

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

Interim       Final

Date of Report    **May 31, 2018**

**Auditor Information**

Name: **Wynnie Testamark**

Email: **wynnie @bellsouth.net**

Company Name: **American Correctional Association**

Mailing Address: **206 N. Washington St.**

City, State, Zip:

**Alexandria, VA 22314**

Telephone: **703.224.0000**

Date of Facility Visit: **April 16 – 18, 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, NY, 12226-2050**

Mailing Address: **1220 Washington Avenue.**

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

Telephone: **(518) 457-8126**

Is Agency accredited by any organization?  Yes     No

The Agency Is:

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

Agency mission: **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****Facility Information**Name of Facility: **Shawangunk Correctional Facility**Physical Address: **200 Quick Road, Wallkill NY, 12589**Mailing Address (if different than above): **PO Box 750, Wallkill, NY 12589-0750**Telephone Number: [Click or tap here to enter text.](#)

The Facility Is:

 Military Private for profit Private not for profit Municipal County State Federal

Facility Type:

 Jail 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: **Jaifa Collado**Title: **Superintendent**Email: **Jaifa.Collado@doccs.ny.gov**Telephone: **845-895-2081 ext. 2000**

<b>Facility PREA Compliance Manager</b>			
Name: <b>John Werlau</b>		Title: <b>Captain</b>	
Email: <b>John.Werlau@doccs.ny.gov</b>		Telephone: <b>845-895-2081 Extension 5500</b>	
<b>Facility Health Service Administrator</b>			
Name: <b>Dr.Chung Lee</b>		Title: <b>Facility Medical Director</b>	
Email: <b>Chung.Lee@doccs.ny.gov</b>		Telephone: <b>845-895-2081 Extension 6000</b>	
<b>Facility Characteristics</b>			
Designated Facility Capacity: <b>532</b>		Current Population of Facility: <b>485</b>	
Number of inmates admitted to facility during the past 12 months			<b>404</b>
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:			<b>285</b>
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:			<b>359</b>
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:			<b>120</b>
Age Range of Population:	Youthful Inmates Under 18: <b>N/A</b>	Adults: <b>21 - 78</b>	
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:			<b>0</b>
Average length of stay or time under supervision:			<b>4yrs, 10.6 months</b>
Facility security level/inmate custody levels:			<b>Maximum</b>
Number of staff currently employed by the facility who may have contact with inmates:			<b>388</b>
Number of staff hired by the facility during the past 12 months who may have contact with inmates:			<b>17</b>
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:			<b>4</b>
<b>Physical Plant</b>			
Number of Buildings: <b>17</b>		Number of Single Cell Housing Units: <b>4</b>	
Number of Multiple Occupancy Cell Housing Units:		<b>0</b>	
Number of Open Bay/Dorm Housing Units:		<b>0</b>	
Number of Segregation Cells (Administrative and Disciplinary):		<b>24 total (8 Admin/16 Disciplinary)</b>	

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.):	
Currently, the Shawangunk CF has an electronic monitoring system. Cameras are strategically placed throughout the facility to enhance inmate monitoring and safety.	
<b>Medical</b>	
Type of Medical Facility:	Level 1, infirmary with 12 beds consisting of (8) bed ward and (4) Isolation rooms
Forensic sexual assault medical exams are conducted at:	1. St. Luke's Hospital 2. Albany Medical Center 3. Orange Regional Medical Center
<b>Other</b>	
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:	<b>98</b>
Number of investigators the agency currently employs to investigate allegations of sexual abuse:	<b>32</b>

# Audit Findings

## Audit Narrative

Wynn R. Testamark, Department of Justice (DOJ) Certified PREA Auditor, conducted the PREA Audit of the Shawangunk Correctional Facility, New York State Department of Corrections and Community Supervision (NYS DOCCS) on April 16 – 18, 2018. The audit was coordinated through the American Correctional Association, Alexandria, Virginia.

Approximately four weeks prior to the audit, agency wide and facility specific supplemental documentation was mailed to this auditor via U S Express Mail, which was received, on March 23, 2018. The documentation arrived in digital format (on a flash drive). The documentation consisted of agency policies, directives and facility specific procedures responding to policy, samples of supporting documentation to each standard and the completed Pre-Audit Questionnaire.

Prior to the audit, the American Correctional Association provided the facility with a memorandum noting the scheduled date of the facility audit and tour, contact information to be posted throughout the facility for inmates and staff to view. The facility onsite audit and tour was scheduled for, and conducted on, April 16 -18, 2018.

The PREA Resource Audit Instrument used for Adult Prisons and Jails was provided by the National PREA Resource Center. There are seven sections: A) Pre-Audit Questionnaire; B) the Auditor Compliance Tool; C) Instructions for the PREA Audit Tour; D) the Interview Protocols; E) the Auditor's Summary Report; F) the Process Map; and G) the Checklist of Documentation.

The Auditor met with agency and facility staff on Sunday, April 15, 2018 for dinner and discussed the PREA audit process and what to be expected during the on-site portion of the audit.

On April 16, 2018, Lucy Buther, NYS PREA Compliance Manager, transported the auditor to Shawangunk CF daily. There the auditor met with Facility Superintendent Jaifa Collado, and her executive team for an entrance briefing. Shortly thereafter, we began with a tour of the facility. The tour began at 10:00 a.m. and concluded at 12:00 noon. Accompanying on the tour was Facility Superintendent Collado, Deputy Superintendent Security Pingotti, Deputy Superintendent Programs, Stewart-Taylor, and Captain/PREA Compliance Manager Werlau.

On day one of the audit, Shawangunk CF reported an inmate count of (485). The Shawangunk CF is a large complex comprised of seventeen (17) buildings; inclusive of which includes 24 Special Housing Unit cells, 12 infirmary beds in the Medical Unit consisting of 4 isolation rooms

and an 8-bed ward. The facility also has 16 wheel chair accessible cells, a Close Supervision Unit and the 64-bed residential Sex Offender Counseling & Treatment Program.

A facility tour was conducted and the auditor interacted with both staff and inmates at that time. Additional areas toured were housing units, medical, intake, reception screening, recreation, laundry, kitchen, inmate mess hall (s), library, program areas, visitation, commissary, storehouse, maintenance, and various work areas. The auditor had the opportunity to observe the operations of the facility, and the interaction between staff and inmates. While touring, informal interviews with staff and inmates; observation of log-book entries of unannounced rounds being conducted by intermediate and higher level facility staff were made; and visually reviewed view of toilet and shower areas.

Following the tour, the auditor began formal random interviews of inmates and staff; inclusive of specialized staff and inmates present at the facility during the time of the audit. Interviews were conducted in areas of relative privacy. Everyone interviewed participated willingly and appeared to have a good understanding of the PREA standards and the agency's response and requirements regarding the standards, zero tolerance policy and reporting procedures. All inmates expressed a thorough understanding of their right to be free from sexual abuse, harassment, and retaliation. They also knew the appropriate channels in which to report allegations and they were aware of the medical and counseling services available to them.

The auditor reviewed the documentation provided by the facility prior to the facility visit. During the tour, the auditor randomly reviewed additional documentation throughout the facility in order to verify that the samples provided was consistent with routine facility practice. This included viewing postings, pamphlets, investigative files, inmates' files, employee personnel files, medical and mental health files, and training documentation for staff, contractors, volunteers, and inmates.

The auditor observed signage posted in English, Spanish, and other languages throughout the facility-explaining inmates' rights to be free from sexual abuse and how to report allegations of sexual abuse and harassment. The agency's PREA Coordinator in collaboration with facility PREA Compliance Manager, and facility staff, has done an impressive job ensuring the information is disseminated (in multiple languages) throughout the facility for everyone to have access.

Shawangunk CF inmates receive mental health services through the NYS Office of Mental Health (OMH) as required by New York State Law and as governed by a Memorandum of Understanding executed by the agencies dated September 27, 2016. No forensic medical exams are conducted at Shawangunk CF, but can provide emergency medical healthcare if needed.

The auditor conducted formal interviews with (2) Volunteer; (2) Investigative staff; (1) Agency Contract Administrator's designee, (0) SANE/SAFE staff; (39) random inmates; (4) Disabled inmates; (0) Hard of hearing inmate; (2) LGBT inmates; (0) Transgender inmates, (3) Limited English Proficient inmates; (0) Inmates with cognitive disorders, (0) inmate in restrictive housing, (0) inmates who report sexual abuse or harassment, (0) High risk of victimization

inmate and (0) inmates who reported previous abuse or harassment during the intake screening.

Shawangunk Correctional Facility does not house youthful inmates.

There was no inmate who reported sexual abuse; who disclosed sexual victimization during risk screening; nor housed in segregation for risk of sexual victimization at Shawangunk Correctional Facility. As previously stated, all inmates interviewed demonstrated knowledge of the agency's zero tolerance policy for sexual abuse, harassment and retaliation, and were able to identify how to report allegations of sexual abuse, harassment & retaliation.

Shawangunk Correctional Facility employs (388) staff at the time of the audit.

The auditor formally interviewed (33) random staff; comprised of all shifts. (1) Contractor Administrator (HR); (3) Medical staff; (2) Mental Health staff (Contract); (1) Human resources staff; (2) Volunteers; (2) OSI Investigators; (2) Staff who perform screening for risk of victimization and abusiveness; (2) Staff member on the incident review team; (2) staff member in charge with monitoring retaliation; (11) staff first responders, both security and non-security staff interviewed; (5) Intake staff members; PREA Compliance Manager, Shift Supervisors, Draft Sergeant, ORC and medical and mental health staff.

In conclusion, a total of (33) staff from all three shifts, and (39) inmates' formal interviews were conducted. Formal interviews were conducted utilizing the approved PREA questionnaires from the PREA Resource Center. The random sample of inmates was selected from the general housing population.

Shawangunk CF has not undergone any significant renovations or modifications during the past 12 months. Every area of the facility was observed as the standard requires and the auditor observed inmates being supervised throughout the audit.

There was two (2) areas identified during the tour that needed security enhancement to cover blind spots: (kitchen & D Corridor). As a result, security mirrors were installed before the end of the onsite audit concluded.

After the on-site audit was completed, the auditor conducted an exit briefing with Facility Superintendent Jaifa Collado, and her executive team and provided a preliminary status of the audit findings. Also in attendance, Jason Effman, Associate Commissioner, Agency PREA Coordinator, and Dawn Butler, CFOS.

The auditor thanked Shawangunk Correctional Facility staff and commended them on their hard work and commitment to the creating a sexually safe environment and the Prison Rape Elimination Act. During the report writing period the auditor reviewed additional policies, procedures and supplementary documentation that was received during the audit.

## Facility Characteristics

Shawangunk Correctional Facility is classified as a maximum-security correctional facility and is located in the Town of Shawangunk in Ulster County just outside the hamlet of Wallkill, New York. The name Shawangunk (pronounced shon gum) is a Native American word meaning “the place of white mountains”.

The area surrounding the hamlet of Wallkill is rural. In addition to the two correctional facilities, Wallkill has three factories and a business district. Shawangunk Correctional Facility is an integral part of the many Wallkill area community activities. Both staff and inmates spend many hours working on projects that benefit others in the local community. Although inmates are not eligible to leave the facility for community projects, they have repaired and restored church doors, constructed new church pews to replace old ones, and print brochures, newsletters and posters for non-profit groups.

It houses male offenders 18 years of age and older. It is located on the same 1200 plus acres as Wallkill Correctional Facility. Construction began on Shawangunk in 1983. The facility opened and was dedicated in the fall of 1985. It encompasses 38 acres of State land, of which 16 of those acres contains the facility’s building and its secure perimeter.

In addition to the main building, there’s a Visitor Processing Center, Event Processing Unit, four Family Reunion Apartments, Vehicle Maintenance Garage and a Primary Health Care Unit. The facility plant operations staff maintains these units.

Shawangunk Correctional Facility has a capacity of 532 inmates, which includes 24 Special Housing Unit cells, 12 infirmary beds in the Medical Unit consisting of 4 isolation rooms and an 8-bed ward. Housing units and the special housing unit at Shawangunk Correctional Facility consist of single cells. The facility also has 16 wheel chair accessible cells, a Close Supervision Unit and the 64-bed residential Sex Offender Counseling & Treatment Program.

There are approximately 53,000 inmates incarcerated in New York State and one of the more challenging aspects of operations is to provide complete services to those inmates with physical limitations. Many facilities are not handicapped accessible and the Department looked to the newer facilities for a possible solution. Except for the mess halls, the design of Shawangunk provides for all activities to take place on one floor, or on a floor that is accessible by elevator. Inmates in wheelchairs can participate in all facility program and recreational activities. At the present time, there are 16 cells designated for inmates in wheelchairs on C-2



housing unit, which was renovated to meet standards established by Americans with Disabilities Act.

Shawangunk Correctional Facility currently employs 388 staff inclusive of security and support staff. Security staff is presently comprised of 260 Corrections Officers, 15 Sergeants, 8 Lieutenants, 1 Captain and the Deputy Superintendent for Security. The Facility Superintendent with two (3) Deputy Superintendent oversees the entire operations at Shawangunk Correctional Facility.

All inmates received at Shawangunk are assigned an Offender Rehabilitation Coordinator (ORC) and are routinely interviewed within 5 days after a comprehensive folder review has taken place. At that interview, program needs and concerns are assessed with the inmate's program case plan serving as a guide. The program case plan is continually reviewed with each inmate on a quarterly basis.

Shawangunk Correctional Facility offers a host of programs that are therapeutic in nature and designed to help inmates modify negative and antisocial behaviors.

Academic education is mandatory for all inmates who do not possess a high school diploma. To achieve a Diploma, students are enrolled in Adult Basic Education (ABE), Pre-HSE, HSE and English as a Second Language (ESL). Cell Study is available to inmates who are confined to the Special Housing Unit, Protective Custody and Long Term Keeplock. Inmates also have the opportunity to pursue higher education through correspondence courses. Ulster County Community College and Hudson Link offer pre-college and college courses towards an Associate Degree.

Shawangunk Correctional Facility also offer vocational training, counseling, Sex Offender Counseling and Treatment Program (SOCTP), Alcohol and Substance Abuse Treatment (ASAT), Aggression Replacement Training (ART), Transitional Services, Thinking for a Change, Phase I, Phase 3, and volunteer services.

Under the direction of the Facility Health Services Director, with the assistance of the Nurse Administrator and a staff of Registered Nurses, the Health Unit provided 24-hour medical coverage. The first floor of the 40, 000 square foot unit encompassed Ambulatory Health Services, as well as a Dental unit.

The Dental Unit provides comprehensive dental care to the population. The second floor contains the in-patient component, consisting of 12 patient beds; four of the beds are in private rooms providing a negative air pressure environment, to prevent the spread of airborne bacteria.

In addition to the on-site staff, the medical unit has Tele-medicine equipment, which is used to provide ER services 24 hours/day, as well as medical specialist appointments, which enhances their services to the population, while reducing outside medical trips.

Shawangunk Correctional Facility is classified as Mental Health Service Level 2, as defined in Correction Law, Section 2 (28). Shawangunk CF contracts with Central New York Psychiatric Center (CNYPC) to provide mental health services to the inmates who are victims of sexual abuse. No forensic medical exams are conducted at Shawangunk CF, but can provide emergency medical healthcare if needed.

Shawangunk CF utilizes the services of 6 DOCCS Chaplains to administer its Ministerial Service Program. One full time Muslim Chaplin, and part time Chaplain for the Protestant, NOI, Jewish, and Roman Catholic faiths. The Roman Catholic Priest serves as the Coordinating Chaplain. Chaplains also serves as staff advisors for faith groups not represented by assigned facility Chaplains, such as Greek Orthodox, Rastafarian, Buddhist and Jehovah's Witness.

There is a full recreation schedule at Shawangunk. The gym is opened everyday and in good weather, the inmates are able to use the large yard at the rear of the facility. In addition, the inmates can participate in various sports, use the weightlifting equipment, join a basketball or softball team and participate in flag football and handball leagues. Movies are shown every weekend, sponsored by the inmate Liaison Committee, as well as games of dominoes, chess, and checkers in the housing units.

There is a full services General Library run by a full time Senior Librarian and part time library Clerk, who are available to help inmates find reading materials, etc. The Library provides inmates with a diverse collection of popular bestsellers, non-fiction, newspaper, magazines, and reference materials. There is also a Law Library to assist inmates with legal work. The Law Library offers inmates the opportunity to obtain legal information, and has trained inmates to help research. The Law Library is also manned by a Correction Officer and operates 7 days and 2 evenings per week.

All meals are prepared in the facility kitchen and then sent, in bulk to each block, where the inmates are served in one of the eight housing unit mess halls. Satellite meals are sent to special housing and infirmary areas also. The kitchen was renovated in August 2011, to include the entire preparation area, dish machine area and main floor. The kitchen is staffed and operates with security, civilian and inmate workers.

### **Mission Statement**

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.

## Summary of Audit Findings

**Number of Standards Exceeded: 11**

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

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

**Standard 115.17: Hiring and promotion decisions**

**Standard 115.31: Employee training**

**Standard 115.32: Volunteer and contractor training**

**Standard 115.33: Inmate education**

**Standard 115.34: Specialized training: Investigations Standard**

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

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

**Standard 115.64: Staff first responder duties**

**Standard 115.71: Criminal and administrative agency investigations**

**Number of Standards Met: 34**

**Number of Standards Not Met: 0**

**Summary of Corrective Action (if any) none**

## PREVENTION PLANNING

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

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

#### 115.11 (a)

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

#### 115.11 (b)

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

#### 115.11 (c)

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

#### Auditor Overall Compliance Determination

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

NYS DOCCS (DOCCS) Directives #4001, #4027A, #4027B, Employee Manual, (2.19, 2.20), Memo from Commissioner (Appointment of Associate Counsel as agency PREA Coordinator-3/14/2012), DOCCS Organizational Chart, Memo Deputy Commissioner (Re: Facility Prison Rape Elimination Act (PREA) Point Person), Email announcement from Associate Commissioner dated 4/23/2013 (Re: Assistant Deputy Superintendent/PREA Compliance Manager Appointment with Duties Description), addresses all elements of this standard. Also, establishes that forced inmate on inmate sexual harassment, assault, and abuse and all staff on inmate sexual harassment, assault, and abuse are prohibited.

An agency wide PREA Coordinator was appointed on March 4, 2012. This individual is an Associate Commissioner who is responsible for developing, implementing, and overseeing DOCCS efforts to comply with PREA standards throughout the agency.

At facility level, a Captain/PREA Point Person (PREA Compliance Manager) is responsible for the staff training and implementation of the PREA compliance program.

Staff personnel at Shawangunk CF are issued a pocket card, which outlines the Zero Tolerance Policy and explains how to report sexual harassment, abuse, assault, and the first responder duties.

Supervisory staff is given a PREA Overview and Quick Response Guide, which cover the history of PREA, definitions of sexual harassment and abuse, incident response, and other PREA issues.

Random staff interviewed, knew clearly the agency's' zero tolerance policy on sexual abuse and assault and the reporting process for PREA incidents. Zero tolerance PREA information is also included in the Employee Manual (2.44).

Inmates interviewed were aware of the DOCCS Zero Tolerance Policy on Sexual Abuse, Harassment, and Assault. This information is included in the issued Inmate handbook and they are shown the PREA Video upon arrival.

Based upon review of NYS DOCCS Directives #4001, 4027A, 4027B, Employee Manual, (2.19, 2.20), Memo from Commissioner (Appointment of Associate Counsel as agency PREA Coordinator-3/14/2012), DOCCS Organizational Chart, Memo Deputy Commissioner (Re: Facility Prison Rape Elimination Act (PREA) Point Person), Email announcement from Associate Commissioner dated 4/23/2013 (Re: Assistant Deputy Superintendent/PREA Compliance Manager Appointment with Duties Description); observations of PREA postings, pamphlets, and interviews with facility Superintendent, agency PREA Coordinator, PREA Compliance Manager and random staff and inmates, Shawangunk CF exceeds this standard.

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

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

### 115.12 (a)

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

### 115.12 (b)

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

### Auditor Overall Compliance Determination

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

The Auditor has reviewed the contracts awarded by New York Department of Corrections and Community Supervision; all are appropriate and are in compliance with PREA standards.

NYS Correction Law section 121 provides that the private ownership or operation of a facility for housing state or local inmates or the private ownership or operation of a facility for the

incarceration of other state's inmates is prohibited. Thus, no private prisons are operated on behalf of the Agency.

NYS DOCCS has entered into agreements with private organizations for 15 Community Based Residential Programs to provide up to 6 months of housing and treatment for selected Parolees. Each contract permits contract monitoring and requires the Program to achieve and maintain PREA Compliance, and to arrange for PREA Audits on a schedule set in consultation with the DOCCS Agency-Wide PREA Coordinator. Audits are scheduled at 2 per year per contract with the first pair to be completed on or about 1 year after the start of the contract (i.e., two by May 2018, two by October 2018, etc.), thus ensuring that one-third of each facility type operated by a private organization on behalf of the agency will be audited during each forthcoming audit year.

This standard does not apply to Shawangunk CF, as they do not contract directly with private agencies or other entities.

## 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*)

Shawangunk Correctional Facility (Shawangunk CF) has an established staffing plan, which provides for adequate levels of staffing and, facility utilizes direct supervision model to protect inmates against sexual abuse.

Additionally, according to the Facility Superintendent and Deputy Superintendent (Administration & Security), the staffing plan was developed considering the generally acceptable correctional practices; any judicial findings, any findings of inadequacy from federal

investigative agencies, any findings of inadequacy from internal or external oversight bodies, all components of the physical plant, the inmate population, the number and placement of supervisory staff, institutional programs and the shifts they occur on applicable state or local laws or regulations, the prevalence of substantiated and unsubstantiated incidents of sexual abuse and any other relevant information.

Weekly Administrative Activity Reports, Daily Security Supervisors Report, and Logbooks confirmed that Intermediate and higher-level staff are making unannounced rounds as required. In addition, staff is prohibited from notifying other staff, as stated in Directive #4001, Facility Administrative Coverage & Supervisory Rounds and the Employee Manual.

Shawangunk CF has an electronic monitoring system.

The annual review of the staffing plan took place on October 19, 2017.

During the past 12 months, according to documentation presented and reviewed, Shawangunk CF had no deviations from the staffing plan.

Based on my review of DOCCS Directives #4001, the Shawangunk CF staffing plan, Employee Manual, Shift Supervisor Rounds, Log entries, and interviews with Facility Superintendent, Captain (Security), PREA Compliance Manager, Shift Supervisors and staff, Shawangunk CF meets this standard.

## Standard 115.14: Youthful inmates

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

#### 115.14 (a)

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

#### 115.14 (b)

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

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

#### 115.14 (c)

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

#### Auditor Overall Compliance Determination

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

The New York Department of Corrections and Community Supervision have policies in place that meet this standard for its correctional facilities that house youthful inmates.

Shawangunk CF does not house youthful inmates; therefore, this standard does not apply.

#### 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

Females are not housed at this facility

- 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

Females are not housed at this facility

#### 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

Females are not housed at this facility

#### 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*)

The auditor reviewed Directive #2230, Guidelines for Assignment of Male and Female Correctional Officers, Directive#4001, Facility Administrative Coverage & Supervisory Rounds, Directive #4910 Control and Search of Contraband, the Sexual Abuse Prevention and Response Lesson Plan, HSPM 1.37 Body Cavity Searches, and HSPM 1.19 Health Appraisals and training records that indicated Shawangunk CF has established processes to limit cross gender viewing.

Cross gender strip searches are required to be documented on Report of Strip Search or Strip Frisk form #1140. Only staff of the same gender may be present during a strip search.

Shawangunk CF houses only male inmates.

No cross-gender strip-searches or cross gender visual body cavity searches have been performed at Shawangunk CF during this audit period.

All security staff at Shawangunk CF has received training in how to conduct cross-gender pat down searches and 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.

Based upon review of DOCCS Directives, forms mentioned above, facility staff training records (#35029 Sexual Abuse, #01062 Contraband & Frisk, #22000 Pat Frisk Search and interviews with PREA Compliance Manager, Supervisors and staff, Shawangunk CF meets this standard.

## **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 Shawangunk CF takes all necessary steps to ensure inmates with limited English proficiency have an opportunity to participate in and benefit from the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

Bilingual Posters were observed throughout the facility and in inmate housing units, library, and program areas. Although Shawangunk CF population majority is English and Spanish speaking, the PREA Video and Sexual abuse prevention pamphlets is available in multiple languages.

Facility staff, the Office of Cultural and Language Access Services staff interpreters, and a Language Line Service are available to the facility for interpretation services as needed.

During the past 12 months, there were no instances where inmate interpreters, readers, or other types of inmate assistants have been used.

Based on my review of DOCCS Directives #2612, #4490, posters, and signs throughout the facility, housing units, the multiple languages that the PREA video, pamphlets are provided in, and interviews with staff and inmates, Shawangunk CF exceeds this standard.

## Standard 115.17: Hiring and promotion decisions

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

### 115.17 (a)

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



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

#### 115.17 (b)

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

#### 115.17 (c)

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

#### 115.17 (d)

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

#### 115.17 (e)

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

#### 115.17 (f)

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

#### 115.17 (g)

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

#### 115.17 (h)

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

#### Auditor Overall Compliance Determination

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

The following policies/procedures and supporting documentation were reviewed: DOCCS DIR 2216, Fingerprinting/Criminal History Inquiry New Employees and Contractors, Fingerprinting/Criminal History Inquiry New Employees and Contractors; NYS Department of Correctional Services Personal Procedure Manual #406A Recruitment Process; Directive #2112, Report of Criminal Charge; Directive #2012, Release of Employee Personnel and

Payroll Information; Memo: from Darren Ayotte, Director of Personnel, 4/30/14, RE: Personnel Procedure #407 – Civilian Promotions, Personal Procedure Manual #407A – Security Promotions, 4/29/14; and Memo: from John M. Czaka, Deputy Commissioner and Counsel, 8/18/15, RE: Prison Rape Elimination Act (PREA) – Background Checks - Appendix A

Interviews conducted with the Facility Superintendent, Deputy Superintendent (Administration), PREA Compliance Manager, Investigative Staff, random staff, and personnel files reviewed verified that Shawangunk CF is following the provisions of this standard in hiring and promotion decisions.

In the past 12 months, there have been seventeen (17) persons hired at Shawangunk CF who may have contact with inmates who have had criminal background record checks.

In the past 12 months, there has been one (1) contract for services at Shawangunk CF, where criminal background record checks were conducted on all staff covered in the contract that might have contact with inmates.

Based upon documentation (s) reviewed above and the Facility Superintendent, Deputy Superintendent, PREA Compliance Manager, investigative staff, and random staff interviews, Shawangunk CF exceeds this standard.

## 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

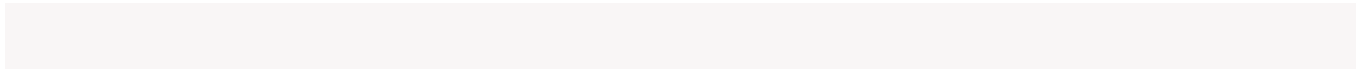
**Auditor Overall Compliance Determination**

- 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*)

Currently, the Shawangunk CF has an electronic monitoring system; and uses effectively placed security mirrors, see through wall partitions/windows, privacy screens and security staffing to enhance inmate monitoring and safety.

Shawangunk CF has not installed or updated no video monitoring system, electronic surveillance system, or other monitoring technology since the last PREA audit.

The Shawangunk CF meets this standard.



**RESPONSIVE PLANNING**

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

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

**115.21 (a)**

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

**115.21 (b)**

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

#### 115.21 (c)

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

#### 115.21 (d)

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

#### 115.21 (e)

- As requested by the victim, does the victim advocate, qualified agency staff member, or qualified community-based organization staff member accompany and support the victim through the forensic medical examination process and investigatory interviews?  Yes  No

- As requested by the victim, does this person provide emotional support, crisis intervention, information, and referrals?  Yes  No

#### 115.21 (f)

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

#### 115.21 (g)

- Auditor is not required to audit this provision.

#### 115.21 (h)

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

#### Auditor Overall Compliance Determination

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

NYS DOCCS is responsible for criminal and administrative investigations. The Department's Office of Special Investigations Sex Crimes Division conducts the investigations. The Department works with the New York State Police Bureau of Criminal Investigation to investigate reports of Staff-on-Inmate and Inmate-on-Inmate sexual assault that may involve criminal charges.

Directives for Sexual Abuse Reporting and Investigation and the Inmate on Inmate Sexual Abuse Dispatch and Operational Guidelines outline evidence protocols for administrative investigations and criminal prosecutions. DOCCS utilizes the New York Department of Health Protocol for the Acute Care of the Adult Patient Reporting Sexual Abuse for evidence protocols and forensic medical examinations.

No forensic medical exams are conducted at Shawangunk CF but; emergency medical healthcare is provide if needed. Forensic examinations by SANE/SAFE staff are provided at one of the area hospitals: St. Luke’s Hospital, Orange Regional Medical Center, and Albany Medical Center. These services are provided at no cost to the inmate. A victim advocate is provided to the inmate upon request to provide emotional support.

Interviews were conducted with investigators from the Office of Special Investigations. Interviews confirmed that PREA investigations are completed as outlined by the standards and both investigators were very knowledgeable of the investigation process, evidence collection protocols, and the use of the Sexual Abuse Checklist.

During the past 12 months, there were no forensic medical exams performed by SANE/SAFE staff.

Based upon on, Investigative, Medical, Mental Health staff interviews, and documentation reviewed: Directive #4027B – Sexual Abuse Reporting & Investigation Inmate – on – Inmate; HSPM 1.60 – Sexual Assault Operational Guidelines – Office of Special Investigations, Immediate Dispatch: Inmate – on – Inmate/Staff – on – Inmate; Department of Health Protocol for the Acute Care of Adult Patient Reporting Sexual Assault; New York State Police Superintendent Letter - RE: Implementation of the PREA Standards; Statement of Compliance (12/18/17) and PPT Presentation: PREA Specialized Training: Investigations, Shawangunk CF meets this standard.

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

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

### **115.22 (a)**

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

**115.22 (b)**

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

**115.22 (c)**

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

**115.22 (d)**

- Auditor is not required to audit this provision.

**115.22 (e)**

- Auditor is not required to audit this provision.

**Auditor Overall Compliance Determination**

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

NYS DOCCS Directives #0700 – Office of Special Investigations; #4027A – Sexual Abuse Prevention & Intervention Inmate – on – Inmate; #4028A – Sexual Abuse Prevention & Intervention Staff – on – Inmate; #4027B – Sexual Abuse Reporting & Investigation Inmate – on – Inmate; and #4028B – Sexual Abuse Reporting & Investigation Staff – on – Inmate revealed that DOCCS is responsible for criminal and administrative investigations. The



Department's Office of Special Investigations Sex Crimes Division conducts the investigations.

The OSI investigators collaborates with the New York State Police Bureau of Criminal Investigation to investigate reports of Staff-on-Inmate and Inmate-on-Inmate sexual assault that may involve criminal charges. In addition, procedures outline evidence protocols for administrative investigations and criminal prosecutions.

The DOCCS Annual Report is made available to the public through the agency website: [http://www.doccs.ny.gov/Research/Reports/2017/Annual\\_Report\\_on\\_Sexual\\_Victimization\\_2015\\_Report.pdf](http://www.doccs.ny.gov/Research/Reports/2017/Annual_Report_on_Sexual_Victimization_2015_Report.pdf), which was reviewed by this auditor.

115.22(c) is Not Applicable. DOCCS has not submitted this authority to any separate entity.

During the past 12 months, there have been zero allegations of sexual abuse and sexual harassment; zero allegations resulting in an administrative investigation; and zero allegations were referred for criminal investigation.

Based on the Facility Superintendent, OSI investigators, PREA Compliance Manager interviews, and reviewed policies/procedures: Directive #0700 – Office of Special Investigations; #4027A – Sexual Abuse Prevention & Intervention Inmate – on – Inmate; #4028A – Sexual Abuse Prevention & Intervention Staff – on – Inmate; #4027B – Sexual Abuse Reporting & Investigation Inmate – on – Inmate; and #4028B – Sexual Abuse Reporting & Investigation Staff – on – Inmate, Shawangunk CF meets this standard.

## 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*)

Staff interviewed at Shawangunk CF was very knowledgeable about the agency zero-tolerance policy for sexual abuse and sexual harassment; How to fulfill their responsibilities concerning prevention, detection, reporting, and response concerning sexual abuse and sexual harassment; The inmates' rights to be free from sexual abuse and sexual harassment; Inmate and employee's rights to be free from retaliation for reporting sexual abuse and sexual harassment; The dynamics of sexual abuse and harassment in confinement; The common reaction of victims to sexual abuse and sexual harassment; How to detect signs of sexual abuse and sexual harassment; How to avoid inappropriate relationships; How to communicate effectively and professionally with inmates (LBGTI); and how to comply with relevant laws related to mandatory reporting.

Supervisory Staff and line staff are given a PREA Overview and Quick Response Guide that cover the history of PREA, definitions of sexual harassment and abuse, incident response, and other PREA issues. Randomly interviewed staff knew clearly DOCCS Zero Tolerance Policy on sexual abuse and assault and the reporting process for PREA incidents.

During the past 12 months, 388 employees at Shawangunk CF employees, who may have contact with inmates, were trained or retrained on the PREA requirements.

Employees who may have contact with inmates receive refresher training on PREA requirements every two years. However, additional PREA training is conducted throughout the year at line up/shift briefing and staff meeting training.

Based on random staff interviews, inmate interviews, PREA Compliance Manager interview, staff training records, information packets, posters throughout the facility, and the following

policies/procedures, manuals, documents, and memos: Training Manual Subject: 0.100 – Frequency Training Chart and Training Bulletins; Training Bulletin #7, PREA: Sexual Abuse Prevention and Response; Training Manual Subject: 7.100 – Employee Familiarization; Training Manual Subject: 7.000 – Initial Employee Training 40-hour Orientation; Acting Commissioner Memo – RE: Policies and Standards Generally Applicable to all Employees; Deputy and Associate Commissioner Memo – RE: Sexual Abuse Prevention and Response Training; Sexual Abuse Prevention and Response Lesson Plan and training documentation reviewed, Shawangunk CF exceeds this standard.

## 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 inmates at the Shawangunk CF receive PREA Orientation training prior to assuming their responsibilities. Orientation includes the agency's policy and procedures regarding sexual abuse and sexual harassment prevention, detection, reporting, and response including zero tolerance.

There are 98 volunteers and individual contractors, who have contact with inmates, who have been trained in agency policies and procedures regarding sexual abuse/harassment prevention, detection, and response. Upon completion of orientation, the volunteer/contractor signs the Acknowledgment Form. Signed forms are maintained at the facility.

Based upon interviews with the PREA Compliance Manager, Deputy Superintendent of Programs, and the following documentation: Directive #4027A – Sexual Abuse Prevention & Intervention Inmate – on – Inmate; #4028A – Sexual Abuse Prevention & Intervention Staff – on – Inmate; #4071 – Guidelines for Construction Projects; Directive #4750 – Volunteer Services Program; Acting Commissioner Memo – RE: Policy on the Prevention of Sexual Abuse of Inmates to all Employees, Contractors, Volunteers and Interns; Sexual Abuse Prevention and Response Lesson Plan - March 2015 Report of Training Form: Sexual Abuse Prevention and Response (PREA) RTF – PREA (11/2016) and review of the Volunteer and Contractor training and acknowledgment forms, Shawangunk CF exceeds this standard.

## 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*)

NYS DOCCS provides PREA education to all inmates beginning at intake into the agency. At reception, inmates are provided a PREA pamphlet and inmate handbook, which explains the agency's zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents. Once arrived at Shawangunk CF, the inmate also receives an Inmate Orientation Manual that includes PREA information and a pamphlet "The Prevention of Sexual Abuse in Prison." Inmates also view the PREA video "Ending Sexual Abuse Behind the Walls: An Orientation." Inmate education is documented for each inmate and maintained in the inmates file.

These materials and pamphlets are primarily in English and Spanish but they are also available in Polish, Russian, Haitian Creole, Italian, Chinese and Korean. Audiotapes, and CD's are available to the visually impaired. Facility staff, the Office of Cultural and Language Access Services staff interpreters, and a Language Line Service are available to the facility for interpretation services as needed.

Shawangunk CF admitted 404 inmates during past 12 months who were given PREA information at intake.

During the past 12 months, 285 inmates at Shawangunk CF (whose length of stay in the facility was for 30 days or more) received comprehensive education on their rights to be free from both sexual abuse/harassment and retaliation for reporting such incidents and on agency policies and procedures for responding to such incidents within 30 days of intake.

Inmates assigned to Shawangunk CF prior to the implementation of the PREA Standards, were required to see the PREA Video no later than July 14, 2017, in accordance with DOCCS directions. Formal and informal inmate interviews conducted during the on-site audit revealed that they were knowledgeable of the Zero Tolerance Policy and how to report an incident if it occurred.

Based upon random interviews with staff/inmates, Superintendent and the following documentation: Directives #4021 – Offender Reception/Classification; #4027A – Sexual Abuse

Prevention & Intervention Inmate – on – Inmate; Deputy Commissioner for Program Services Memo – RE: PREA: Inmate Orientation Film Implementation; Associate Commissioner Memo – RE: New and Updated PREA Material; Associate Commissioner Memo – RE: Sexual Abuse Prevention Inmate Orientation Outline; Shawangunk CF: Inmate Orientation Sign-in Sheets PREA Posters and Pamphlets, Shawangunk CF exceeds this standard.

## Standard 115.34: Specialized training: Investigations

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

### 115.34 (a)

- In addition to the general training provided to all employees pursuant to §115.31, does the agency ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).)  Yes  No  NA

### 115.34 (b)

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



### 115.34 (c)

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

### 115.34 (d)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

Office of Special Investigations (OSI) Sex Crimes Division Investigators are required to complete the following training curriculum Specialized Training: Investigations, OSI Overview Training, NIC PREA Investigating Sexual Abuse in a Confinement Setting, and Evidence Collection Training, and Sexual Abuse Investigations and PREA. Additionally, these investigators completed all annual training required of all DOCCS staff:

National Institute of Corrections Training (Section Overview) PREA: Investigating Sexual abuse in Confinement Settings (DOCCS Course Code #17072) Updated 1/11/17;

OSI Policy and Procedures (9/1/15);

PowerPoint Presentation Excerpt: PREA Specialized Training-5/31/16 RE: Investigations; PowerPoint Presentation: Sexual Abuse Investigations and PREA-2014 regulates the agency specialized training includes techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.

Investigating Physical and Sexual Abuse Training in an Institutional Setting-11/14-16/16.

Auditor interviewed two (2) NYS DOCCS Investigators from (OSI) Sex Crime Division. Both investigators interviewed had completed multiple training courses including the NIC PREA Investigating Sexual Abuse in a Confinement Setting. OSI Sex Crimes Investigators covers a region that's inclusive of Shawangunk CF and responds as needed within their region.

Based on my review of the above policies, power point presentation excerpts, training documentations, and the interview with OSI Investigators, Shawangunk CF exceeds this standard.

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

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

### **115.35 (a)**

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

### **115.35 (b)**

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

### 115.35 (c)

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

### 115.35 (d)

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

### Auditor Overall Compliance Determination

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

All full and part time medical and mental health staff is required to complete all training outlined in this standard.

NYS DOCCS Training Manual Subject 7.000; 40 hours Orientation/Initial Employee Training, Non-Peace Officer Employees at Facilities -7/10/17 (Mandatory);

Office Of Mental Health (OMH) Memorandum of Understanding-9/14/16;

#81016 Inmate Sexual Assault Post Exposure Protocol (10/26/16);

#17083 PREA Training for Medical & Mental Health Providers (8/17/17);

Power Point Presentation: PREA: Medical and Mental Health Care HSPM 1.60 (6/3/2015) and PREA Standards; outlines how the agency shall 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; 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 to whom to report allegations or suspicions of sexual abuse and sexual harassment.

Interviews with medical and mental staff revealed that they are knowledgeable of their duties and responsibilities under PREA and know how to properly respond to or report an allegation of sexual abuse or assault.

Shawangunk CF contracts with Central New York Psychiatric Center (CNYPC) to provide mental health services to the inmates who are victims of sexual abuse. No forensic medical exams are conducted at Shawangunk CF but can provide emergency medical healthcare if needed. Forensic examinations by SANE/SAFE staff are provided at one of the outside hospitals: St. Luke's Hospital, Orange Regional Medical Center, and Albany Medical Center.

These services are at no cost to the inmate.

Based on reviewed training documentation; Regional Training Forms, Specialized Training Medical/Mental Health Staff stated above, Office Of Mental Health (OMH) Memorandum of Understanding and interviews conducted, Shawangunk CF exceeds this standard.

## SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

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

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

#### 115.41 (a)

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

#### 115.41 (b)

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

#### 115.41 (c)

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

#### 115.41 (d)

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

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes?  Yes  No

#### 115.41 (e)

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

#### 115.41 (f)

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

#### 115.41 (g)

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

#### 115.41 (h)

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

#### 115.41 (i)

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

#### Auditor Overall Compliance Determination

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

NYS DOCCS screens all inmates for risk of victimization and abusiveness upon arrival. An initial screening is completed by Intake Draft Sergeant within the 24 hours of arrival and then a much more thorough screening is conducted by the Offender Rehabilitation Coordinator (ORC) within 14 days. Shawangunk CF is staffed with three (3) ORC-ASAT guidance staff.

At Shawangunk CF, the assessments are conducted much sooner than the allotted time frame mandated by the agency. According to documentation reviewed, and interviews conducted with the ORC's, inmates are routinely interviewed and assessed within 5 days after a comprehensive folder review has taken place. The Captain/ PREA Point Person makes a final risk assessment determination ordinarily within 30 days of the inmate's arrival at the facility.

The screening instrument includes whether the inmate has a mental, physical, or developmental disability, the age and physical build of the inmate, previously incarceration history, whether the inmate's criminal history is exclusively nonviolent, prior convictions for sex offenses, whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming, past sexual victimization, self-perception of vulnerability and

Inmates are not disciplined for refusing answer questions during the screening process. Information obtained during the initial assessment and reassessment is placed in the inmate's

classification file. Only authorized staff has access to these files.

During the past 12 months, there were 359 inmates at Shawangunk CF (whose length of stay in the facility was for 72 hours or more) who were screened for risk of sexual victimization or risk of sexually abusing other inmates within 72 hours of their entry into the facility.

Within the past 12 months, there was 285 inmates at Shawangunk CF (whose length of stay in the facility was for 30 days or more) who were reassessed for their risk of sexual victimization or of being sexually abusive within 30 days after their arrival at the facility based upon any additional, relevant information received since intake.

Based on interviews with, PREA Compliance Manager, Draft Sergeant, Deputy Superintendent of Programs, ORC's staff, random staff and random inmates as well as review of policies/procedures and supporting documentation: Directive #4027A, Sexual Abuse Prevention & Intervention – 11/29/17 Inmate-on-Inmate, FOM #1.106 PREA Risk Screening, Form 115.41M PREA Risk Screening Form -Male Facility; Memo New/Revised Other Security Characteristics regarding Sexual Orientation and Gender Identity (SOGI); #4021A DRAFT receipt; examples of completed risk screening forms, and facility PAQ, Shawangunk CF meets this standard.

## Standard 115.42: Use of screening information

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

### 115.42 (a)

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



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

#### 115.42 (b)

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

#### 115.42 (c)

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

#### 115.42 (d)

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

#### 115.42 (e)

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

#### 115.42 (f)

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

#### 115.42 (g)

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

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

### Auditor Overall Compliance Determination

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

It is the policy of Shawangunk CF that all inmates transferred into its facility be screened by a Sergeant or above, ordinarily within 24-hours of arrival at the facility, and reassessed by an assigned ORC ordinarily within 14-days of arrival at the facility. The Captain/ PREA Point Person makes a final risk assessment determination ordinarily within 30 days of the inmate's arrival at the facility.

The facility utilizes information from the risk assessment to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

Transgender or intersex (TI) inmate's housing is considered on a case-by-case basis, placement considers the inmate's health and safety, and whether the placement would present management or security problems; placement is reassessed as needed; TI inmate's own view with respect to his or her own safety is given consideration; TI inmates are given the opportunity to shower separately from other inmates.

Shawangunk CF does not house gay, bisexual, transgender or intersex inmates in dedicated units.

Shawangunk CF did not have any transgender or intersex inmates at the time of the audit.

At the time of the audit, there were two (2) inmates at Shawangunk CF that identified as being gay. This Auditor interviewed them both.

Based on documentation reviewed: Directive #4009, Minimum Provisions for Health and Morale; Memorandums from Deputy Commissioners, Jason D. Effman, Associate Commissioner, and Ann Marie McGrath, Assistant Commissioner, 10/27/14, RE: New/Revised Other Security Characteristics Regarding Sexual Orientation and Gender Identity (SOGI); Shawangunk CF FOM #1.106, PREA Risk Screening Forms #4021 & 4021A, Memo (08/26/16) referenced: Inmate Showers, and interviews conducted, Shawangunk CF meets this standard.

## Standard 115.43: Protective Custody

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

#### 115.43 (a)

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

#### 115.43 (b)

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

- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The duration of the limitation?  Yes  No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The reasons for such limitations?  Yes  No

#### 115.43 (c)

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

#### 115.43 (d)

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

#### 115.43 (e)

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

#### Auditor Overall Compliance Determination

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

Agency Directive #4948, Protective Custody Status; outlines the process for involuntary placement of 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. Inmates placed in Segregation must be reviewed every 30 days.

In the past 12 months at Shawangunk CF, there were no inmates at risk of sexual victimization who were held in involuntary segregated housing for one to 24 hours awaiting completion of assessment.

During this audit period, Shawangunk CF has not placed any inmate in Involuntary or Voluntary protective custody solely due to being a high risk for victimization.

Based upon interviews conducted with the Facility Superintendent, Assistant Deputy Superintendent, PREA Compliance Manager, Draft Sergeant, ORC-ASAT, and documentation reviewed: Directive #4948 (Protective Custody Status); Form #2168A (IPCR), Form #2170A (IPC Review), and Form #4948A (IPC), Shawangunk CF meets this standard.

## 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  NA

#### 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*)

NYS DOCCS has procedures allowing for multiple internal and external ways for inmates to report sexual abuse, sexual harassment, and retaliation. PREA reporting methods are given to inmates at intake, during orientation, in the PREA brochure, and on posters throughout the facility. Specifically, the PREA pamphlet, *The Prevention of Sexual Abuse in Prison: What Inmates Need to Know*, tells inmates they can report verbally and in writing to staff, the PREA Point Person, the Office of Special Investigations, and report to an outside agency (New York State Commission of Correction SCOC). They are also advised that they can report allegations through a third party or send an anonymous report.

Random inmate interviews confirmed inmates knew the various ways in which they can report allegations and; random staff interviews confirmed staff was aware of the multiple ways in which inmates may report.

Agency does not detained solely for civil immigration purposes. However, Consular Official contact information is available to inmates.

Based upon review of the Employee Manual (2.20), Directive #4027A, Sexual Abuse Prevention and Intervention, Inmate on Inmate; Directive #4028A, Sexual Abuse Prevention and Intervention, Staff on Inmate; the Sexual Abuse Prevention and Response Lesson Plan; Memo from Beilein, T. (SCOC 5/24/17), The Prevention of Sexual Abuse in Prison Pamphlet, observations and interviews with staff and inmates, Shawangunk CF meets this standard.

## Standard 115.52: Exhaustion of administrative remedies

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

### 115.52 (a)

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

### 115.52 (b)

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

### 115.52 (c)

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

### 115.52 (d)

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

#### 115.52 (e)

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

#### 115.52 (f)

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



- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)  
 Yes    No    NA
- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.)  Yes    No    NA
- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes    No    NA
- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes    No    NA

### 115.52 (g)

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

### Auditor Overall Compliance Determination

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

The New York State Department of Corrections and Community Supervision is exempt from this Standard in accordance with Directive #4040 Inmate Grievance Program. Inmates are not required to file grievances concerning alleged incidents of sexual abuse and sexual harassment.

The facility is exempt from this standard making Standard 115.52 non-applicable.

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

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

### 115.53 (a)

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

#### 115.53 (b)

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

#### 115.53 (c)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

NYS DOCCS procedure requires that inmates be provided access to outside victim advocates for emotional support services through Just Detention International Resource Guide or local MOU related to sexual abuse by giving inmates mailing addresses and telephone numbers,

including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and by enabling reasonable communication between inmates and these organizations, in as confidential a manner as possible.

Based upon review of Directive #4404, Inmate Legal Visits; Directive #4421, Privileged Correspondence; Directive #4423, Inmate Telephone Calls; the Memorandum from the Associate Commissioner: Just Detention International Resource Guide; Inmate Orientation Handbook, observations of posters/brochures and interviews with inmates and staff, Shawangunk CF meets this standard.

## Standard 115.54: Third-party reporting

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

### 115.54 (a)

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

### Auditor Overall Compliance Determination

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

Reviewed the NYS DOCCS website to ensure compliance with 115.54(a) and verified that it contains information under the PREA link on third party reporting of alleged PREA incidents.

Additionally, the information on the web site encourages third parties to report allegations to the Facility Superintendent, Watch Commander, PREA Coordinator or the OSI. This information is included in the Prevention of Sexual Abuse in Prison Pamphlet, which is

provided to each inmate.

This information was observed posted throughout the facility and available in housing units.

Based upon above-mentioned documentations, facility specific examples, and interviews with Facility Superintendent, PREA Compliance Manager, PREA Coordinator, random staff and inmates, Shawangunk CF meets this standard.

## OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

### Standard 115.61: Staff and agency reporting duties

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

#### 115.61 (a)

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

#### 115.61 (b)

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

#### 115.61 (c)

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

#### 115.61 (d)

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

#### 115.61 (e)

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

#### Auditor Overall Compliance Determination

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

NYS DOCCS policies provides clear guidelines to all staff regarding their obligation 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 the alleged incident took place at the inmates' current facility or not; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

Agency policies also, require all reports and information related to allegations remain confidential to the extent necessary for treatment, investigation and for other management decisions.

Interviews with random staff all confirmed compliance and all articulated the reporting process and what is required of them when doing so. Staff was also aware of the requirement to immediately report all allegations of sexual abuse and/or harassment as well as the

requirement to document the report in writing as soon as possible. Each staff also knew the importance of confidentiality.

Based upon review of the Employee Manual Section 2.20; Directive #0700, Office of Special Investigations; #4027A, Sexual Abuse Prevention and Intervention, Inmate on Inmate; #4028A, Sexual Abuse Prevention and Intervention, Staff on Inmate; the Memorandum from Associate Commissioner, Sexual Abuse Response and Containment Checklist; and the Office of Mental Health (OMH) Memorandum of Understanding, interviews with PREA Compliance Manager, Facility Draft Sergeant, random staff and medical/mental health staff, Shawangunk CF meets this standard.

## Standard 115.62: Agency protection duties

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

### 115.62 (a)

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

### Auditor Overall Compliance Determination

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

Agency's policy addresses this standard and specifically states all staff shall take immediate action to protect inmates at risk of imminent sexual abuse. The interviews with the Superintendent, PREA Coordinator, PREA Compliance Manager, and supervisors all confirmed when an inmate is subject to substantial risk; the inmate will be located and assessed in order for staff to take the appropriate action.

In the past 12 months, there was one instance where the facility determined that an inmate was subject to a substantial risk of imminent sexual abuse. Documentation reviewed confirmed, agency took immediate action to protect the inmate.

Based upon reviewed Directives #4040, Inmate Grievance Program; #4948, Protective

Custody Status; and #2168A Sexual Victimization: Involuntary Protective Custody Recommendation form (06/29/17), and interviews conducted, Shawangunk CF meets this standard.

## Standard 115.63: Reporting to other confinement facilities

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

### 115.63 (a)

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

### 115.63 (b)

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

### 115.63 (c)

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

### 115.63 (d)

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

### Auditor Overall Compliance Determination

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

Agency's policies addresses upon receiving an allegation that an inmate was the victim of sexual violence or staff sexual misconduct while confined at another institution or facility, Superintendent where the allegation was received shall notify the head of the institution or appropriate office of the agency where the alleged incident occurred within 72 hours after receiving the allegation. Notification is to be made via electronic mail utilizing Form 115.63; and OSI must be copied also on all such notification via email.

During the past 12 months, Shawangunk CF received no report that claimed or alleged that inmate was sexually abused while in the custody of an outside correctional facility, city or county jail, or any other law enforcement agency.

During the past 12 months, Shawangunk CF received one (1) report from an outside facility that reported an inmate in their custody had been allegedly sexually abused while in the custody of Shawangunk CF.

This auditor reviewed documentation and agency protocol was followed.

Based upon review of the Memorandum for the Associate Commissioner, Reporting to Other Confinement Facilities; Form 115.63 Report of Sexual Abuse, Shawangunk CF specific documentation, and interviews with the Superintendent, Specialized staff (OSI Investigators), supervisors, and staff, Shawangunk CF meets this standard.

## Standard 115.64: Staff first responder duties

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

#### 115.64 (a)

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Separate the alleged victim and abuser?  
 Yes  No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence?  Yes  No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Request that the alleged victim not take any



actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence?  Yes  No

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

#### 115.64 (b)

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

#### Auditor Overall Compliance Determination

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

Agency's policies provide information explaining the duties of staff that are first responders to allegations of sexual abuse or acts of sexual abuse. The policies require all staff to follow the protocol as dictated by this standard, including the separation of the alleged victim from the alleged abuser, preservation of evidence and the crime scene and to not allow the victim or abuser to take any action that would destroy physical evidence if the alleged incident took place within a time frame that would still allow for collection of that evidence.

Each staff at Shawangunk CF is provided a pocket reference guide to allegations of sexual violence against inmates. A copy of the pocket reference was provided as part of the audit and is recognized as an outstanding practice by the agency. The reference covers all steps to take during incidents of sexual abuse and if followed assures compliance. All staff interviewed knew their duties and responsibilities as first responders.

Based upon random staff interviews and review of the following policies/procedures: Directive #4027B – Sexual Abuse Reporting & Investigation Inmate – on – Inmate; #4028B – Sexual Abuse Reporting & Investigation Staff – on – Inmate; Associate Commissioner Memo – RE: PREA Coordinated Response Plan; Sexual Abuse Response and Containment Checklist; Deputy Commissioner Memo – RE: PREA Coordinated Response Plan; and Sexual Abuse Prevention and Response (SAPR) Lesson Plan, Shawangunk CF exceeds this standard.

## Standard 115.65: Coordinated response

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

### 115.65 (a)

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

### Auditor Overall Compliance Determination

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

Shawangunk CF's Coordinated Response Plan to an Incident of Inmate Sexual abuse was reviewed and the plan coordinates actions taken in response to an incident of sexual abuse among first responders, security, medical and mental health practitioners, Office of Special Investigations, facility, and victim advocates.

The Response Checklist ensures all process steps are accomplished and notifications are made. The facility specific plan (FOM#1.105) also addresses, SAFE/SANE hospitals, third party and anonymous reports (documentation, and referral to the Office of Special Investigations), victim advocates, and notifications.

Based upon review of Associate Commissioner Memo – RE: PREA Coordinated Response Plan and Sexual Abuse Response and Shawangunk CF (FOM#1.105): Coordinated Response Plan to an incident of Inmate Sexual Abuse; and interviews with Facility Superintendent, PREA Compliance Manager, Investigative staff, Medical staff, and random staff interviews Shawangunk CF meets this standard.

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

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

### 115.66 (a)

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

### 115.66 (b)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

Review of Directive #2110, Employee Discipline-Suspension from Duty During the Continuation of Disciplinary Proceedings; Directive #2114, Functions of the Bureau of Labor Relations, Union Contracts continuation after Expiration –Taylor Law Triborough amendment and Duration of Agreements on various Bargaining Units confirm policy is in place to ensure neither the agency or any other governmental entity responsible for collective bargaining on the agency's behalf enters into or renew any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

Based upon Directive #2110, Employee Discipline-Suspension from Duty During the Continuation of Disciplinary Proceedings; Directive #2114, Functions of the Bureau of Labor Relations, Union Contracts reviewed, and interviews with the Facility Superintendent, Deputy Superintendent (Administration) and PREA Compliance Manager, Shawangunk CF meets this standard.

## 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*)

NYS DOCCS policies specifically states retaliatory measures against employees and offenders who report incidents of sexual violence, staff sexual misconduct or sexual harassment as well as retaliatory measures against those who cooperate with investigations shall not be tolerated and shall result in disciplinary action and/or criminal prosecution.

NYS DOCCS policy also requires staff to monitor, for a minimum of 90 days following a report, the treatment of inmates and/or employees for treatment, which might suggest retaliation. The policy outlines the following as items to be monitored during periods of retaliation monitoring: periodic status checks, disciplinary reports, housing or program changes or negative performance reviews or reassignments.

The policy goes on to state retaliatory measures as coercion, threats of punishment, or any other activity intended to discourage or prevent staff or offenders from reporting or cooperating with investigations. Additionally the policy explicitly addresses a prohibition against retaliation against staff.

There have been no incidents of retaliation during this audit period.

Based upon review of the Employee Manual 2.19; Memorandum from the Associate Commissioner, Agency Protection against Retaliation, PREA Standard 115.67; PREA Retaliation Monitoring Forms 115.67 and interview with the Superintendent, and PREA Compliance Manager, Shawangunk CF meets this standard.

## **Standard 115.68: Post-allegation protective custody**

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

### **115.68 (a)**

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

### **Auditor Overall Compliance Determination**

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

NYS DOCCS policy specifies that inmates will not be placed in involuntary segregation unless an assessment of all available alternatives has been made and a determination is made that no alternative is available. The facility will assess any inmate in these circumstances immediately but no more than 24 hours.

Also, inmates that are placed in protective custody on this basis shall have access to programs privileges, education, and work opportunities as stipulated in PREA Standard 115.43. If an inmate is placed in involuntary protective custody; inmate status is then reviewed every thirty days.

During this audit period, there were no inmates who alleged sexual abuse or were victims of sexual abuse held in involuntary segregation housing in the past twelve months.

Based on review of Directive #4948 Protective Custody Status, Form #2168A Sexual Victimization: Involuntary Protective Custody Recommendation; interviews with the, facility Superintendent, PREA Compliance Manager, and random sample of staff, Shawangunk CF meets this standard.

## INVESTIGATIONS

### Standard 115.71: Criminal and administrative agency investigations

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

#### 115.71 (a)

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

- Does the agency conduct such investigations for all allegations, including third party and anonymous reports? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.21(a).]  Yes  No  NA

#### 115.71 (b)

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

#### 115.71 (c)

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

#### 115.71 (d)

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

#### 115.71 (e)

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

#### 115.71 (f)

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

#### 115.71 (g)



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

#### 115.71 (h)

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

#### 115.71 (i)

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

#### 115.71 (j)

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

#### 115.71 (k)

- Auditor is not required to audit this provision.

#### 115.71 (l)

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

#### Auditor Overall Compliance Determination

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

DOCCS policies and procedures address investigations of sexual abuse and sexual harassment in its institutions. The policies dictate that OSI Investigators and staff conduct investigations into allegations of sexual abuse and harassment immediately upon becoming aware of the allegation, regardless of how the report is received.

Agency guidelines also states that Inmates who allege sexual abuse are not required to submit to a polygraph examination as a condition for proceeding with the investigation of such an allegation. Additionally, the departure of the alleged abuser or victim from the employment or control of the facility or agency does not provide a basis for terminating an investigation.

Physical (paper) case documents shall be maintained by the OSI in storage location for a minimum for seven years. Oversight of these files is the responsibility of the ICM Unit. After seven years, the respective Deputy Chief of Investigations or his/her designee for consideration of continued retention or destruction shall review a case file. If no active litigation holds, criminal proceedings, or records request exists, the physical case folder will be destroyed and the destruction of the file shall be documented in the electronic case file. The electronic case file is permanently maintained.

Interviews with OSI Investigators confirm they receive numerous training specific to conducting sexual abuse investigations in confinement setting. OSI Investigators participate in a 3-week investigations school and the OJT with an experienced investigator. In addition, other trainings required: PREA; a victim-centered approach to investigations; legal issues including Miranda, Garrity; and burdens of proof; DOCCS medical response policies; individualized credibility assessments; understanding trauma; working with victim advocates; and NIC course "Investigating Sexual Abuse in a Confinement Setting" a course on interview and interrogation, and evidence collection courses.

This was verified during the interview with OSI investigative staff and Facility PREA Compliance Manager. The review of investigations during the audit revealed all allegations received were immediately addressed.

Based upon review of New York Criminal Procedure Law 160.45 Polygraph Test: prohibitions; Directive #0700 Office of Special Investigations; Directive #2011, Disposition of Department Records; OSI Policy & Procedure: Training Requirements for Sex Crime Investigators; OSI Policy & Procedure; Intake and Case Management Unit; OSI Sex Crimes Division Dispatch and Operational Guidelines, Inmate on Inmate Sexual Abuse; OSI Sex Crimes Division Dispatch and Operational Guidelines, Staff on Inmate Sexual Abuse; Power Point Presentation: PREA Specialized Training; Letter to the Acting Commissioner from Superintendent New York State Police, interviews with OSI investigators, PREA Compliance Manager and review of closed investigations, OSI Investigators training files and curriculum, Shawangunk CF exceeds standard requirements.

## Standard 115.72: Evidentiary standard for administrative investigations

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

### 115.72 (a)

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

### Auditor Overall Compliance Determination

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

A review of the Memorandum from Deputy Chief of Investigations: Sex Crimes Division Close out Procedures (7/29/15) and Power Point Presentation Excerpt: PREA Specialized Training: Investigation, and Response Lesson Plan (5/31/16), which clearly states no standard greater than a preponderance of the evidence for determining whether allegations of Sexual Abuse or Harassment are substantiated. This was confirmed during my interview with two OSI Investigators.

Based upon review of the directives, training documentation, and accompanying documentation, Shawangunk CF meets this standard.

## Standard 115.73: Reporting to inmates

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

### 115.73 (a)

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

### 115.73 (b)

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

#### 115.73 (c)

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

#### 115.73 (d)

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

#### 115.73 (e)

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

#### 115.73 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

NYS DOCCS documentation reviewed: Memorandum from Chief, Office of Special Investigations, Notification of Investigative Determination; the Memorandum from the Deputy Chief of Special Investigations and Sex Crimes Division Close Out Procedures (07/29/15); all conveyed that all inmates who make allegations of sexual abuse shall be informed whether the allegations have been substantiated, unsubstantiated, or unfounded; and the process in reporting to inmates as required in said standard.

During the past twelve months, four (4) notifications were made and documented to inmates at Shawangunk CF. Interviews with the Superintendent, PREA Compliance Manager and OSI Investigators verified that the facility is following the procedures.

Based upon review of the Memorandum from Chief, Office of Special Investigations, Notification of Investigative Determination (09/14/15); the Memorandum from the Deputy Chief of Special Investigations and Sex Crimes Division Close Out Procedures (07/29/15); interviews with the Facility Superintendent, PREA Compliance Manager, and OSI Investigators, Shawangunk CF meets this standard.

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

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

#### 115.76 (a)

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

#### 115.76 (b)

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

#### 115.76 (c)

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

#### 115.76 (d)

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

#### Auditor Overall Compliance Determination

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

NYS DOCCS Directives and Memos outlines disciplinary standards for employees, volunteers and contractors and meet the requirements set by the standard. Agency procedures define termination as the presumptive sanction and that disciplinary history, circumstances of the act and sanctions of similar offenses will be considered. Staff who would have been terminated if not for their resignation will be reported to law enforcement agencies, unless the activity was not criminal, and to any applicable licensing bodies.

In the past twelve months, there have been no terminations or discipline imposed on any staff member for sexual abuse or sexual harassment at Shawangunk CF.

Based on review of: Directives #2110, Employee Discipline-Suspension from Duty During the Continuation of Disciplinary Proceedings; #2111, Sexual Abuse Prevention and Intervention,

Staff on Inmate; # 4028A, Sexual Abuse Prevention and Intervention, and Memorandum from the Deputy Commissioner for Administrative Services, Prison Rape Elimination Act Presumptive Disciplinary Sanctions for Staff Sexual Misconduct; interviews with Facility Superintendent, Deputy Superintendent, PREA Coordinator, PREA Compliance Manager, and random staff interviews, Shawangunk CF meets this standard.

## Standard 115.77: Corrective action for contractors and volunteers

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

### 115.77 (a)

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

### 115.77 (b)

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

### Auditor Overall Compliance Determination

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

Reviewed procedures prohibit contractors or volunteers who engaged in sexual abuse to have contact with inmates and require they be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. The OSI Investigative staff, confirmed they will investigate allegations reported against contractors/volunteers as any other

PREA case and would refer allegations for criminal prosecution if warranted.

Review of facility volunteer package acknowledgement forms verified that volunteers were knowledgeable of policies and procedures. There have been no insinuations in the past twelve months involving contractors or volunteers being accused of PREA violations with inmates.

Based upon reviewed Directives #4750 Volunteer Service Program, Memorandum from the Acting Commissioner reference the Policy on the Prevention of Sexual Abuse of Inmates (9/4/13), #2605 Sexual Harassment in the Workplace (12/21/15) and OSI Reporting of Misconduct to Outside Agencies (2/3/16); Review of Memo: from Acting Commissioner, Office of Ministerial, Family and Volunteer Services (Signature Form); Division of Ministerial, Family and Volunteer Services Volunteer Information Packet, (6/10/14), and interviews with facility Superintendent, PREA Compliance Manager, Institutional Steward, Facility Program Administrator, and OSI Investigators, Shawangunk CF meets this standard.

## Standard 115.78: Disciplinary sanctions for inmates

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

#### 115.78 (a)

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

#### 115.78 (b)

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

#### 115.78 (c)

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

#### 115.78 (d)

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

#### 115.78 (e)



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

#### 115.78 (f)

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

#### 115.78 (g)

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

#### Auditor Overall Compliance Determination

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

NYS DOCCS policies and procedures outlines disciplinary sanctions that may be imposed on inmates who engage in sexual abuse and sexual harassment. Inmates are subject to discipline internally for inmate on inmate sexual abuse. Inmates are only disciplined for sexual relations with staff in cases where it is determined to be without consent from staff.

Sanctions are commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories. Furthermore, it shall be determined whether the inmate's mental disabilities or mental illness contributed to the individuals' behavior.

In the past 12 months, there have been no administrative findings of inmate on inmate sexual abuse that have occurred at Shawangunk CF.

In the past 12 months, there have been no criminal findings of guilt for inmate on inmate

sexual abuse that occurred Shawangunk CF.

Based upon reviewed Directives #4027A Sexual Abuse Prevention & Intervention Inmate on Inmate; #4028A Sexual Abuse Prevention & Intervention Staff on Inmate; #4932 Standards Behavior & Allowances; interviews with Facility Superintendent, Deputy Superintendent Programs, Deputy Superintendent Security, PREA Compliance Manager, OSI Investigators, random staff and inmates, Shawangunk CF meets this standard.

## MEDICAL AND MENTAL CARE

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

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

#### 115.81 (a)

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

#### 115.81 (b)

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

#### 115.81 (c)

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

#### 115.81 (d)

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

#### 115.81 (e)

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

#### Auditor Overall Compliance Determination

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

NYS DOCCS screens all inmates for risk of victimization and abusiveness upon arrival. An initial screening is completed by Intake within the 24 hours of arrival and then a much more thorough screening is conducted by the Offender Rehabilitation Coordinator (ORC) within 14 days.

Facility policy requires that all inmates transferred into its facility be screened by a Sergeant or above, ordinarily within 24-hours of arrival at the facility, and reassessed by an assigned ORC ordinarily within 14-days of arrival at the facility. At Shawangunk CF, the assessments are conducted much sooner than the allotted time frame mandated by the agency.

According to documentation reviewed, and interviews conducted with the ORC's, inmates are routinely interviewed and assessed within 5 days after a comprehensive folder review has taken place. The Captain/ PREA Point Person makes a final risk assessment determination ordinarily within 30 days of the inmate's arrival at the facility.

Shawangunk CF is staffed with three (3) ORC-ASAT guidance staff.

At the initial intake screening, if the inmate has disclosed prior sexual victimization and/or previously perpetrated sexual abuse, the inmate is referred for medical and mental health services. Additionally, routine medical and mental health referrals will be seen within 14 days. All information about sexual victimization or abusiveness is strictly limited to medical and mental health staff and other staff as needed.

Medical Screening information is shared with appropriate staff, as needed, to make housing,

bed, work, education, and program assignments. Informed consents are obtained before reporting prior sexual victimization that did not occur in an institutional setting. Inmate interviews confirmed that medical and mental health services are available as needed.

Interviews with medical staff indicate that they are knowledgeable of their duties and responsibilities under PREA and know how to properly respond to or report an allegation of sexual abuse or assault. They were also very knowledgeable on Directive #4301, which requires all medical and mental health follow-ups within fourteen days for those inmates who disclosed during screening prior sexual victimization or previously perpetrated sexual abuse whether it occurred in an institutional setting or in the community.

In the past 12 months, 100% percent of inmates at Shawangunk CF who disclosed prior victimization during screening were offered a follow-up meeting with a medical or mental health practitioner.

In the past 12 months, 100% percent of inmates at Shawangunk CF who previously perpetrated sexual abuse, as indicated during the screening, were offered a follow up meeting with a mental health practitioner.

No forensic medical exams are conducted at Shawangunk CF. Forensic examinations by SANE/SAFE staff are provided at the outside hospital, St. Luke's Hospital, Orange Regional Medical Hospital, and Albany Medical Center.

These services are provided at no cost to the inmate.

Based upon documentation reviewed: Directive #4301, Mental Health Satellite Services and Commitments to CNYPC & Mental Health Referral Form 3150; HSPM 1.44, Health Screening for Inmates; Memorandum from Deputy Commissioner/Chief Medical Officer, Health Screening Forms 3278RC & 3278 TR; and the Memorandum of Understanding between the Department of Mental Health and the DOCCS; and interviews with medical and mental health staff and PREA Compliance Manager, Shawangunk CF meets this standard.

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

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

### **115.82 (a)**

- Do inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by

medical and mental health practitioners according to their professional judgment?

Yes  No

#### 115.82 (b)

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

#### 115.82 (c)

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

#### 115.82 (d)

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

#### Auditor Overall Compliance Determination

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

NYS DOCCS Directives and Policies require that inmates who are victims of sexual abuse be afforded access to forensic medical examinations at an outside facility without financial cost where evidentiary or medically appropriate. Also, inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services.

Shawangunk CF contracts with Central New York Psychiatric Center (CNYPC) to provide mental health services to the inmates who are victims of sexual abuse. No forensic medical exams are conducted at Shawangunk CF, but can provide emergency medical healthcare if needed.

Forensic examinations by SANE/SAFE staff are provided at St. Luke's Hospital, Orange Regional Medical Center, and Albany Medical Center. These services are at no cost to the inmate.

Based upon reviewed Directives #4027 B, Sexual Abuse Prevention and Intervention, Inmate on Inmate; #4028B, Sexual Abuse Prevention and Intervention, Staff on Inmate; and HSPM 1.60: Sexual Assaults Training Manual Initial Employee Training/40 Hour Orientation, the Memorandum of Understanding between the Department of Mental Health and the NYS DOCCS; and interviews with medical and mental health staff and PREA Compliance Manager, Shawangunk CF meets this standard.

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

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

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

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

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

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

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

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

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

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

### 115.83 (e)

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

### 115.83 (f)

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

### 115.83 (g)

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

### 115.83 (h)

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

### Auditor Overall Compliance Determination

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

NYS DOCCS policies address all elements of the standards. Medical and mental treatment

including evaluations, on-going care, and treatment to all inmates that have been identified as victims and/or abusers are provided at no cost to the inmates and are consistent with the community level of care.

In addition, inmate victims of sexual abuse while incarcerated are offered tests for sexually transmitted infections as medically appropriate. Interviews with medical and medical health staff, and inmates, all verified agency's process.

Section (d) & (e) of this standard are non- applicable as Shawangunk CF houses only male inmates.

Based on my review of HSPM#1.44, Health Screening of Inmates; HSPM1.12B Inmate Blood borne Pathogens Significant Exposure Protocol; HSPM#1.60 Sexual Assault, and the Office of Mental Health Memorandum of Understanding with the New York DOCCS, interviews with medical and mental health staff, and interviews with inmates, Shawangunk CF meets this standard.

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

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

#### 115.86 (a)

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

#### 115.86 (b)

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

#### 115.86 (c)



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

#### 115.86 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse?  Yes  No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility?  Yes  No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse?  Yes  No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts?  Yes  No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff?  Yes  No
- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager?  Yes  No

#### 115.86 (e)

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

#### Auditor Overall Compliance Determination

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

NYS DOCCS memorandum requires that a sexual abuse incident review must be conducted within 30 days of the conclusion of the investigation, unless the allegation is deemed to be unfounded.

At Shawangunk CF, the Captain/PREA Point Person will normally chair the Incident Review Team and serve as the Security representative. The Deputy Superintendent for Program Services and a third member designated by the Facility Superintendent makes up the rest of the incident review team. Input is obtained from the investigator, area sergeant, crisis intervention team, mental health, medical, and others as deemed appropriate to complete the review.

A Correctional Facility Operations Specialist from the agency-wide PREA Coordinator's Office is available to participate in the process by telephone as requested to provide guidance to the incident review team.

The team completes the Sexual Abuse Response and Containment Checklist and considers whether the allegation or investigation indicate a need to change policy or practice to better detect, or respond to sexual abuse. The standard requires agency to look at the different factors that possibly motivated the incident. Upon completion of the report it is forwarded to the Facility Superintendent, PREA Compliance Manager, and Agency PREA Coordinator for review. The facility shall then implement recommendations that result from the review, or document the reasons for not making the implementations.

Based on my review of Memorandum from the Deputy Commissioner and the Associate Commissioner, Prison Rape Elimination Act Procedural Enhancements Sexual Abuse Response and Containment Checklist; Sexual Abuse Incident Reviews and Security Staffing Audits, interviews with the Facility Superintendent and the PREA Compliance Manager, Shawangunk CF meets this standard.

## Standard 115.87: Data collection

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

### 115.87 (a)

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

### 115.87 (b)

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

### 115.87 (c)

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

#### 115.87 (d)

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

#### 115.87 (e)

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

#### 115.87 (f)

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

### Auditor Overall Compliance Determination

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

The Office of Program Planning Research and Evaluation: PREA Data Collection, Review, Retention and Publications Manual, and the DATA Dictionary, which address all elements of this standard. The DATA Dictionary defines the elements of information collected by the Office of Program, Planning, Research and Evaluation from all incident based documents was reviewed.

The facility's Deputy Superintendent for Security is responsible for collecting and reporting monthly of all sexual abuse data. Data is collected on the Monthly Sexual Abuse

Threat/Incident Summary (forms #2103SAII and #2103SASI), which is a chronological listing of each sexual abuse, threat, or compliant that occurs in a month. This information is then 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 latest Annual Report on Sexual Victimization report covering the period 2014-2015 is available on the DOCCS website at:

[http://www.doccs.ny.gov/Research/Reports/2017/Annual\\_Report\\_on\\_Sexual\\_Victimization\\_2015\\_Report.pdf](http://www.doccs.ny.gov/Research/Reports/2017/Annual_Report_on_Sexual_Victimization_2015_Report.pdf) and was reviewed by this auditor.

Based upon review of the Office of Program Planning Research and Evaluation: PREA Data Collection, Review, Retention and Publications Manual, Directive #4027B Sexual Abuse Reporting & Investigation- Inmate on Inmate, and Directive #4028B: Sexual Abuse Reporting & Investigation- Staff-on-Inmate / Staff-on-Parolee and, the DATA Dictionary, observations and interviews with Agency PREA Coordinator, and PREA Compliance Manager, Shawangunk CF meets this standard.

## Standard 115.88: Data review for corrective action

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

### 115.88 (a)

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

#### 115.88 (b)

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

#### 115.88 (c)

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

#### 115.88 (d)

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

#### Auditor Overall Compliance Determination

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

The auditor reviewed the Office of Program Planning Research and Evaluation: PREA Data Collection, Review, Retention and Publications Manual, which address all elements of this standard. The PREA Analyst prepares and aggregates data collected in coordination with the Sexual Abuse Prevention & Education Office and the OSI Sex Crimes Division order to assess and improve the effectiveness of its sexual abuse prevention, detection and response policies and training.

An annual report is prepared and includes a comparison with the prior year's data and is published on the agency website addressing facility specific and department wide corrective actions.

The report does not address any case specific information. Policy also allows for data to be redacted if it presents a threat to safety and security.

The Acting Commissioner publishes only aggregated data after review and approval. The 2015 Annual Report is made available to the public through the agency website:

[http://www.doccs.ny.gov/Research/Reports/2017/Annual\\_Report\\_on\\_Sexual\\_Victimization\\_2015\\_Report.pdf](http://www.doccs.ny.gov/Research/Reports/2017/Annual_Report_on_Sexual_Victimization_2015_Report.pdf), which was reviewed by this auditor.

Based on agency's policies mentioned above, NYS DOCCS Annual Data Report, Shawangunk CF meets the standard.

## 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 data is retained and secured by Office of Special Investigations, and the PREA Analyst. DOCCS PREA Data Collection, Review, Retention, and Publication Manual (revised on 8/18/15) outlines procedures for data collection, review, storage and reporting of sexual abuse data and ensures that the incident based information and aggregate data is collected and securely retained for at least ten (10) years as required by PREA standard 115.87.

Prior to publishing the annual report, the agency removes all personal identifiers.

The 2015 Annual Report is made available to the public through the agency's website: [http://www.doccs.ny.gov/Research/Reports/2017/Annual\\_Report\\_on\\_Sexual\\_Victimization\\_2015\\_Report.pdf](http://www.doccs.ny.gov/Research/Reports/2017/Annual_Report_on_Sexual_Victimization_2015_Report.pdf), which was reviewed by this auditor.

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

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

#### 115.401 (a)

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

#### 115.401 (b)

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

#### 115.401 (h)

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

#### 115.401 (i)

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

#### 115.401 (m)

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

#### 115.401 (n)

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

### Auditor Overall Compliance Determination

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

The Auditor reviewed the NYS DOCCS web page at [http://www.doccs.ny.gov/PREA/PREA\\_Final\\_Audit\\_Reports.html](http://www.doccs.ny.gov/PREA/PREA_Final_Audit_Reports.html) containing the 47 audit reports for PREA audits completed from November 6, 2015 through May 01, 2018.

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

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



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

During the audit, the facility administration and staff provided the Auditor access to all areas of Shawangunk Correctional Facility. Any relevant documents or information requested was provided; and a private area and access to randomly selected inmates and staff for interviews was provided. Additionally, posted signs advising how inmates could send confidential information or correspondence to the Auditor like legal counsel was observed throughout the facility and inmate housing units.

## Standard 115.403: Audit contents and findings

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

#### 115.403 (f)

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

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

The Auditor reviewed the NYS DOCCS web page at [http://www.doccs.ny.gov/PREA/PREA\\_Final\\_Audit\\_Reports.html](http://www.doccs.ny.gov/PREA/PREA_Final_Audit_Reports.html) containing the 47 audit reports for PREA audits completed from November 6, 2015 through May 01, 2018.

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## AUDITOR CERTIFICATION

I certify that:

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

### Auditor Instructions:

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

Wynnie R. Testamark

May 31, 2018

**Auditor Signature**

**Date**

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

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