indicated they saw the educational video in English that had Spanish subtitles. They also indicated posters and flyers were provided in a language they understood. Two offenders with low cognitive skills were interviewed, they indicated they watched the video and was able to understand. Both groups of offenders indicated that staff were available for assistance and answer questions when needed.

The agency's directives #4490 Cultural and Language Access Services limits the use of offender interpreters or other types of inmate assistants except in limited circumstances where there may be delay in obtaining an effective interpreter. The general prohibition does not apply during exigent circumstances such as where an extended delay in obtaining interpretation services could compromise an inmate's/releasee's safety, the performance of first-response duties in connection with a report of sexual abuse, or the investigation of an inmate's/releasee's sexual abuse allegations. Staff is to contact the watch commander and facility staff or the Language Line Service are to be utilized for interpretation purposes. There were no instances where an inmate interpreter was utilized during this audit timeframe.

The agency exceeds the standard with the multiple languages that the offender handbooks and the PREA DVD is available in for education. Audio education is available for the visually impaired through CDS and cassette tapes. As well as, the facility has access to a translation hotline for real-time interpretive services.

Standard 115.17: Hiring and promotion decisions

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

115.17 (a)

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

- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? Yes No

115.17 (b)

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

115.17 (c)

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

115.17 (d)

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

115.17 (e)

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

115.17 (f)

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

115.17 (g)

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

115.17 (h)

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

Auditor Overall Compliance Determination

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

Through a review of the Personnel Procedure Manual #406A Recruitment Process, #407 Civilian Promotions, #407A Security Promotions, and Directive #2216 Fingerprinting/Criminal History Inquiry New Employees and Contractors; it was determined that the agency has established a system of conducting criminal background checks for new employees and contractors who have contact with inmates to ensure they do not hire or promote anyone who engaged in sexual abuse in a prison or other confinement setting; been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, coercion, or if the victim did not consent or was unable to consent to refuse; or had civilly or administratively adjudicated to have engaged in sexual activity in the community facilitated by force, coercion, or if the victim did not consent. The background check process is conducted by the Employee Investigation Unit.

DOCCS has an agreement with the New York State Division of Criminal Justice Services to provide notification to the agency of subsequent arrests of the subject individual unless the Division is prohibited by State statute to do so. This is stated through a memo dated August 18, 2015 from the Division of Criminal Justice Services. This was documented through an example of an arrest notification that was redacted. This process is an immediate notification and exceeds the standard requiring background checks at least every five years. The agency's directive #2112 Report of Criminal Charges also requires staff to report any criminal charges.

The Personal History and Interview Record Form, Availability Inquiry Form, and Personal History Questionnaire Employees require the employee to answer questions of: have not engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution and have not been civilly or administratively adjudicated or convicted of engaging or

attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to refuse. These forms are utilized for new hires and promotions. The agency utilizes the "Green Application" Form 1253 as a supplement to the Employee Application which contains PREA related questions. There were nineteen (19) criminal background checks completed during this audit timeframe.

Personnel files were reviewed with the Human Resource Manager. Also, through interviews with the Human Resource Manager, Superintendent, and PREA Coordinator it was determined that the agency policy and PREA standards were being followed concerning hiring, promotional decisions, and background checks.

The agency's directive #2012 Release of Employee Personnel and Payroll Information allows the sharing of information on substantiated allegations of sexual abuse or sexual harassment involving a former employee to other state agencies without authorization. All other requests require the employee's authorization in accordance with Section 50-a of the Civil Rights Law.

Standard 115.18: Upgrades to facilities and technologies

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

115.18 (a)

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

115.18 (b)

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

Auditor Overall Compliance Determination

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

The DOCCS Directive #3053 Alterations and Construction Request and Form #1612 Alterations and Construction Request requires facilities to consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect inmates from sexual abuse. The Superintendent must complete and submit Form #1612 which will indicate whether the alteration's impact will enhance, be neutral, or have a negative impact on the ability to protect inmates from sexual abuse. The Office of Facilities Planning, Deputy Commissioner for Correctional Facilities and the PREA Coordinator all review the request before approving. The facility submitted requested in August 2017 to construct an office space along the east wall of dorm A-2. The project approval indicated that it would enhance the ability to protect offenders from sexual abuse. The process was demonstrated through the review of the Alterations/Construction Request Form. The Acting Commissioner's interview indicated the Office of Planning reviews these requests and obtains comments from the Associate Commissioner/PREA Coordinator, in addition to the Deputy Commissioner for Correctional Facilities before approving any request.

The Acting Commissioner's interview indicated the Department has wide-spread audio/video surveillance in a number of facilities and also coverage in specialized units such as special housing units, behavioral health units, and new units for youthful offenders. Also stated that it has become increasingly frequent that DOCCS OSI, Sexual Abuse and Education Office, and Operations review areas of concern for possible adjustment of existing camera systems, or to make recommendations for augmentation of the system. Orleans Correctional Facility has limited video surveillance. Cameras (18) are located on the perimeter fence of the facility viewing the yard.

The Acting Commissioner's interview stated during the past year, DOCCS has piloted the use of Body Worn Cameras in two correctional facilities. Work is underway to expand to additional facilities, including facilities with high rates of reported sexual misconduct.

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 evidentiarily or medically appropriate? Yes No
- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible? Yes No
- If SAFEs or SANEs cannot be made available, is the examination performed by other qualified medical practitioners (they must have been specifically trained to conduct sexual assault forensic exams)? Yes No
- Has the agency documented its efforts to provide SAFEs or SANEs? Yes No

115.21 (d)

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

115.21 (e)

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

115.21 (f)

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

115.21 (g)

- Auditor is not required to audit this provision.

115.21 (h)

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

Auditor Overall Compliance Determination

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

The State of New York Department of Corrections and Community Supervision (DOCCS) is responsible for criminal and administrative investigations. The Office of Special Investigations (OSI) Sex Crimes Division (SCD) conducts the investigations. The Department has a working agreement with the New York State Police (NYSP) Bureau of Criminal Investigation (NYBCI) to work cooperatively in the investigations of reports of Staff-on-Inmate and Inmate-on-Inmate sexual assault cases that may involve criminal conduct. The Department's Directive #4027B Sexual Abuse Reporting and Investigation and the Inmate on Inmate Sexual Abuse Dispatch

and Operational Guidelines outline evidence protocols for administrative proceeding and criminal prosecutions. The Department utilizes the New York Department of Health Protocol for the Acute Care of the Adult Patient Reporting Sexual Abuse for evidence protocols and forensic medical examinations. The protocols were reviewed and found to be in line with the DOJ's National Protocol for Sexual Assault Medical Forensic Examinations. Interviews were conducted with investigators of the Office of Special Investigations. The interview confirmed the practices for PREA investigations and both investigators were very knowledgeable of the investigation process, the uniformed evidence protocol, and the use of the Sexual Abuse Response and Containment Checklist.

Emergency medical healthcare along with forensic examinations by SANE/SAFE staff are provided at an outside facility with no cost to the inmate. The interview with the SANE nurse from the local hospital indicated a SANE/SAFE staff are on duty Monday through Friday 7:00am through 3:30pm. After those hours, staff are on call and report immediately as needed. The kit would be secured in a double locked cabinet until picked up by OSI. An advocate will be provided to the inmate upon request to provide emotional support through the forensic medical examination and investigation interviews. There were no forensic medical exams during the last twelve months.

The agency and facility have a contract with Suicide Prevention and Crisis Service Inc and Erie County Medical Center for victim advocate services. The agreement outlines the services provided including: provide immediate crisis response, intervention, supportive counseling, advocacy, information, referral and linkage to community resources, and follow up case management services. The Crisis Services Advocate Program of the contract states the provider shall provide immediate crisis response, intervention, supportive counseling, advocacy, information, referral and linkage to community resources, and follow-up case management services to victims of sexual assault or attempted sexual assault see in the emergency department of Erie County Medical Center.

The Restore Program provides emotional support services to offenders within the facility. Offenders can contact the agency by dialing #77 on the phone system. In mid-March, the agency switched to a new telephone company for the offender phone system. With the new system, #77 had to be changes to 777 and the agency reprinted all the literature to reflect the change. Through an interview with the agency, it was indicated most services are provided over the phone, however, individual meetings can be set up with the offender in the facility. She indicated during the interview that services for emotional support were provided to 6-10 offenders this past year and maintain active contact with three of the offenders for services. Offenders that contact the agency are forwarded an informational letter of services with a consent of services form to sign and return with a release of information form and information.

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*)

The DOCCS directives, #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate, #4027B Sexual Abuse Reporting and Investigations Inmate on Inmate, #4028A Sexual Abuse Prevention and Intervention Staff on Inmate, #4028B Sexual Abuse Reporting and Investigations Staff on Inmate and #0700 Office of Sexual Investigations Sex Crimes Unit, direct that all allegations of sexual abuse and sexual harassment be referred immediately for investigation. The acting Commissioner interview states in accordance with the authority under Section 112 of the New York State Correction Law, the Department's Office of Special Investigations (OSI) is designated as the Department's investigative branch to investigate allegations of serious conduct in the facilities. The Office of Special Investigations (OSI) Sex Crimes Division (SCD) 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's review.

The Department has a working agreement with the New York State Police (NYSP) Bureau of Criminal Investigation (NYBCI) to work cooperatively in the investigations that may involve criminal conduct. All allegations are investigated and reported with findings. Documentation of the administrative investigation is maintained in the Office of the Special Investigations and outcomes are shared with the facility administration. Interviews were conducted with the investigators of the Office of the Special Investigations. They demonstrated the knowledge of their responsibilities and the responsibilities of the New York State Police (NYSP) and New York Bureau of Criminal Investigation (NYBCI) in a criminal investigation. The roles and responsibilities of each agency was clearly defined and understood. The agency's policy is available on the agency's website.

There were three (3) allegations reported during the audit period. All the allegations were staff sexual misconduct with offender. The administrative findings of the allegations of staff sexual misconduct were one (1) unfounded and two (2) unsubstantiated. A review of all three (3) administrative investigations was conducted.

TRAINING AND EDUCATION

Standard 115.31: Employee training

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

115.31 (a)

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment? Yes No

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

115.31 (b)

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

115.31 (c)

- Have all current employees who may have contact with inmates received such training? Yes No
- Does the agency provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures? Yes No

- In years in which an employee does not receive refresher training, does the agency provide refresher information on current sexual abuse and sexual harassment policies? Yes No

115.31 (d)

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

Auditor Overall Compliance Determination

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

The State of New York Department of Corrections and Community Supervision (DOCCS) has been training staff on sexual abuse prevention and reporting prior to the PREA requirement. In March 2015, the Department expanded the lesson plan to a three-hour course titled Sexual Abuse Prevention and Response that replaced the two-hour Prevention of Sexual Abuse of Offenders. The expanded lesson plan addresses all the PREA requirements: the zero tolerance policy; the agency policy and procedures for prevention; reporting and response to a sexual assault or sexual harassment incident, and the dynamics of sexual abuse and harassment in a confinement setting; common reactions of sexual abuse and sexual harassment victims; how to detect and respond to signs of threatened and actual sexual abuse; how to avoid inappropriate relationships with inmates; how to communicate effectively and professionally with inmates; and how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities. Training Manual Section 7.000 40 Hour Orientation/Initial Employee Training includes that all new employees receive Sexual Abuse Prevention and Response (3 hours) as part of the initial training. A refresher course, Sexual Abuse Prevention and Response Refresher, is required every two years during in-service training. A post-test must be completed and passed for training credit. An annual Training Bulletin PREA: Sexual Abuse Prevention and Response must be read at line-up for 72 hours each year. This is a two-page training bulletin that covers and outlines zero tolerance, what is sexual abuse, what is sexual harassment, duty to report, reporting and investigation, supervision and monitoring, limits to cross-gender viewing and searches, and employee training. Staff are credited with 15-minute training for this bulletin. Further training is provided to staff through line up and staff meetings to share PREA updates. All facility staff have been completed the required training.

Documentation of staff participating and understanding the training is achieved by staff signing the Report of Training Form Sexual Abuse and Prevention Response (PREA). The staff must sign that they confirm the participation in the Prevention of Sexual Abuse – PREA training program and understand the training received.

The DOCCS Training Manual #7.100 Employee Familiarization states “all transferees shall receive familiarization on compliance with PREA and the Department’s Sexual Abuse Prevention and Response procedures. Such familiarization training shall be tailored to the gender of the inmates at the facility, including addressing gender dynamics for staff who are transferring from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa.” This facility familiarization is provided through the Sexual Abuse and Prevention and Response Training, Section Dynamics Between Male Inmates and Dynamics Between Female Inmates.

Interviews of random staff and general questions asked during the tour clearly indicate staff are knowledgeable on how to perform their responsibilities in detention, reporting and responding to sexual abuse and sexual harassment. Each staff member is provided a card identifying the steps to take as a first responder, reporting requirements, and how to report privately to the Office of Special Investigations. Supervisors are also provided the DOCCS PREA Prison Rape Elimination: An Overview and Quick Response Reference Guide booklet. The auditor reported to the Superintendent responses from an officer’s interview that may place staff and offenders at risk and harm as part of the mandatory reporting.

Standard 115.32: Volunteer and contractor training

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

115.32 (a)

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

115.32 (b)

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

115.32 (c)

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

Auditor Overall Compliance Determination

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

All contractors and volunteers who have contact with offenders at the Orleans Correctional Facility receive PREA training prior to assuming their responsibilities. Directives #4027A Sexual Abuse Prevention and Intervention - Inmate on Inmate, #4028A Sexual Abuse Prevention and Intervention – Staff on Inmate, #4071 Guidelines for Construction Projects, and #4750 Volunteer Service Program cover the training requirements. This requires that all contractors and contract employees, volunteers and interns receive orientation and periodic in-service training consistent with their level of offender contact relating to the prevention, detection, and response to sexual abuse and sexual harassment. The three-hour orientation training includes the agency’s policy and procedures regarding sexual abuse and sexual harassment prevention, detection, reporting, and response including zero tolerance. The volunteer coordinator indicated that training is held as needed, either in small groups or individual orientation. Facility department staff notify the volunteer coordinator when training is needed and then schedules a training orientation. Upon completing training, the volunteer/contractor will sign the Division of Ministerial, Family and Volunteer Services Acknowledgment of Standards of Conduct for Volunteers and All Applicable Policies Form, which documents in writing, that acknowledges they will be held accountable for and act in accordance with the PREA policy and the law. They are also required to acknowledge through signing the Standards of Conduct for Volunteers within The New York State Department of Corrections and Community Supervision Guidelines that has a section on Relationship with Inmates.

Interviews of volunteers (1) and contractors (2) demonstrated their knowledge of PREA, their responsibilities, and the agency’s zero tolerance policy. They indicated they would report to the correctional officer in the area or supervisor. Training records reviewed demonstrated the contractors and volunteers received training and documented the understood the training through a signature. The Pre-Audit Questionnaire indicated that forty-eight (48) volunteers and thirty-seven (37) contractors were trained.

Standard 115.33: Inmate education

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

115.33 (a)

- During intake, do inmates receive information explaining the agency’s zero-tolerance policy regarding sexual abuse and sexual harassment? Yes No

- During intake, do inmates receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment? Yes No

115.33 (b)

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

115.33 (c)

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

115.33 (d)

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

115.33 (e)

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

115.33 (f)

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

Auditor Overall Compliance Determination

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

The State of New York Department of Corrections and Community Supervision (DOCCS) provide a comprehensive inmate PREA education to the inmate population beginning at reception into the agency. Directives #4021 Offender Reception/Classification, 4027A Sexual Abuse Prevention and Intervention- Inmate on Inmate and the PREA- Sexual Abuse Prevention Inmate Orientation Outline directs the training and education process for offenders. At reception into the agency, inmates are provided information through a PREA pamphlet and inmate handbook that explains the agency's zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents. When receiving inmates at the facility, the intake staff during the risk assessment process covers the PREA information with the inmate. The inmate also receives an Inmate Orientation Manual that includes PREA information and a pamphlet "The Prevention of Sexual Abuse in Prison: What Inmates Need to Know." An auditor observed this education during the intake process. During this audit period, the 1,833 offenders that were received at the facility were given educational information. The random offenders interviewed acknowledged receiving education upon intake into the agency and during the same day of intake into the facility upon transfer. The offender must sign acknowledging receipt of the information. These materials cover the agency's zero tolerance policy and how to report incidents. This information is provided in formats accessible to all inmates. The brochures and handbooks are available in English, Spanish, Haitian-Creole, Russian, Polish, Italian, Chinese, and Korean. Audio education is available to the visually impaired through CDs and cassette tapes. Facility staff, the Office of Cultural and Language Access Services staff interpreters, and a Language Line Service is available to the facility for interpretation services when needed.

Within a week of arriving at the facility, offenders receive comprehensive education in a classroom setting. This training is conducted through staff and offenders. The offenders are part of the Inmate Program Associate Program. These offenders are carefully screened and trained to assist in Transitional Services. The offenders provide approved programming under staff supervision. The comprehensive education class provides open discussion and interactive activities. Offenders interviewed regarding the class indicated the class is well received and educational. They indicated the interaction, open discussion, and receiving information from their peers is a positive method of sharing and reinforcing PREA information. The Pre-Audit

Questionnaire indicated that 1,583 offenders whose length of stay was thirty days or longer received the comprehensive training.

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

The facility conducted education with all current offenders by August 2015. This training was documented through signatures of the offenders on the Report of Inmate PREA Training Participation 115.33L Form. Random inmates interviewed and during discussion on the facility tour, acknowledged they have received PREA information upon arrival at the facility and reinforced daily through staff interaction and information posted in the housing areas. They were able to explain how to report an incident and were aware of the zero-tolerance policy. The PREA posters are posted in English and Spanish throughout the facility.

The facility exceeds the standard with the continuous training provided to the offender in regards to PREA from intake and throughout their stay. The extensive hands on classroom comprehensive training exceeds in the manner presented, the detail education, and the length of the training provided to the offenders.

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*)

Instructions for Overall Compliance Determination Narrative

The agency's OSI Policy Manual, OSI Training Requirements for Sex Crimes Investigators, reflect that investigators are to be trained in conducting sexual abuse investigations in confinement settings. The following training curriculums are utilized to provide training on sexual abuse investigations: PREA Specialized Training: Investigations, Basic Investigative Photograph Course, Police Crime Scene and Evidence Specialist Course, Investigating Physical and Sexual Abuse in Institutional Settings, and NIC PREA Investigating Sexual Abuse in a Confinement Setting. These training curriculums cover the topics of techniques for interviewing sexual abuse victims, proper use of the Miranda and Garrity warnings, sexual abuse evidence collection in confinement setting, and the criteria and evidence to substantiate a case for administrative action or prosecution referral. The investigators stated during the interview

process that they attend a three-week basic Office of Special Investigations training which includes topics of investigating sexual abuse in the confinement settings.

The training curriculum, Investigating Physical and Sexual Abuse in Institutional Settings, is comprehensive and includes addressing PREA-key standards for investigators, investigative techniques-victim centered approach, and respectful communication with LGBTI. This training was a cross-training for Office of Special Investigation Sex Crime Division and Internal Affairs investigators and addressed a range of topics including cultural competence, dynamics of sexual and physical abuse in confinement, statistical overview of sexual abuse in confinement, the forensic interview, active listening, legal issues, evidence collection, assuring quality investigations, implicit bias, and prosecutors' perspectives The National Institute of Corrections (NIC) Investigating Sexual Abuse in a Confinement Setting Course covers topics to assist agencies in meeting the investigation requirements of Prison Rape Elimination Act (PREA). Other training the investigators attended are the general PREA training and the required specialized training for investigators (noted above). The agency currently has thirty-two (32) trained investigators. They are required to complete annual mandatory training for investigations. Documentation of training is maintained on the Report of Training Form which the employee must sign and date acknowledging training. The specialty training was verified through the investigator interviews and review of the training records. The agency exceeds the standard with the extensive investigation training provided to the investigators which includes: PREA Specialized Training: Investigations, Basic Investigative Photograph Course, Police Crime Scene and Evidence Specialist Course, Investigating Physical and Sexual Abuse in Institutional Settings, and NIC PREA Investigating Sexual Abuse in a Confinement Setting

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 do not conduct forensic exams.) Yes No NA

115.35 (c)

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

115.35 (d)

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

Auditor Overall Compliance Determination

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

The State of New York Department of Corrections and Community Supervision (DOCCS) require that all full and part-time medical and mental health care practitioners complete specialized training. This is documented through the Health Services Policy Manual 1.60 Sexual Assault, Training Manual Section 7.000 40 Hour Orientation/Initial Employee Training, and the lesson plan Inmate Sexual Assault Post Exposure Protocol/PREA. The training curriculum includes how to detect and assess signs of sexual abuse and sexual harassment; how to preserve physical evidence of sexual abuse; how to respond effectively and professionally to victims of sexual abuse and sexual harassment; and how and who to report allegations or suspicions of sexual abuse and sexual harassment.

The New York Office of Mental Health staff provides mental health services for DOCCS and Orleans Correctional Facility. The facility does not have mental health staff housed at the facility, the mental health staff that serve Orleans Correctional Facility are housed at Wende Correctional Facility. The mental health staff make weekly visits to the facility. The Department has a MOU

with the New York Office of Mental Health that staff will participate, and complete training required by PREA including specialized training. The mental health staff complete the Division of Health Services Form with a signature acknowledging receipt of policies, zero tolerance policy, how to report incidents, and the prevention, detection, and response to sexual abuse and harassment.

The training records for the medical staff during the audit showed that general PREA and specialized training was completed by medical and mental health staff. Documentation of training is maintained through the form, Report of Training Form which employees sign and date acknowledging receiving and understanding the training.

Interviews with the healthcare staff demonstrated they understood how to detect and assess signs of sexual abuse and sexual harassment; how to preserve physical evidence of sexual abuse; how to respond effectively and professionally to victims of sexual abuse and sexual harassment; and how and who to report allegations or suspicions of sexual abuse and sexual harassment. They indicated that they are required to watch the training DVD annually. The facility's healthcare practitioners do not conduct forensic medical exams. Emergency medical healthcare, along with forensic examinations by SANE/SAFE staff, are provided at an outside hospital facility with no cost to the inmate.

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Standard 115.41: Screening for risk of victimization and abusiveness

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

115.41 (a)

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

115.41 (b)

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

115.41 (c)

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

115.41 (d)

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

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*)

The State of New York Department of Corrections and Community Supervision (DOCCS) Directive #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate and Orleans Correctional Facility FOM #004 PREA Risk Screening, outlines the assessment and classification process. An initial assessment is conducted of all offenders at the reception center. This assessment assists with determining and inmate's vulnerability or tendencies of acting out with sexually aggressive behavior. Offenders identified as high risk with a history of sexually assaultive behavior or vulnerability will be identified, classified appropriately, and monitored. This initial assessment will follow the offender to the receiving facility. The receiving facility's Offender Rehabilitation Coordinator is to screen the inmate's records prior to the transfer for any history of sexual vulnerability or sexually aggressive behavior.

The auditor observed the intake and screening process. The auditor had the intake and screening staff explain the assessment process from the receiving of the offender at the facility to the completion of the screening process. The intake staff begins the process by reviewing the incoming inmate's information in the agency's computer data system. At the arrival to the facility, the intake staff completes the PREA Risk Screening Form (#115.41M). The interview with the offender was conducted in a private setting by the staff member. The staff member conducting the Risk Screening Form interview must be a Sergeant or above that has completed training. This process conforms to the PREA standards. The screening forms include questions regarding mental, physical, and developmental disabilities; age of the inmate; physical build of the inmate; whether the inmate has been previously incarcerated; whether the inmate's criminal history is exclusively nonviolent; whether the inmate has prior convictions against an adult or child; whether or not the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; whether or not the inmate has previously experienced sexual victimization; and the inmate's own perception of vulnerability. The forms are usually completed on the day of receiving. The policy requires the screening should occur within 24 hours but no longer than 72 hours of arrival. The risk form is a scored instrument. The staff interviewed indicated that based on the number of yes responses to questions (five or above or yes to specific targeted questions), the offender would be referred to the Watch Commander for housing and program placement. The offender would also be referred to medical and mental health for assessment. An additional form Other Security Characteristics regarding Sexual Orientation and Gender Identity (SOGI) may be used based on information from the initial screening tool. The Pre-Audit Questionnaire indicated that all offenders (1,807) were screened within 72 hours of arrival to the facility. If an offender is received whose stay is less than 72 hours and will be staying overnight, the offender will be screened by a security supervisor using the Security Screening Form (#4021). This form looks at the physical build of the offender, medical problems/physical limitations, mental health concerns/developmental disabilities, history of sexual victimization, history of sexual aggressive behavior, and whether the offender expresses fear for his personal safety.

The guidance staff will reassess the inmate's risks of victimization and abusiveness within fourteen (14) working days, however this is usually completed within 5 days. A Final Risk Assessment review is completed by the Deputy Superintendent and PREA Compliance Manager within thirty (30) days. This review is completed by reviewing all the risk assessment information and if necessary will interview the offender to complete the review process. The agency's policy addresses the reassessment of inmate's risk level when warranted by a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization. This information is reviewed quarterly with the inmate to determine if there are any changes as part of the caseload reviews with the guidance staff. As part of the quarterly caseload reviews, the staff member will review the inmate disciplinary history and any notes in the inmate's files prior to the meeting. A Quarterly Review Worksheet GNC-400R is completed during the meeting. In the past twelve months, 1,807 offenders were screened upon arrival at the facility and 1,583 offenders were reassessed within the appropriate timeframe. The facility exceeds the standard with the prompt timeframe for completing screening, the multi-step risk assessment process (intake, reassessment, and final assessment) and reassessments during the quarterly reviews.

Through policy review and confirmed through staff interviews, offenders will not be disciplined for refusing to answer or disclosing information during the risk assessment process. The staff interviews also confirmed appropriate controls have been implemented to ensure that sensitive information is not exploited by staff or other offenders. The screening tools are maintained in the offender's guidance file in the Record Department. Other than the record staff, the only other staff with access is the Superintendent, Assistant Superintendent, executive staff, intake staff, watch commander, captain/PREA Point person, and guidance staff. On the bottom of the form it indicates the staff who have access to the form. It also states the information contained on the form shall not be disclosed to anyone other than to the extent necessary to make security classification, housing/placement, programming, treatment, investigation, and other security and management decisions. Information is shared with appropriate staff (medical, mental health, and supervisors) as needed to make housing, bed, work, education, program assignments and mental health and medical referrals.

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*)

The Orleans Correctional Facility FOM #004 PREA Risk Screening and agency directive #4027A Sexual Abuse Prevention and Intervention-Inmate on Inmate address the assessment process and the use of the screening information to determine housing, bed, work, education, and program assignments with the goal of keeping inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. If an inmate screens for high risk of sexual victimization or high risk of being sexually abusive, an immediate referral will be made to the watch commander to determine housing assignment. The staff interviewed indicated that based on the number of yes responses to questions (five or above or yes to specific targeted questions), the offender would be referred to the Watch Commander for housing and program placement. The offender would also be referred to medical and mental health for assessment. The Risk Screening will be provided to the Movement Control Officer, Housing Unit Sergeant and Program Committee Chairperson. The housing assignment will be documented on the PREA screening form with copies forwarded to ADS PREA Compliance Manager, PREA Point Person, and the Guidance Office. The inmate is asked during the screening and reassessment process "Do you have any current concerns for your personal safety?" This information is taken into consideration for education and program assignments. The housing and program assignments are made on a case by case basis based on information obtained during the screening interview. The housing and program assignments may be changed after the offender is further evaluated through the screening process by the appropriate staff. Through inmate and staff interviews, it was determined that the facility addresses the needs of the inmate consistent with the security and safety of the individual inmate.

The Directive #4401 Guidance and Counseling Services and the Interview Guide Regarding Sexual Orientation and Gender Identity provide direction on the assignment of housing and programming assignments of transgender and intersex offenders. The agency shall consider on a case by case basis whether a placement would ensure the offender's health and safety, and whether the placement would present management or security problems. Directive 4017 Inmate

Transfer Procedure has a section on Transgender/Intersex Inmate Transfer Requests addressing the request from a transgender or intersex offender for a transfer from a male classified facility to a female classified facility, or vice versa.

The facility has a process in place for the transgender or intersex the opportunity to shower separately from other offenders. The directive states any offender that identifies themselves as transgender or intersex will be allowed to shower separately from all other offenders upon their request. Their shower time will be during the available shower hours however no other offenders will be permitted in the shower area or in the vicinity of the entrance to the shower area. The shower area has privacy shower curtains. The PREA Manager interview confirmed the facility's process during the interview.

There were no offenders identified as transgender/intersex during the audit. One gay and one bi-sexual offender were interviewed. They indicated they were treated with respect and were not housed in dedicated housing areas. They both also indicated that a Sergeant during the initial interview asked them about their safety prior to housing placement. Each quarter during the caseload reviews, placement and programming assignments are assessed as well as any other concerns that any offender may have, Directive #4011 Guidance and Counseling Services and Interview Guide Regarding Sexual Orientation and Gender Identity. The agency does not place transgender or intersex inmates in gender-specific facility, housing unit, or program based solely on their external genital anatomy; Directive #4021 Inmate Reception/Classification. The PREA Coordinator interview indicated that the New York State Department of Corrections and Community Supervision does not have any facilities, units, or wings dedicated to lesbian, gay, bisexual, transgender, or intersex offenders. Many of these offenders are housed in the general population, although their specific housing location will be influenced by their vulnerability. Other lesbian, gay, bisexual, transgender, or intersex offenders will be housed in a unit that is appropriate based on other needs including discipline, chronic protective custody, mental health, or treatment needs.

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*)

The agency's Directive, #4948 Protective Custody Status, prohibits the placement of offenders at high risk for sexual victimization into involuntary protective custody 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 protective custody housing placement is made, form #2168A Sexual Victimization – Involuntary Protective Custody Recommendation must be completed indicating the basis for the facility's concern for the offender's safety and whether a determination has been made that there is no available alternative means of separation from likely abusers. If an offender is placed in protective custody notifications are made to the ADS/PREA Compliance Manager, facility PREA Point Person, and Associate Commissioner/PREA Coordinator.

If an offender was placed in protective custody, the offender would have an initial interview to determine need of placement. Then the offender would be assessed every seven (7) days for the first two months then every thirty (30) days by a three (3) member committee consisting of Executive Staff, Security Supervisor, and Guidance/Counseling Staff. The Captain interviewed outlines the assessment process that would occur with timeframes. The Superintendent indicated during the interview if the offender is approaching thirty (30) days, a facility transfer would be requested for the offender safety. The housing assignment will not exceed a period of thirty (30) days.

Inmates that are placed in protective custody on this basis shall have access to programs privileges, education, and work opportunities to the extent possible. Through the interview, the Captain indicated only the work opportunities would be limited due to housing. The offender would have the opportunity to have porter duties in the housing area. If restrictions occur, the facility will document the restrictions, duration of the limitation, and reasons for the limitation on form #4948A Sexual Victimization Involuntary Protective Custody Restriction of Inmate's Program Participation. The Captain interviewed that supervises offenders in segregated housing indicated that restrictions would only be caused by discipline sanctions. The Orleans Correctional Facility has not placed an offender in protective custody involuntarily. From the interviews with staff and offenders, the auditor felt that the facility was addressing individual housing and program needs consistent with the security and safety of the inmate.

REPORTING

Standard 115.51: Inmate reporting

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

115.51 (a)

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

115.51 (b)

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

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*)

The State of New York Department of Corrections and Community Supervision established procedures allowing for multiple internal and external ways for inmates to report sexual abuse, sexual harassment, and retaliation. These procedures are outlined in Directives 4027A Sexual Abuse Prevention and Intervention – Inmate on Inmate and 4028A Sexual Abuse Prevention and Intervention – Staff on Inmate. PREA reporting methods are shared with offenders at intake, during orientation, in the PREA brochure The Prevention of Sexual Abuse in Prison What Inmates Need to Know, and on posters throughout the facility. The PREA Brochure, The Prevention of Sexual Abuse in Prison What Inmates Need to Know, inform offenders they can report verbally and in writing to staff, write the PREA Coordinator, write the Department’s Office of Special Investigations (OSI), and report to an outside agency the New York State Commission of Correction. Offenders may also report allegations through third party reporting or send an anonymous note. The offenders may also use the emotional support hotline, #77 for reporting and third-party reporting. The outside agency that operates the hotline will forward any reporting incidents to the agency. This was documented during the audit through emails to the agency. Reports to the New York State Commission of Correction may be made confidentially and remain anonymous upon request. The New York State Commission of Correction and Office of the State Inspector General (OSIG) offices immediately forward any reports of sexual abuse and sexual harassment to agency officials for investigation. If the offender requested to stay anonymous then the allegation with basic information is forwarded without the offender’s name or number. This is documented in the letter from the Commission on Corrections dated May 24, 2017. These reporting systems were demonstrated through review of policies and procedures, offender handbook, posters throughout the facility, and interviews with offenders and staff. During the offender interviews, most offenders indicated they felt comfortable reporting sexual abuse or sexual harassment and they know the options available to them for reporting.

Staff indicated through interviews they were aware of the methods available to offenders to report sexual abuse and sexual harassment. Lesson Plan Sexual Abuse Prevention and Response, the Employee Manual, and Directives #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate and 4028A Sexual Abuse Prevention and Intervention – Staff on Inmate provides reporting and documentation requirements for staff. Staff were also knowledgeable on the ways offenders could report to staff and their responsibility in the process. They indicated in the interviews they would report immediately to a supervisor. After verbal reporting, a written report would be completed and forwarded to the watch commander. The staff’s PREA information card also outline the reporting requirements and that staff can privately

report by calling the Office of Special Investigations Sex Crimes Division. Staff know that private reporting may be completed by calling the Office of Special Investigations.

The New York State Department of Corrections and Community Supervision does not detain offenders solely for civil immigration purposes. The agency does provide information on how to contact relevant consular officials, A Jailhouse Lawyer's Manual: Immigration and Consular Access Supplement. This document is available in the facility law library.

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*)

The agency is exempt in accordance with Directive #4040 Inmate Grievance Program and #702.2(i) Correction Law, Section 139.9, 9NYCRR Part 7695. A grievance filed is deemed exhausted upon filing with regards to the Prison Litigation Reform Act. The agency policy, #4040 The Inmate Grievance Program states that the Inmate Grievance Program Supervisor shall refer any grievance of an emergency nature directly to the appropriate response level having authority to issue an immediate or expeditious and meaningful response. During the audit, the Inmate Grievance Program Supervisor was interviewed regarding the grievance process. If a sexual abuse or sexual harassment allegation is received through a grievance, it is removed from the grievance process and submitted to the Watch Commander as a PREA occurrence immediately for review and further handling in accordance with Department policies, including where appropriate referral to OSI for investigation.

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*)

The agency provides access to victim advocates for emotional support services through a hotline and mailing addresses for offenders. This information is provided to the offender population through the PREA pamphlet Help for Victims of Sexual Abuse in Prison and posters throughout

the facility. The library provides access to the Just Detention International New York Resource Guide April 2014 which lists programs that are able to provide services to address needs related to sexual abuse. Offenders are able to add telephone numbers from the resource guide to their calling list at any time by submitting a request to the guidance staff as outlined in Directives #4423 Inmate Telephone Calls and #4404 Inmate Legal Calls. This directive also outlines that notices shall be posted in English and Spanish adjacent to the telephones advising offenders that their telephone calls may be monitored. The postings were observed during the facility tour.

Offenders are also able to write as a privileged correspondence to one of these agencies or have a "legal" visit. The Directive #4404 Inmate Legal Visits supports the visit process for rape crisis services, victim advocacy services, and emotional support services. Staff can assist offenders with placement of emotional support calls, these calls will not be monitored. The agency through a memo to all offenders (dated April 4, 2014) informed offenders that conversations with representatives of Rape Crisis Programs are confidential and information can only be shared with the department if the offender authorizes it. Offenders can write the New York State Commission of Correction confidentially and remain anonymous upon request. The offender is able to use the weekly free postage allowance to write rape crisis programs. Correspondence to rape crisis programs is processed as privileged "legal" mail as outlined in Directive #4421 Privileged Correspondence.

The agency and facility have a contract with Suicide Prevention and Crisis Service Inc and Erie County Medical Center for victim advocate services during the forensic exam process. The agreement outlines the services provided including: provide immediate crisis response, intervention, supportive counseling, advocacy, information, referral and linkage to community resources, and follow up case management services. The Crisis Services Advocate Program of the contract states the provider shall provide immediate crisis response, intervention, supportive counseling, advocacy, information, referral and linkage to community resources, and follow-up case management services to victims of sexual assault or attempted sexual assault see in the emergency department of Erie County Medical Center.

The Restore Program provides emotional support services to offenders within the facility. The agency began service to the offenders in 2012. Offenders can contact the agency by dialing 777 on the phone system. Through an interview with the agency, it was indicated most services are provided over the phone, however, individual meetings can set up with the offender in the facility. If a visit is scheduled, the facility is notified, and the visit is scheduled. A visit usually occurs within a couple of days. The agency indicated that the facility is very cooperative in the process. She indicated during the interview that services for emotional support were provided to 6-10 offenders this past year and maintain active contact with three of the offenders for services. Offenders that contact the agency are forwarded an informational letter of services with a consent of services form to sign and return with a release of information form and information. If an offender is released, the agency will make continue to provide service to the offender. If the offender moves out of the catchment area, then a referral would be made to another provider. The hotline also provides the offender with a third-party method of reporting.

Through interviews with the guidance staff, it was confirmed emotional support services are provided to the inmate. The guidance staff set up the counseling sessions by telephone or in person as needed. A log was reviewed on site showing services.

The agency and facility exceed the standard with the numerous ways emotional support is provided to the offender. The instant accessibility through the hotline. And the cooperative relationship the facility has with Restore Agency for emotional support services. The auditor tested the hotline during the facility tour.

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*)

The agency's website provides a link to the DOCCS Office of Special Investigations as a method for third party reporting of sexual abuse and sexual harassment. The link encourages family members and the general public to report allegations of sexual assault to the facility Superintendent, Watch Commander, PREA Coordinator, and/or the Office of Special Investigations. The hotline 777 also provides the offender with a third-party method of reporting. Third party reporting information is shared through the agency website, brochures, pamphlets, and handouts.

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 persons statute, does the agency report the allegation to the designated State or local services agency under applicable mandatory reporting laws? Yes No

115.61 (e)

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

Auditor Overall Compliance Determination

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

The agency's Employee Manual Section #2.20 and Directives #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate and #4028A Sexual Abuse Prevention and Intervention Staff on Inmate requires that all staff must report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment; retaliation against offenders or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. It also states that staff is not to reveal any information related to a sexual abuse report to anyone other than extent necessary, as specified in agency directive, to make treatment, investigation, and other security and management decisions. This is covered in the PREA Sexual Abuse Prevention and Response training and the in-service training Sexual Abuse Prevention and Response Refresher for all staff. Each staff member is provided a card identifying the steps to take as a first responder, reporting requirements, and how to report privately to the Office of Special Investigations.

The specialized and random staff interviews confirm that staff are knowledgeable in their reporting duties, the process of reporting, and to whom to report sexual abuse and sexual harassment of offenders. Staff indicated through interviews they were aware of the methods available to report sexual abuse and sexual harassment. Staff were also knowledgeable on the ways offenders could report to staff and their responsibility in the process. They indicated in the interviews they would report immediately to a supervisor. After verbal reporting, a written report would be completed and forwarded to the watch commander. FOM Coordinated Response Plan to an Incident of Inmate Sexual Abuse and the Sexual Abuse Response and Containments Checklist are used to ensure all steps of the reporting process are followed. Staff interviewed knew that private reporting may be completed by calling the Office of Special Investigations. The auditor reported to the Superintendent responses from an officer's interview that may place staff and offenders at risk and harm as part of the mandatory reporting.

The agency's Memorandum of Understanding with the New York Office of Mental Health (OMH) documents OMH acknowledgment of the staff and agency reporting duties for sexual abuse and to inform inmates of the practitioner's duty to report, and the limitations of confidentiality at the initiation of services. Staff are required to report as soon as possible to a staff member and the Superintendent. The Superintendent shall immediately report the matter to Office of Special Investigations.

The PREA Coordinator interview indicated that if an allegation of sexual abuse or sexual harassment is made by someone under the age of 18 or someone considered vulnerable the

Office of Special Investigations, Sex Crimes Division (SCD) ensures that outside agencies are notified of the report. The SCD will notify the Child Abuse Hotline when an allegation is received concerning an offender under the age of 18. DOCCS is not included within the statutory jurisdiction of the State entity that investigates allegations concerning vulnerable adults, Article 11 Protection of People with Special Needs.

The DOCCS Directives, #4027B Sexual Abuse Reporting and Investigations Inmate on Inmate, #4028B Sexual Abuse Reporting and Investigations Staff on Inmate and #0700 Office of Sexual Investigations Sex Crimes Unit, direct that all allegations of sexual abuse and sexual harassment be referred for investigation including third party and anonymous reports. The Department's Office of Special Investigations (OSI) Sex Crimes Division (SCD) conduct the investigations per Directive #0700 Office of Special Investigations. The Superintendent indicated in the interview that OSI would be contacted for all allegations and would start the investigation.

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*)

The agency's Directives, #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate and #4028A Sexual Abuse Prevention and Intervention Staff on Inmate, requires staff to take immediate action to protect any offender subject to substantial risk of sexual abuse. The directives outline the immediate action that is to be taken to protect offenders who are in substantial risk of sexual abuse by removing the inmate immediately from the area to a safe location. The interview with the Acting Commissioner indicated that each case is evaluated by the facility or Office of Special Investigations based upon the nature of the report and the potential harm. An offender 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. Directive #4948 Protective Custody Status addresses the involuntary placement process for an inmate who is at high risk for sexual

victimization. If the offender must be placed in Protective Custody for safety, it will be the considered after all available alternatives are reviewed and determination has been made that there is no available alternative means of separation from likely abusers. All staff interviewed knew the steps to take to protect an inmate at risk for sexual abuse. Line and supervisory staff work simultaneous to take protective measures as information is reported. The first responders interviewed outlined the process taken to ensure the safety of the inmate.

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

Standard 115.63: 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*)

The agency's procedures require upon receiving an allegation that an offender was sexually abused while confined at another facility, that the Superintendent of the facility that received the

offender must notify the head of the facility where the sexual abuse is alleged to have occurred within seventy-two (72) hours. This notification shall be made via electronic mail utilizing form Report of Sexual Abuse #115.63. This is outlined in the Memo Directive to all Superintendents regarding PREA Standard 115.63/263 dated August 24, 2015 from the Associate Commissioner/PREA Coordinator. The facility must also notify the Office of Special Investigations via electronic mail. The allegations will also be recorded in the Sexual Abuse/Threat Incident Log. In the past twelve months, there was no allegations received that an inmate was abused while confined at another facility or allegations of sexual abuse occurring at Orleans Correctional reported at another facility. The Superintendent stated that an investigation would be started on the allegation and information of the investigation would be shared with the other facility. The allegation would be handled like any other allegation by referring it to Office of Special Investigations as stated by the interview with the Acting Commissioner.

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*)

The agency's directives, #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate and #4028A Sexual Abuse Prevention and Intervention Staff on Inmate requires that all staff must report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse. The directives clearly specify the detailed procedures for security and non-security staff when responding to an allegation of sexual abuse. The first security staff member to respond to the report is required to separate the alleged victim and abuser; preserve and protect the crime scene; and request the alleged victim and alleged abuser to take no action to destroy evidence. The directives also outline that staff are to notify the Watch Commander and immediate supervisor. The Watch Commander will make further notifications to the Superintendent, medical, mental health, and Office of Special Investigations Sex Crimes Division, as noted on the Sexual Abuse Response and Containment Checklist.

The first responder responsibilities to separate the alleged victim and abuser, instruct not to take any actions that could destroy physical evidence, and ensure the crime scene is secure was also outlined in the Orleans Correctional Facility FOM #003 Coordinated Response Plan to an Incident of Inmate Sexual Abuse. The first responder duties are covered in the PREA Sexual Abuse Prevention and Response training and the in-service training Sexual Abuse Prevention and Response Refresher for all staff. Each staff member is provided a card identifying the steps to take as a first responder and reporting requirements. Training provided at line-up also prepares staff to respond.

Through interviews with investigative staff, higher and intermediate level supervisors, first responders, and random staff it was demonstrated that staff was knowledgeable in the steps to as a first responder. The first responders interviewed outlined the process taken to ensure the safety of the inmate.

There were three (3) allegations reported during the audit period. All the allegations were staff sexual misconduct with offender. None of those allegations were within a time frame that still allowed for the collection of physical evidence.

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*)

The Orleans Correctional Facility has a written institutional plan, FOM #003 Coordinated Response Plan to an Incident of Inmate Sexual Abuse. The sections of the policy include: First Party/Victim report or Observed Inmate Sexual Activity; Third-party and anonymous reports; coordinated response watch commander; staff on inmate sexual abuse – additional procedures; medical assessment; mental health referral; post medical assessment; and confidentiality. The plan coordinates the actions taken in response to an incident of sexual abuse among first responders, security, medical and mental health practitioners, Office of Special Investigations, facility leadership, and victim advocates. A checklist, Sexual Abuser Response and Containment Checklist Form, is utilized to ensure all process steps are completed and notifications are made. During staff interviews, each area detailed their responsibilities in their coordinated efforts during an incident. Interviews with the Superintendent and higher-level staff indicated a commitment by the facility leadership for handling a coordinated response. During the Superintendent interview it was stated that the watch Commander coordinates the incident with the department heads. The checklist form is followed and completed for each action during the process.

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*)

The current collective bargaining agreement between the State of New York and the Public Employees Federation is for the period of 2016-2019. The state also has state union contracts with: Administrative Services Unit (April 2, 2011- April 1, 2016); Institutional Services Unit (April 2, 2011 - April 1, 2016); Operational Services Unit (April 2, 2011-April 1, 2016); Security Services Unit (April 1, 2009 –March 31, 2016); Professional, Scientific, and Technical Services Unit (2011-2015), and Security Supervisors Unit (April 1, 2009 –March 31, 2016). The union contracts allow removing alleged staff sexual abusers from contact with offenders pending the outcome of the investigations or of a determination of whether and to what extent discipline is warranted. The contracts are under continuing resolution until such an agreement is negotiated, New York Civil Law Article 14 Public Employees' Fair Employment Act.

The language in the agency's Directives #2110 Employee Discipline – Suspension from Duty During the Continuation of Disciplinary Proceeding and #2114 Functions of the Bureau of Labor Relations address the requirements of the standard. It states employees are subject to administrative discipline consistent with Section 75 of New York Civil Service Law or through procedures established in collective bargaining agreements. Directive #2111 Report of Employee Misconduct outlines the procedures agency managers must follow to initiate requests for disciplinary action. The facility can remove alleged staff sexual abusers from contact with any offenders or place an employee on administrative leave pending the outcome of an investigation. The Acting Commissioner interview stated the contract permit the agency to take appropriate action when warranted to remove alleged staff sexual abusers from contract with any offender pending the outcome of an investigation or a final determination of whether and to what extent discipline is warranted. The contract permits the agency to suspend an employee without pay or temporary 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.

Standard 115.67: Agency protection against retaliation

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

115.67 (a)

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

115.67 (b)

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

115.67 (c)

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

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

115.67 (d)

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

115.67 (e)

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

115.67 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

The agency's Memo Directive Agency Protection Against Retaliation dated August 20, 2015 from the Associate Commissioner/PREA Coordinator and the Employee Manual Section #2.19 establish a practice to protect inmates and staff who report sexual abuse or sexual harassment or cooperates with sexual abuse or sexual harassment investigations, and from retaliation by staff or inmates. Each facility will designate a staff member with the responsibility of coordinating the monitoring for retaliation. At Orleans Correctional Facility, Captain/PREA Point Person along with the Assistant Deputy Superintendent/PREA Compliance Manager are assigned to monitor all staff and offender sexual abuse retaliation.

The monitoring will include any disciplinary reports, housing and program changes, or any negative performance reviews or reassignments of staff to detect possible retaliation. This was stated in the staff interview. The monitoring shall include periodic in-person status checks every thirty days. There is a ninety (90) day monitoring time-period for retaliation review, however the

time frame can be extended if warranted. If a staff member or offender who reported sexual abuse or cooperated with an investigation expresses a fear of retaliation, the facility and agency will take appropriate measures to protect that individual against retaliation. If an offender is retaliating, the offender would be sanctioned through the discipline process. If a staff member is retaliating, progressive discipline would be initiated. OSI would be notified to determine if an investigation is warranted.

The reviews for retaliation are completed on the Retaliation Monitoring Form #115.67 and the PREA Monitoring Log. A form is maintained for each offender or staff member that is being monitored. The PREA Point Person is very knowledgeable of the monitoring responsibilities and process. A review of monitoring files was conducted as part of the interview process.

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*)

The agency's Directive, #4948 Protective Custody Status, prohibits the placement of offenders into involuntary protective custody unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If an involuntary protective housing placement is made, form #2168A Sexual Victimization – Involuntary Protective Custody Recommendation must be completed indicating the basis for the facility's concern for the offender's safety and whether a determination has been made that there is no available alternative means of separation from likely abusers. If an offender is placed in protective custody notifications are made to the ADS/PREA Compliance Manager, facility PREA Point Person, and Associate Commissioner/PREA Coordinator.

If an offender was placed in protective custody, the offender would have an initial interview to determine need of placement. Then the offender would be assessed every seven (7) days for the first two months then every thirty (30) days by a three (3) member committee consisting of Executive Staff, Security Supervisor, and Guidance/Counseling Staff. The Captain interviewed outlines the assessment process that would occur with timeframes. The Superintendent

indicated during the interview if the offender is approaching thirty (30) days, a facility transfer would be requested for the offender safety. The housing assignment will not exceed a period of thirty (30) days.

Inmates that are placed in protective custody on this basis shall have access to programs privileges, education, and work opportunities to the extent possible. Through the interview, the Captain indicated only the work opportunities would be limited due to housing. The offender would have the opportunity to have porter duties in the housing area. If restrictions occur, the facility will document the restrictions, duration of the limitation, and reasons for the limitation on form #4948A Sexual Victimization Involuntary Protective Custody Restriction of Inmate's Program Participation. The Captain interviewed that supervises offenders in segregated housing indicated that restrictions would only be caused by discipline sanctions. The Orleans Correctional Facility has not placed an offender in protective custody involuntarily. From the interviews with staff and offenders, the auditor felt that the facility was addressing individual housing and program needs consistent with the security and safety of the inmate.

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*)

The agency's directives #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate, #4028A Sexual Abuse Prevention and Intervention Staff on Inmate, #0700 Office of Special Investigations, Training Requirement for Sex Crime Investigators, Inmate on Inmate Sexual Abuse Dispatch and Operational Guidelines, and Letter to Superintendent D'Amico Re: Implementation of the Prison Rape Elimination Act Standards dated May 2, 2014 address and outline the investigation process. Directive #700 Office of Special Investigations states the Sex Crime Division specializes in investigating allegations of sexual misconduct between offenders and department staff as well as inmate on inmate abuse; and assists outside law enforcement in the development of cases for criminal prosecution. The letter outlines the working relationship between DOCCS Office of Special Investigations Sex Crimes Division and the New York State Police (NYSP) Bureau of Criminal Investigation (BCI) for investigations of staff on inmate and inmate on inmate sexual abuse that may involve criminal conduct.

The agency follows a uniform evidence protocol to investigate sexual abuse and sexual harassment; sexual investigations shall be conducted promptly, thoroughly, and objectively including third party and anonymous reports, and the use of investigators who have been specially trained in sexual abuse investigations. In the review of the training records, all investigators have received specialized training in sexual abuse investigations. The following training curriculums are utilized to provide training on sexual abuse investigations: PREA Specialized Training: Investigations, Basic Investigative Photograph Course, Police Crime Scene and Evidence Specialist Course, Investigating Physical and Sexual Abuse in Institutional Settings, and NIC PREA Investigating Sexual Abuse in a Confinement Setting. Based on the

review of the investigations, the agency's policies, and interviews with facility staff, investigators, and offenders; it was determined investigations into allegations of sexual abuse and sexual harassment are done promptly, thoroughly and objectively for all allegations. When an allegation is reported, the Office of Special Investigations begins an administrative investigation immediately. All allegations are investigated to completion even if the offender is transferred or released; and if a staff member resigns or is terminated from employment. The investigators indicated that a preponderance of evidence is required to substantiate allegations.

If criminal prosecution is warranted, the New York State Police are contacted; and the two agencies continue the investigation working together. The investigators indicated the two agencies have a good working relationship with open communication during the progress of the investigation. If determined a crime has been committed, the case is referred for prosecution. The investigators stated in the interview that part of the process with the prosecutor is to educate on how the facility works. They also shared that the executive staff and Assistant Commissioner/PREA Coordinator has met with prosecutors to discuss cases and resolve concerns to move the case forward. The length of time for prosecution is lengthy since DNA evidence results usually take six to nine months.

The credibility of an alleged victim, suspect, or witness is assessed on an individual basis and not determined by the person's status as an offender or staff. Credibility is evidence based. Neither the agency nor New York State Police require an offender 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 and it is a violation of state law, Law of New York Criminal Procedure 160.45. Investigators complete a written report with investigation findings that contains a thorough description of physical, testimonial, and documentary evidence. Written reports are maintained for seven years as a hard case and are permanently maintained electronically, OSI Policy Intake and Case Management Unit: Compliant Processing and Case File Management.

There were three (3) allegations reported during the audit period. All the allegations were staff sexual misconduct with offender. The administrative findings of the allegations of staff sexual misconduct were one (1) unfounded and two (2) unsubstantiated. A review of all three (3) administrative investigations was conducted. An administrative investigation was completed on all allegations. No case warranted criminal investigation. Investigation files reviewed were properly documented and organized.

The auditor determined the facility exceeds this standard through the partnership OSI and the facility demonstrates in the investigation process and communication. The investigation reports were very detailed, well written, and easy to follow the reasoning of the findings. And the investigation files are maintained for seven years as a hard case and are permanently maintained electronically, beyond the five-year requirement of the standard.

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*)

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

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*)

The agency's procedures require that all offenders who make allegations of sexual abuse shall be informed of the investigation outcome whether the finding was substantiated, unsubstantiated, or unfounded. The procedures for reporting investigation outcomes to offenders are documented in Directive Memo Sex Crimes Divisions Closeout Procedures dated July 29, 2015 and Directive Memo Notification of Investigation Determination dated September 14, 2015. The process directs the Office of Special Investigation investigator to notify the offender in person the outcome of the investigation when it is determined to be substantiated or unsubstantiated. The notification is documented in the electronic case file with date of notification. If the case is determined unfounded, the Superintendent of the facility will be notified by the investigator and the offender will be notified through the offender mail system the outcome of the investigation. Documentation of unfounded notifications is the written response to the inmate.

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

The offender interviewed who reported sexual abuse indicated he was informed of the outcome of the investigation. The offender could not recall the exact time frame but thought 3-4 months. The Pre-Audit Questionnaire indicated that only one notification was made on the three allegations. At that time of the PREA-Audit Questionnaire, two cases were still open. By the time of the audit, these cases were closed; and the notifications of the outcomes were provided to the offenders.

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

Auditor Overall Compliance Determination

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

The State of New York Department of Corrections and Community Supervision directives, #4028B Sexual Abuse Reporting and Investigations Staff on Inmate, #2110 Employee Discipline- Suspension from Duty During Continuation of Disciplinary Proceedings, and #2111 Report of Employee Misconduct, Directive Memo Presumptive Disciplinary Sanction for Staff Sexual Misconduct dated February 5, 2016, OSI Reporting of Misconduct to Outside Agencies, and Employee's Manual #2.19 address the language of the standard that staff is subject to disciplinary sanctions up to and including termination for violating the agency's sexual abuse or sexual harassment policies. In accordance with the policy, any perpetrator of a sexual abuse incident, sexual harassment, or act of staff voyeurism will be dealt with severely through discipline or prosecution to the fullest extent permitted by law. These directives also provide disciplinary sanctions for violations of the agency's policies relating to sexual abuse or sexual harassment commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. In the past twelve months, there have been no terminations or discipline imposed on any staff member for sexual abuse or sexual harassment.

The directive OSI Reporting of Misconduct to Outside Agencies outlines that staff who engaged in sexual abuse with offenders will be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

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*)

The agency's Directive, #4750 Volunteer Service Program, Directive Memo Policy on the Prevention of Sexual Abuse of Offenders, and OSI Reporting of Misconduct to Outside Agencies prohibit contractors or volunteers who engaged in sexual abuse to have contact with offenders and require they be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. They are also prohibited from further contact with offenders. Interviews with contractors and volunteers confirmed they were aware of the policies and remedial measures taken for engaging in sexual abuse or sexual harassment of inmates. The Superintendent stated during the interview that the volunteer/contractor would be suspended from entering the facility during the investigation. If the sexual abuse case is substantiated, the volunteer/contractor would be prohibited from entering an agency facility and may be turned over for prosecution if warranted. The facility would take appropriate remedial

measures for any violation of agency sexual abuse or sexual harassment policies and would consider whether to prohibit further contact with offenders. In the past twelve months, there have been no contractors or volunteers suspended or reported to law enforcement for engaging in sexual abuse of inmates.

Standard 115.78: 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*)

The agency's Directives #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate, #4932 Chapter V Standards Behavior and Allowances, and Hearing Officer Reference Book outline disciplinary sanctions for offenders for sexual abuse and sexual harassment. The offenders are subject to disciplinary sanctions following an administrative findings that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse, sanctions are commensurate with the nature and circumstances of the abuse committed, the inmates disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories, and considers whether an inmate's mental disabilities or mental illness contributed to his behavior. Directive #4932 Chapter V Standards Behavior and Allowances outlines the procedures for implementing standards of offender behavior including cases of offender misbehavior, violation hearing, disciplinary hearing, and superintendent's hearing. The Superintendent indicated that offenders would progress through the disciplinary process as a Tier 3 hearing. If determined to be criminal, OSI would proceed with criminal investigation. The Superintendent also indicated that mental disability or mental illness of the offender would be considered when determining disciplinary sanctions.

The Hearing Officer Reference Book outlines the rule violation, tier levels (I, II, III), types of misbehavior, and confinement time clearly indicating a formal disciplinary process resulting in administrative findings. The agency's policy prohibits all sexual activity between offenders to include consensual sexual activity and will process discipline on inmates; but will not consider it sexual abuse.

The agency's directives #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate and #4028A Sexual Abuse Prevention and Intervention Staff on Inmate indicates an offender may be disciplined for sexual conduct with staff only upon finding that the staff did not consent to such contact. The directive states an offender reporting a sexual abuse in good faith upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even is the investigation does not establish sufficient to substantiate the allegation for purposes or disciplinary action. In the past twelve months, there were no administrative findings of inmate on inmate sexual abuse. There was no criminal finding of guilty for inmate on inmate sexual abuse.

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

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? (N/A if the facility is not a prison.)
 Yes No NA

115.81 (b)

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

115.81 (c)

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

115.81 (d)

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

115.81 (e)

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

Auditor Overall Compliance Determination

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

The agency's directive #4301 Mental Health Satellite Services and Commitments to CNYPC and the Orleans Correctional Facility FOM #004 PREA Risk Screening, requires medical and mental health follow-up within fourteen (14) days for those offenders who disclosed during screening prior sexual victimization or previously perpetrated sexual abuse whether it occurred in an institutional setting or in the community. At intake screening, if the offender has disclosed prior sexual victimization and/or previously perpetrated sexual abuse, the offender is referred for medical and mental health services. If deemed as an emergency or a serious nature, the inmate is seen immediately by medical and mental health. All other follow-ups from referrals will be seen by medical and mental health within fourteen (14) days. Interviews with medical and mental health staff outlined the screening process and confirmed that follow-ups are conducted within the proper time frames. Staff indicated that offenders deemed emergency would be seen within 24 hours and non-crisis situations would be seen within 14 days. The medical staff will utilize form Health Screening for Reception/Classification (form #3278) and Health Screening for Intrasystem/SHU Transfer. Mental health utilizes the Mental Health Referral form. All of the inmates that disclosed victimization during screening who were offered medical and mental health follow-up were seen. Interviews with inmates who indicated prior sexual victimization confirmed they received a referral and follow-up with medical and mental health in most cases the same day of disclosure.

Information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners, and other staff as needed. Information is shared with appropriate staff as needed to make housing, bed, work, education, and program assignments, Health Services Policy #1.44 Health Screening of Inmates. The medical and mental health staff shall obtain informed consent before reporting prior sexual victimization that did not occur in an institutional setting, Health Services Policy #1.44 Health Screening of Inmates.

The interview with the mental health staff indicated that an inmate on inmate abuser would be seen through a referral process. An assessment would be conducted to determine the mental health needs and services appropriate. The offender may be referred to the sex offender

counseling treatment program. This process is outlined in the Sex Offender Counseling and Treatment Program Guidelines.

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*)

Upon an allegation of sexual abuse, the Watch Commander begins the notifications which include medical and mental health services. The Coordinated Response Plan to an Incident of Inmate Sexual Abuse outlines the notification process for medical and mental health. This process was verified through incident reviews, incident checklist, and interviews with staff and an offender. The interviews with medical staff confirmed that victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment. Emergency medical attention is provided through the facility's medical department. Health care services are provided seven days a week, 24 hours a day. If after normal business hours, the physician on call will be notified. If further services are needed or a forensic exam, the offender is transported to the local hospital. HSPM #1.60 Sexual Assault states that offenders will be provided expeditious transportation to an appropriate outside hospital emergency room for care.

The agency's Health Services Policy #1.60 Sexual Assault, Directives #4027B Sexual Abuse Reporting and Investigations Inmate on Inmate, and #4028B Sexual Abuse Reporting and Investigations Staff on Inmate, state that offenders who are victims of sexual abuse shall be afforded access to forensic medical examinations at an outside facility without financial cost where evidentiary or medically appropriate. The medical staff interviewed stated an offender will be transported to an outside hospital, Erie County Medical Center. Emergency medical healthcare along with forensic examinations by SANE/SAFE staff are provided at an outside facility with no cost to the inmate. The interview with the SANE nurse from the local hospital indicated a SANE/SAFE staff are on duty Monday through Friday 7:00am through 3:30pm. After those hours, staff are on call and report immediately as needed. The kit would be secured in a double locked cabinet until picked up by OSI. An advocate will be provided to the inmate upon request to provide emotional support through the forensic medical examination and investigation interviews. There were no forensic medical exams during the last twelve months.

The inmates also receive timely information about sexually transmitted infections prophylaxis. HSPM #1.60 Sexual Assault state that prophylactic medications will be offered to the offender prior to transportation to the emergency room. Staff interviewed indicated that medication is offered; and they try to start the medication within 1-2 hours of notification. If the offender refuses, they let the hospital know so it may be offered again. Offenders have up to thirty-six (36) hours to start the medication. Offenders are scheduled for follow-up appointments with the physician and for labs. These treatment services are provided without any financial costs to every victim, HSPM #1.60 Sexual Abuse and law 2807.C General Hospital Inpatient Reimbursement. The offender interviewed that reported sexual abuse indicated he was seen by medical, a forensic exam and follow-up services was not necessary since the incident was not physical. He indicated the services were provided without any financial costs.

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*)

The agency's Health Services Policy Manual (HSPM) #1.60 Sexual Assault, #1.12B Inmate Bloodborne Pathogens Significant Exposure Protocol, and the MOU with Office of Mental Health address the requirements of the standard. The HSPM outline medical and mental treatment including evaluations, on-going care, and treatment to all offenders that have been victims and abusers. These treatment services are provided without any financial costs to every victim, HSPM #1.60 Sexual Abuse and law 2807.C General Hospital Inpatient Reimbursement. The offender interviewed that reported sexual abuse indicated he was seen by medical, and indicated the services were provided without any financial costs. HSPM #1.60 Sexual Assault states services and treatment are consistent with the community level of care. The medical and mental health staff interviewed indicated they felt the services are consistent with the level of care if not better since offenders are seen immediately for care. Per HSPM, offender victims of sexual abuse while incarcerated are offered tests for sexually transmitted infections as medically appropriate. The inmates also receive timely information about sexually transmitted infections prophylaxis. HSPM #1.60 Sexual Assault and #1.12 Inmate Bloodborne Pathogens Significant Exposure Protocol state that prophylactic medications will be offered to the offender prior to transportation to the emergency room. Staff interviewed indicated that medication is offered; and they try to start the medication within 1-2 hours of notification. If the offender refuses, they let the hospital know so it may be offered again. Offenders have up to thirty-six (36) hours to start the medication. Offenders are scheduled for follow-up appointments with the physician and for labs. Interviews with medical and medical health staff, inmates, and file reviews verify and document the process.

The Orleans Correctional Facility FOM #004 PREA Risk Screening states a mental health evaluation of all known inmate-on-inmate abusers shall be conducted within 60 days of learning of such abuse history and sex offender treatment shall be offered when deemed appropriate. Upon learning of a previously unreported confirmed incident of inmate-on-inmate sexual abuse, or upon a guilty finding per the Standards of Inmate Behavior of a sex offense, threats to commit a sex offense, penal law offense of a sexual nature, or attempt thereof; Guidance staff shall submit a Non-Sex Offender Referral to the Office of Guidance and Counseling, Sex Offender Counseling and Treatment Program for evaluation and, if appropriate, referral to Sex Offender Counseling and Treatment. There was no confirmed inmate abuser in the twelve-month period. The interview with the mental health staff indicated that an inmate on inmate abuser would be seen through a referral process. An assessment would be conducted to determine the mental health needs and services appropriate. The offender may be referred to the sex offender

counseling treatment program. This process is outlined in the Sex Offender Counseling and Treatment Program Guidelines.

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*)

The agency's procedures as outlined in the Directive Memo Prison Rape Elimination Act Procedural Enhancements Sexual Abuse Response and Containment Checklist from Associate Commissioner/PREA Coordinator dated May 9, 2014 and the Sexual Abuse Incident Review Checklist direct that a sexual abuse incident review must be conducted within thirty (30) days of the conclusion of the investigation; unless the allegation is determined to be unfounded. The chair of the review team is the Assistant Deputy Superintendent/PREA Compliance Manager or the Deputy Superintendent of the area. The review team will consist of a security representative (Captain/ Point Person) and a third member designated by the Superintendent. Input will be obtained from the investigator, area sergeant, crisis invention team, mental health, medical, and others as deemed appropriate. The team reviews the incident and completes the Sexual Abuse Incident Review Checklist. This form provides an extensive outline for the review of the incident including: the reporting process conducted by security; evidence collection and notifications conducted by the investigator; medical and mental process including assessment/reassessment, treatment, victim advocate available, and outside emergency care; screening conducted by guidance; group dynamics; and conclusions/recommendations for improvement.

The incident review team reviews the circumstances of the incident; the name(s) of the person(s) involved; a consideration of whether the actions taken were consistent with agency policies and procedures; consider whether the allegation or investigation indicates a need to change policy or practice to better detect, or respond to sexual abuse; consider whether the incident or allegation was motivated by race, ethnicity, gender identity, lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status, gang affliction, or was motivated or otherwise caused by other group dynamics at the facility; an examination of the area in the facility where the incident alleged occurred to assess whether physical barriers in the area may enable abuse; an assessment of the adequacy of staffing levels in that area during different shifts; and an assessment as to whether monitoring technology should be deployed or augmented to supplement supervision by staff. The report is forwarded to the Superintendent, Facility PREA

Compliance Manager, and PREA Coordinator for review. The Sexual Abuse Prevention and Education Office completes the final review. The facility shall implement recommendations that result from the review; or document the reasons for not doing so. In this audit period, there were no recommendations from the incident reviews.

Although the Pre-Audit Questionnaire indicated that only one incident review was completed, all three sexual abuse incident reviews were completed. The Pre-Audit Questionnaire was completed prior to the close of two cases. Two allegations were unsubstantiated; and the other allegation was determined unfounded. The team indicated they review all incidents including unfounded. An incident review is not completed until the case is closed by the investigator. The facility does not begin the incident review process until the case is closed which is when an inmate is notified of the investigation outcome. Once the notification is made, the investigator closes the case and forwards the information to the PREA Compliance Manager to begin the incident review process.

The incident review staff interviewed indicated they review the incident in detail. Under motivation they review the race, sexual orientation, gang affiliation, were offenders properly screened, and the review of the OSI investigation information. In reviewing the location of the incident, they consider if the area has other issues, blind spots, and trends of incidents. When assessing staffing, they review proper staffing of the day, assigned staff to the area, was policy followed, and is there a need for policy change. Under monitoring technology, the team reviews camera location, video needs, and are mirrors needed.

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*)

The agency's directives #4027B Sexual Abuse Reporting and Investigations Inmate on Inmate; #4028B Sexual Abuse Reporting and Investigations Staff on Inmate; and Office of Program Planning, Research and Evaluation PREA Data Collection, Review, Retention and Publication Manual outlines the data collection process utilized by the agency. The facility's Deputy Superintendent for Security is responsible for maintaining a Monthly Sexual Abuse Threat/Incident Summary (forms #2103SAII and #2103SASI) that is a chronological listing of each sexual abuse, threat, or compliant that occurs in a month. This information is forwarded to the Deputy Commissioner for Correctional Facilities and the Associate Commissioner/PREA Coordinator monthly. The agency collects the uniform data using a standardized instrument and data dictionary based on the most recent definitions provided by the Bureau of Justice Statistics, per the Office of Program Planning, Research and Evaluation PREA Data Collection, Review, Retention and Publication Manual. The agency aggregates the incident based sexual abuse data at least annually. A final review team consisting of the Associate Commissioner/PREA Coordinator, the Chief of the Office of Special Investigations of the Sex Crimes Division, and the PREA Analyst meet annually to review substantiated PREA allegations prior to the submission of data to the Bureau of Justice Statistics. The 2015 Annual Report on Sexual Victimization is available for review on the agency's website. The report was reviewed as part of the audit process.

Directive 4028B Sexual Abuse Reporting and Investigation – Staff on Inmate/Staff on Parolee Section V requires any community-based employee who receives a report of sexual abuse, sexual harassment, sexual threats, staff voyeurism or any act of retaliation for reporting must report any information to the Parole Office (Bureau Chief) who shall immediately notify the Regional Director. In the event the Supervising Parole Officer is not available, the employee shall immediately notify the Regional Director. In the event the Regional Director is not immediately available, the Assistant Regional Director shall be notified to avoid any delay. This incident-based data will be reviewed and incorporated into the annual report.

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*)

The agency's PREA Data Collection, Review, Retention, and Publication Manual states the PREA Analyst will prepare and aggregate data collected throughout the agency in coordination with the Sexual Abuse Prevention and Education Office and the Office of Special Investigations Sex Crimes Division. An annual report is prepared which includes identification of problem areas, corrective action for each facility, and the agency as a whole. The PREA Coordinator indicated that he reviews both regular and ad hoc reports produced by Research. Also, the Office of Special Investigations is in the process of establishing a new Analysis Unit. Through this process the agency continues to adjust the prevention strategies based on analysis of the data. The annual report includes a comparison of the current year's data and corrective actions with those from prior years and provides an assessment of progress in addressing sexual abuse. The PREA Coordinator indicated no material had been redacted from the report. The annual report does not provide case specific information and only aggregated data is presented to avoid identifying any individual or confidential information. The annual report is made available to the public through the agency's website. The 2015 Annual Report on Sexual Victimization is available for review on the agency's website. The report was reviewed as part of the audit process. Through interviews with the PREA Coordinator, PREA Compliance Manager and Superintendent and review of the facility's monthly reports it documents the data collection process.

Standard 115.89: Data storage, publication, and destruction

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

115.89 (a)

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

115.89 (b)

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

115.89 (c)

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

115.89 (d)

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

Auditor Overall Compliance Determination

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

The agency's PREA Data Collection, Review, Retention, and Publication Manual states the agency will prepare an annual report. The annual report includes: identification of problem areas, corrective action for each facility, and the agency as a whole, a comparison of the current year's data and corrective actions with those from prior years; and provides an assessment of progress in addressing sexual abuse. The agency's data is retained and secured by Office of Special Investigations and PREA Analyst. The PREA Coordinator indicated all the raw data files and final reports are stored in restricted drives set up by the State Office of Information Technology Services. All paper records, including final reports and ad hoc reports, are stored in locked file cabinets. The annual report includes a comparison of the current year's data and corrective actions with those from prior years and provides an assessment of progress in addressing sexual abuse. The PREA Coordinator indicated no material had been redacted from the report. The annual report does not provide case specific information and only aggregated data is presented to avoid identifying any individual or confidential information. Policy 4028B Sexual Abuse Reporting and Investigation – Staff on Inmate/Staff on Parolee Section V requires any community-based employee who receives a report of sexual abuse, sexual harassment, sexual threats, staff voyeurism or any act of retaliation for reporting must report any information to the Parole Office (Bureau Chief) who shall immediately notify the Regional Director. In the event the Supervising Parole Officer is not available, the employee shall immediately notify the Regional Director. In the event the Regional Director is not immediately available, the Assistant Regional Director shall be notified to avoid any delay. This incident-based data will be reviewed and incorporated into the annual report.

The annual report is made available to the public through the agency's website. The 2015 Annual Report on Sexual Victimization is available for review on the agency's website. The report was

reviewed as part of the audit process. The Department retains all sexual abuse data collected for at least ten years after the date of the initial collection.

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*)

The review of the agency's website confirms that PREA audits are being conducted on the agency's facilities. The PREA Coordinator indicated that the agency will complete the initial PREA audits of facilities in 2018. Therefore, the agency did not ensure that each facility operated by the agency was audited at least once and at least one-third of facilities audited each year during the three-year period starting August 20, 2013. The auditor observed on the agency's website under the section of Final PREA Audit Reports the final reports of 47 PREA Audits of the agency's facilities. There were 3 audits in 2018, 23 audits in 2017, 18 audits in 2016, and 3 audits in 2015.

The agency has entered into agreements with private organizations for fifteen (15) Community Based Residential Programs. A memo from the PREA Coordinator dated December 18, 2017 states: Each contract permits contract monitoring and requires the Program to achieve and maintain PREA compliance and to arrange for PREA audits on a schedule set in consultation with the DOCCS PREA Coordinator. Audits are scheduled at approximately two per year per contract beginning about one year after the start of the contract. A schedule of the Community Based Residential Program PREA audits was provided. The Agency Contract Administrator interview indicated that all contracts require full PREA compliance and include quarterly goals to ensure that each program is able to achieve full compliance with the PREA Community Confinement Facilities Standards within one year.

During the audit, the facility and agency provided the auditor full access to all areas of the facility and the auditor was able to observe practices. Prior to the audit, during the audit, and after the on-site audit, the agency and facility provided the auditor requested documents. Private interview space was provided to the auditor for conducting staff and offender interviews. Staff interviews were held in an administrative office in the administration building. The offender interviews were held in a multi-purpose room in the recreation department and in the visiting booth/office in the special housing units. Posted signs advised offenders could send confidential information or correspondence to the auditor. The auditor did not receive any correspondence from offenders.

Based on the above information, the agency/facility meets the 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*)

A review of the agency's website <http://www.doccs.ny.gov/PREA/PREAinfo.html> confirms that the agency publishes PREA final reports and makes them available through the website to the public. The auditor observed on the agency's website under the section of Final PREA Audit Reports the final reports of 47 PREA Audits of the agency's facilities. There were 3 audits in 2018, 23 audits in 2017, 18 audits in 2016, and 3 audits in 2015. The most recent audit appearing on the website was April 4, 2018, well within the 90-day requirement. The agency 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.

Barbara King

April 15, 2018

Auditor Signature

Date