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

☐ **Interim** ☒ **Final**

Date of Report March 30, 2020

Auditor Information

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Company Name: American Correctional Association	
Mailing Address: 3105 S. Martin Luther King Jr. Blvd #236	**City, State, Zip:** Lansing, MI 48910
Telephone: (517) 303-4081	**Date of Facility Visit:** Click or tap here to enter text.

Agency Information

Name of Agency: New York State Department of Corrections and Community Supervision		**Governing Authority or Parent Agency** *(If Applicable)*: New York State	
Physical Address: 1220 Washington Avenue		**City, State, Zip:** Albany, NY 12226-2050	
Mailing Address: Click or tap here to enter text.		**City, State, Zip:** Click or tap here to enter text.	
The Agency Is:	☐ Military	☐ Private for Profit	☐ Private not for Profit
☐ Municipal	☐ County	☒ State	☐ Federal
Agency Website with PREA Information: http://www.doccs.ny.gov/prea			

Agency Chief Executive Officer

Name: Anthony J. Annucci, Acting Commissioner	
Email: commissioner@doccs.ny.gov	**Telephone:** (518) 457-8134

Agency-Wide PREA Coordinator

Name: Jason D. Effman, 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** 16

Facility Information

Name of Facility: Woodbourne Correctional Facility			
Physical Address: 99 Prison Dr.		**City, State, Zip:** Woodbourne, NY 12788	
Mailing Address (if different from above): P. O. Box 1000		**City, State, Zip:** Woodbourne, NY 12788	
The Facility Is:	☐ Military	☐ Private for Profit	☐ Private not for Profit
☐ Municipal	☐ County	☒ State	☐ Federal
Facility Type:	☒ Prison	☐ Jail	

Facility Website with PREA Information: **https://doccs.ny.gov/location/woodburne-correctional-facility**

Has the facility been accredited within the past 3 years? ☒ Yes ☐ No

If the facility has been accredited within the past 3 years, select the accrediting organization(s) – select all that apply (N/A if the facility has not been accredited within the past 3 years):

☒ ACA

☐ NCCHC

☐ CALEA

☐ Other (please name or describe: Click or tap here to enter text.

☐ N/A

If the facility has completed any internal or external audits other than those that resulted in accreditation, please describe:
The facility has had various audits throughout the year internally, in addition to a PREA preparatory audit January 2020.

Warden/Jail Administrator/Sheriff/Director	
Name: Lynn Lilley	
Email: Lynn.Lilley@doccs.ny.gov	**Telephone:** (845) 434-7730 ext. 2000
Facility PREA Compliance Manager	
Name: William Holloran	
Email: W.Holloran@doccs.ny.gov	**Telephone:** (845) 434-7730 ext. 2160
Facility Health Service Administrator ☐ N/A	
Name: Ashley Harris-Baker	
Email: Ashley.Harrisbaker@doccs.ny.gov	**Telephone:** (845) 434-7730 ext. 6106

Facility Characteristics	
Designated Facility Capacity:	849
Current Population of Facility:	783
Average daily population for the past 12 months:	791

Has the facility been over capacity at any point in the past 12 months?	☐ Yes ☒ No
Which population(s) does the facility hold?	☐ Females ☒ Males ☐ Both Females and Males
Age range of population:	20 - 79
Average length of stay or time under supervision:	625 days
Facility security levels/inmate custody levels:	Medium Security
Number of inmates admitted to facility during the past 12 months:	764
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for *72 hours or more*:	747
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for *30 days or more:*	641
Does the facility hold youthful inmates?	☐ Yes ☒ No
Number of youthful inmates held in the facility during the past 12 months: (N/A if the facility never holds youthful inmates)	Click or tap here to enter text. ☒ N/A
Does the audited facility hold inmates for one or more other agencies (e.g. a State correctional agency, U.S. Marshals Service, Bureau of Prisons, U.S. Immigration and Customs Enforcement)?	☐ Yes ☒ No
Select all other agencies for which the audited facility holds inmates: Select all that apply (N/A if the audited facility does not hold inmates for any other agency or agencies):	☐ Federal Bureau of Prisons ☐ U.S. Marshals Service ☐ U.S. Immigration and Customs Enforcement ☐ Bureau of Indian Affairs ☐ U.S. Military branch ☐ State or Territorial correctional agency ☐ County correctional or detention agency ☐ Judicial district correctional or detention facility ☐ City or municipal correctional or detention facility (e.g. police lockup or city jail) ☐ Private corrections or detention provider ☐ Other - please name or describe: Click or tap here to enter text. ☒ N/A
Number of staff currently employed by the facility who may have contact with inmates:	438
Number of staff hired by the facility during the past 12 months who may have contact with inmates:	16
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:	3
Number of individual contractors who have contact with inmates, currently authorized to enter the facility:	28
Number of volunteers who have contact with inmates, currently authorized to enter the facility:	96

Physical Plant	
Number of buildings: **Auditors should count all buildings that are part of the facility, whether inmates are formally allowed to enter them or not. In situations where temporary structures have been erected (e.g., tents) the auditor should use their discretion to determine whether to include the structure in the overall count of buildings. As a general rule, if a temporary structure is regularly or routinely used to hold or house inmates, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.**	64
Number of inmate housing units: **Enter 0 if the facility does not have discrete housing units. DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house inmates of differing security levels, or who are grouped by some other operational or service scheme. Generally, the control room is enclosed by security glass, and in some cases, this allows inmates to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.**	17
Number of single cell housing units:	11
Number of multiple occupancy cell housing units:	0
Number of open bay/dorm housing units:	6
Number of segregation cells (for example, administrative, disciplinary, protective custody, etc.):	44
In housing units, does the facility maintain sight and sound separation between youthful inmates and adult inmates? (N/A if the facility never holds youthful inmates)	☐ Yes ☐ No ☒ N/A
Does the facility have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?	☒ Yes ☐ No
Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months?	☐ Yes ☒ No

Medical and Mental Health Services and Forensic Medical Exams	
Are medical services provided on-site?	☒ Yes ☐ No
Are mental health services provided on-site?	☒ Yes ☐ No

Where are sexual assault forensic medical exams provided? Select all that apply.	☐ On-site ☒ Local hospital/clinic ☐ Rape Crisis Center ☐ Other (please name or describe: Click or tap here to enter text.)

Investigations

Criminal Investigations

Number of investigators employed by the agency and/or facility who are responsible for conducting CRIMINAL investigations into allegations of sexual abuse or sexual harassment:	31
When the facility received allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), CRIMINAL INVESTIGATIONS are conducted by: Select all that apply.	☐ Facility investigators ☒ Agency investigators ☐ An external investigative entity
Select all external entities responsible for CRIMINAL INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for criminal investigations)	☐ Local police department ☐ Local sheriff's department ☐ State police ☐ A U.S. Department of Justice component ☐ Other (please name or describe: Click or tap here to enter text.) ☒ N/A

Administrative Investigations

Number of investigators employed by the agency and/or facility who are responsible for conducting ADMINISTRATIVE investigations into allegations of sexual abuse or sexual harassment?	31
When the facility receives allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply	☒ Facility investigators ☒ Agency investigators ☐ An external investigative entity
Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)	☐ Local police department ☐ Local sheriff's department ☐ State police ☐ A U.S. Department of Justice component ☐ Other (please name or describe: Click or tap here to enter text.) ☒ N/A

Audit Narrative

On March 9-11, 2020, an audit was conducted at the Woodbourne Correctional Facility to determine compliance with the Prison Rape Elimination Act standards finalized August 2012. The auditor was present at the facility from 8:30am to 9:30 pm on Monday, 8:00 am to 8:30 pm on Tuesday, and 8:00 am to 12:00 noon on Wednesday. The facility was previously audited in 2017 and found to be in compliance with all standards. There were no barriers to completing the audit. The auditor was selected to complete the audit by responding to the request for auditors posted by the American Correctional Association.

Audit Methodology:
The PREA Resource Audit Instrument used for Adult Prisons and Jails is furnished by the National PREA Resource Center. This tool includes the following: A) Pre-Audit Questionnaire (PAQ), sent by Woodbourne Correctional Facility; 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. In addition, the Auditor Handbook 2017 was used to guide the audit process. The Online Audit Process was not used for this audit. Documentation was copied to a thumb drive and mailed to the auditor; it was accessed by the auditor February 10, 2020. The established 12-month review period is January 1, 2019 to December 31, 2019. Any events relative to the standards occurring beyond that period were discussed during the on-site audit.

Pre-audit:
The facility reported that posters announcing the audit with the auditor's name and address were placed throughout the facility on February 17, 2020 announcing the audit and identifying the auditor's address in English and Spanish. Due to a miscommunication, they were not posted six weeks prior to the audit as required. To ensure that inmates were aware of this, the PREA Compliance Manager met with Inmate Liaison Committee (ILC) members as well as representatives of the "LGBTI Us United" inmate organization at Woodbourne that represents the LGBTI community housed at the facility. A copy of the meeting minutes was provided to the auditor. Posters were observed by the auditor throughout the facility during the tour(s). They were on salient orange paper. The posters indicated that any correspondence sent to the auditor would be confidential and not disclosed unless required by law. The exceptions in the law were noted. No confidential correspondence letters were received in response to the posters announcing the audit.

The Pre-Audit Questionnaire and corresponding documentation was reviewed in February 2020 and found to be complete. Documentation was provided for each standard and subpart for the auditor to review prior to the on-site audit.

The Agency website was reviewed. Prior PREA Audit reports were available, the previous PREA audit report from March 2017 for Woodbourne Correctional Facility, How to Make a Third-Party Allegation were available as well as the mission statement. In addition, there is a Letter of Understanding to the New York State Police, access to the videos shown to the male and female inmate population, copies of the PREA policies, PREA posters, pamphlets, address, phone number and email link for someone outside to reach the Office of Special Investigations (OSI). The auditor reviewed the mandatory reporting laws, laws regarding where and how juveniles are housed and laws regarding vulnerable adults for the State of New York prior to the audit.

The auditor researched the Internet and found neither evidence of Department of Justice involvement, nor any concerning information. Contact was made with Just Detention International, Inc. No specific information was provided as they had not received any concerns regarding this facility.

One week prior to visiting the audit, the auditor sent a list of documentation that would be required to conduct the random and targeted interviews as well as requests for randomly selected documentation which would demonstrate the practice of the requirements.

On-site audit:
A brief formal meeting was held with the Executive Team (the Superintendent and five other staff) and the auditor the morning of the first day of the audit. The following items were reviewed: purpose of audit, goals and expectations, and the tentative schedule. As such, tentative schedules were developed regarding the tour, interviews arranged in addition to review of additional documentation. It had been arranged for interviews to be conducted in a private setting. Rosters of staff and inmates were provided; a list of random and targeted interviews was developed.

A complete tour of the facility was conducted on March 9-10, 2020. The following areas and operations were visited and observed: inmate living areas including specialized housing, medical operations, library/education areas, recreation areas (indoor and outdoors), vocational training/programming areas, barbershop, chapel area, visiting room, and food service operations. All areas of the facility were visited that have inmate access. Camera monitoring operations were observed. Supervision practices, blind spots, bathroom facilities, and placement and number of telephones were observed. Cross-gender announcements were made prior to the opposite gender auditor entering the living units. Posters announcing the audit were observed throughout the facility.

Formal interviews were conducted with the following:

- Superintendent
- PREA Coordinator
- PREA Compliance Manager (incident review team member)
- PREA Point Person (Director Superintendent of Security, monitors for retaliation)
- Medical/mental health staff (Director of Nursing, Office of Mental Health staff)
- Human Resources supervisor
- Thirteen corrections officers/sergeants from all areas of the facility and each shift (one who worked in the confinement unit)
- Two shift supervisors
- Three investigators
- One counselor (Offender Rehabilitation Coordinator, who complete 30-day follow-up assessments)
- Two intake sergeants (who completes the initial intake risk screening)
- Volunteer Coordinator
- One volunteer
- One chaplain
- One agency nurse

Informal interviews were conducted during the tour with a vocational program supervisor, and one commissary worker. They were informally asked if they knew their obligation under the PREA laws, and to whom would they report any concerns, and they confirmed they had received the training regarding PREA. The PREA Auditor Handbook also requires that a staff who acted as a first responder be interviewed in addition to a staff who had conducted a cross-gender strip search. After review of investigations, it was concluded that no staff that had acted as a first responder. No staff had conducted a cross-gender strip search.

A total of thirty-one (31) inmates were selected to be interviewed. One declined to be interviewed. No youthful offenders are housed at this facility. Seven interviews were random ensuring one inmate from each housing unit was interviewed, including the Special Housing Unit (SHU). Randomly selected inmates resulted in qualifying in one of the targeted inmate categories upon interviewing them. No

inmate was identified as having been placed in segregation for high risk of sexual victimization. Targeted inmate interviews represented the following:

- Three with limited English (staff interpreter used)
- Five self-identified as transgender
- Two self-identified as homosexual/bi-sexual
- Two who initiated a sexual harassment/sexual abuse complaint
- Four who self-reported as having prior victimization
- One inmate who had a physical disability
- Three cognitively impaired inmates
- Four inmates hard of hearing, or legally blind

Inmate interviews were held in the private interview rooms.

Investigations are conducted by the Office of Special Investigations (OSI) who report to the Deputy Commissioner/Chief of Investigations. A list of investigations from January 1, 2019 to December 31, 2019 was provided.

Seven investigations were reviewed for this facility with the investigator; five were completed, two were still open.

- One inmate-on-inmate abuse
- One inmate-on-inmate harassment
- Two staff-on-inmate harassment
- Three staff-on-inmate abuse
- No retaliation allegations however, retaliation was added to the other investigations and addressed.

One investigation was concluded to be substantiated, three were deemed unsubstantiated and one was unfounded. One Investigation was the result of a letter sent directly to the Office of Public Information, two were third-party allegations from other inmates, two allegations were verbal reports to staff, one was the result of a grievance filed, and one was directly made to the reporting hotline available to the inmate population, and one investigation yielded a secondary retaliation complaint that was appropriately addressed. The auditor found the investigation process to be sound, using a preponderance of evidence to support final decision.

The auditor was allowed free access to all areas of the facility, access to interview inmates and staff selected randomly and intentionally, and to see or retain any documentation requested.

An Exit meeting was held with the Superintendent and his Executive staff (five total) to review audit experiences, observations and preliminary findings. It was noted that a final report should be expected within 45 days.

Post on-site audit:
Documentation gathered was reviewed for compliance with the standards. A final report was written. No corrective action was required for this facility.

Facility Characteristics

Woodbourne Correctional Facility is located in the eastern side of New York in Sullivan County, in the Hudson Valley Region. It is located adjacent to Sullivan Correctional Facility. The facility was constructed in the 1930s.

Woodbourne Correctional Facility is medium security facility that houses male inmates some with special needs. The facility offers a variety of specialized housing. The SDU has been established to assist the hearing and/or visually impaired inmate to function at his maximum capability in a "mainstream prison setting. Inmates assigned to the unit have additional accommodations such as visual strobe notification signals, closed caption television and headphone jacks. In the SDU, assessment, education, recreation and counseling are directly accessible to inmates. The SDU program serves as a resource to those inmates who are mainstreamed within the general population. The SNU houses inmates who have cognitive functioning needs. Another area houses Alcohol and Substance Abuse Treatment (ASAT). The facility also has a Special Housing Unit (SHU), and a long-term Protective Custody Unit.

Housing areas consist of single cell occupancy and open dormitory housing where each inmate has a cubicle divided by a wall, approximately four feet high. Single cells have sinks/toilets in their rooms and showers located on each floor; dormitory housing has common bathroom areas.

Programming opportunities for the inmates include counseling services, academic education including college provided by volunteers, vocational training (custodial maintenance, computer training, culinary arts, refrigeration/air conditioning and welding), Transitional Services which includes: Aggression Replacement Training (ART), alcohol/substance abuse programming, Family Reunion Program (FRP) and volunteer services. The facility also has a Sex Offender Counseling and Treatment Program (SOCTP). There is vast space and scheduling for religious services. Additionally, there are recreational staff to supervisor organized and open recreation opportunities.

This facility is well staffed; the executive team has significant seniority (most with 25 plus years of experience). Most staff are represented by a union. The only contractual staff are agency nurses. Mental Health Services are offered through a Memorandum of Understanding (MOU) with the Office of Mental Health. All other staff are employees of the NYSDOCCS.

Count on the first day of the audit was 783. The facility reports they have no know sexual aggressive inmates, four potentially aggressive inmates, no know sexual abuse victims, fifteen potentially vulnerable inmates housed at this facility. These classifications are in accordance with their PREA Risk Assessment.

Summary of Audit Findings

Standards Exceeded

Number of Standards Exceeded: 11

List of Standards Exceeded: §115.11 - Zero tolerance of sexual abuse and sexual harassment; PREA coordinator, §115.16 – Inmates with Disabilities and Inmates who are Limited English Proficient, §115.17 – Hiring and Promotion Decisions §115.21 – Evidence Protocol and Forensic Medical Examinations, §115.32 – Volunteer Services, §115.33 – Inmate Education, §115.34 – Specialized Training: Investigations, §115.41 – Screening for Risk of Victimization and Abusiveness, §115.42 – Use of Screening Information, §115.53 – Inmate Access to Outside Confidential Support Services, §115.67 – Agency protection against retaliation.

Standards Met

Number of Standards Met: 34

Standards Not Met

Number of Standards Not Met: 0

PREVENTION PLANNING

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

115.11 (a)

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

115.11 (b)

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

115.11 (c)

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

Auditor Overall Compliance Determination

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

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

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

(a) An agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct.

The auditor reviewed excerpts from the following policies:
Directive #4027A, Sexual Abuse Prevention & Intervention-11/29/17 (Inmate-on-Inmate)
Inmate-on-Inmate – II, III, IV D 1 which states that the agency has a zero tolerance for sexual abuse and sexual harassment. It further emphasizes that inmates and parolees have a right to be free from sexual abuse and sexual harassment. It supports that all matters of sexual abuse, sexual harassment and retaliation will be investigated, and disciplinary action will occur up to prosecution. Definitions are provided for all aspects regarding inmate-on-inmate sexual abuse and harassment.

Directive #4028A, Sexual Abuse Prevention & Intervention-11/29/17 Staff-on-Inmate/Staff-on-Parolee – II, III, V C. This policy states that the agency has a zero tolerance for sexual abuse and sexual harassment. It emphasizes that inmates and parolees have a right to be free from sexual abuse and sexual harassment. It supports that all matters of sexual abuse, sexual harassment and retaliation will be investigated, and disciplinary action will occur up to prosecution. Definitions are provided regarding staff-on-inmate sexual abuse and harassment. The policy further supports efforts in prevention, detection, response and investigation of sexual abuse, sexual harassment, protection from retaliation, investigation while ensuring the safety and treatment needs of a victim.

(b) An agency shall employ or designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities.

The following documents support that the Agency has an agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities:

- Memo from the Commissioner dated March 14, 2012 appointing the Agency-wide PREA Coordinator who currently holds the position today.
- Email announcement dated April 25, 2013 announcing that Jason Effman holds the rank of Associate Commissioner.
- DOCCS Organizational Chart which indicates that the PREA Coordinator reports directly to the Commissioner.
- Duties Description Associate Commissioner (PREA) Item #00901

The PREA Coordinator and his Correctional Facility Operations Specialist were on site during the audit. Questions were addressed at that time as well as the interviews conducted. The interview supports that he has sufficient time and authority to ensure all activities required by the PREA standards can be addressed. This is further supported by the documentation provided prior to the on-site audit and addressed throughout this report. He further elaborated, "At this time, I have sixteen (16) Assistant Deputy Superintendent (ADS) PREA Compliance Manager items. In addition, each of the 52 facilities has a Captain or staff member with equivalent responsibilities designated as the PREA Point Person. I interact with the ADS PREA Compliance Managers routinely. We have weekly conference calls to discuss policy updates, new initiatives and to discuss any issues that they or I should be aware of. We email and speak on an ongoing basis as well. In addition, we meet as a group at least annually for training programs, often in conjunction with the Office of Special Investigations, Sex Crimes Division staff. I have two Correctional Facility Operations Specialist (CFOS) items in my Office in Albany who work with the ADS PREA Compliance Managers on a daily basis, and who have frequent contact with the designated PREA Point Persons. They answer questions, provide guidance, and share information. If they cannot answer a question, they bring the matter to my attention."

(c) Where an agency operates more than one facility, each facility shall designate a PREA compliance manager with sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards.

At this facility, an Assistant Deputy Superintendent (ADS) serves at the PREA Compliance Manager. In addition to the PREA Compliance Manager, the facility has a PREA Point person who works with the PREA Compliance Manager along with the Central Office Sexual Abuse Prevention & Education Office (SAPEO). At this facility, this person is the rank of Deputy Superintendent of Security (DSS). This was established by a memo from the Deputy Commissioner to all Superintendents requiring the appointment of a PREA point Person of the rank of Captain (dated August 2017). Duties Description for Assistant Deputy Superintendent SG-25 (PREA) specifies the duties of the PREA Compliance Manager. The current PREA Compliance Manager (ADS) was appointed for this facility October 2019. The facility Organization Chart shows that the ADS reports to the Superintendent. An email from the Superintendent dated January 3, 2019, appoints the DSS as the PREA Point Person. Both the PREA Compliance Manager the Captain were interviewed regarding their duties. Both indicated they have sufficient time and authority to coordinate the facility's effort to comply with the PREA standards. Both the ADS and the DSS indicated they serve on the PREA incident review team, monitor for retaliation after allegations are made and monitor training activities. The ADS reports that weekly telephone conference calls are made with the PREA Coordinator to ensure up to date information is communicated, and current issues are addressed.

After review of the policies, memos, organizational charts and interviews with the Superintendent, PREA Compliance Manager, PREA Point Person and the PREA Coordinator, the auditor concluded that the agency and the facility are committed to the prevention, detection and response to sexual abuse and harassment. This state and this facility exceed the standards based on the detailed commitment to the standards that will be noted throughout this report.

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

115.12 (a)

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

115.12 (b)

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

Auditor Overall Compliance Determination

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

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

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

(a) A public agency that contracts for the confinement of its inmates with private agencies or other entities, including other government agencies, shall include in any new contract or contract renewal the entity's obligation to adopt and comply with PREA standards.

The Agency contracts for Community Based Residential Programs; the programs are required to adopt and comply with the PREA standards. The agency has provided contracts for the following: Bridges of Greater NY, Catholic Charities, Hillcrest House, Hope of Buffalo, Saving Grace Ministries, Volunteers of America, Catholic Family Center, Fitzgerald House and Society of St. Vincent De Paul which demonstrated support for a finding of compliance as well as a memo from the Agency PREA coordinator supporting compliance.

(b) Any new contract or contract renewal shall provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards.

The Request for Application for Community Based Residential Programs (CBRP) includes a requirement for compliance with the PREA standards. Effective May 1, 2017 CBRPs are required to become PREA compliant, including PREA certification. Currently six completed reports are available on the NYSDOCCS website for review.

A written interview with the agency Reentry Manager (contract monitor for community programs yielded the following confirmation: "New York State contracts with a number of organizations to provide residential programs for parolees and others subject to community supervision upon release. These include Residential Stabilization Programs (RSP) and Community Based Residential Programs (CBRP). Department Reentry Managers are responsible for contract monitoring of such programs. This includes ensuring that program staff participate in PREA training, that residents receive PREA educational materials and that information is posted, and that Program staff comply with reporting requirements as specified by the Department. The new contracts require full PREA compliance and include quarterly goals to ensure that each program is able to achieve full compliance with the PREA Community Confinement Facilities Standards within one year".

Based on the review of the documentation provided, this Agency is deemed compliant with the requirements of the standard.

Standard 115.13: Supervision and monitoring

115.13 (a)

- Does the agency ensure that each facility has developed a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? ☒ Yes ☐ No

- Does the agency ensure that each facility has documented a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration the generally

accepted detention and correctional practices in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration any judicial findings of inadequacy in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from Federal investigative agencies in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from internal or external oversight bodies in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration all components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated) in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration the composition of the inmate population in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration the number and placement of supervisory staff in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration the institution programs occurring on a particular shift in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No ☐ NA

- Does the agency ensure that each facility's staffing plan takes into consideration any applicable State or local laws, regulations, or standards in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

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

- Does the agency ensure that each facility's staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

115.13 (b)

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

115.13 (c)

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The staffing plan established pursuant to paragraph (a) of this section? ☒ Yes ☐ No

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The facility's deployment of video monitoring systems and other monitoring technologies? ☒ Yes ☐ No

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The resources the facility has available to commit to ensure adherence to the staffing plan? ☒ Yes ☐ No

115.13 (d)

- Has the facility/agency implemented a policy and practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment? ☒ Yes ☐ No

- Is this policy and practice implemented for night shifts as well as day shifts? ☒ Yes ☐ No

- Does the facility/agency have a policy prohibiting staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility? ☒ Yes ☐ No

Auditor Overall Compliance Determination

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

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

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

(a) The agency shall ensure that each facility it operates shall develop, document, and make its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect inmates against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, facilities shall take into consideration:
(1) Generally accepted detention and correctional practices;
(2) Any judicial findings of inadequacy;
(3) Any findings of inadequacy from Federal investigative agencies;
(4) Any findings of inadequacy from internal or external oversight bodies;
(5) All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated);
(6) The composition of the inmate population;
(7) The number and placement of supervisory staff;
(8) Institution programs occurring on a particular shift;
(9) Any applicable State or local laws, regulations, or standards;

(10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
(11) Any other relevant factors.

Woodbourne CF Security/Chart/Staffing Review with Recommended Changes to Facility Plot Plan 7/16/2017 was reviewed. It is a six-page document assessing staffing levels pursuant to all needs of the facility. This document demonstrates that a review of staffing was conducted by the Security Information Staffing Unit/Deputy Commissioner for Correctional Facilities.

An annual staffing review dated December 2019 entitled Annual Supervision and Monitoring Plan Review, specific to Woodbourne Correctional Facility provides a detailed assessment of each of the categories required by the standard. The Review is sent to the Deputy Commissioner for Correctional Facilities and Agency PREA Coordinator in addition to the Director of Security Staffing.

(b) In circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations from the plan.

Post Closure Reports are completed when a post is closed, explaining the reason. The example of this document was provided to the auditor for December 12, 2019 demonstrating the deviations are documented. Additionally, while on site, the auditor requested Post Closure reports for the previous four weeks. They were received, reviewed and found to further demonstrate the facility's/agency's commitment to documenting all instances of deviations from the staffing plan.

(c) Whenever necessary, but no less frequently than once each year, for each facility the agency operates, in consultation with the PREA coordinator required by § 115.11, the agency shall assess, determine, and document whether adjustments are needed to:
(1) The staffing plan established pursuant to paragraph (a) of this section;
(2) The facility's deployment of video monitoring systems and other monitoring technologies; and
(3) The resources the facility has available to commit to ensure adherence to the staffing plan.

As stated, the facility completed the Annual Supervision and Monitoring Plan Review. The interview with the PREA Coordinator yielded the following: "I am consulted regarding assessments of, or adjustments to, the staffing plan. On a minimum of an annual basis, a formal written assessment is done by the facility Superintendent and submitted for consideration by myself, the Director of Security Staffing and the Deputy Commissioner for Correctional Facilities. In addition, I am notified of all facility staffing plan adjustments through the Security Staffing Information Unit."

(d) Each agency operating a facility shall implement a policy and practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Such policy and practice shall be implemented for night shifts as well as day shifts. Each agency shall have a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

The Employee Manual (recently revised and issued) indicates that employees are prohibited from alerting other employees that supervisory rounds are occurring, unless the announcement is related to legitimate operational functions. DIR #4001 4/25/2019 Facility Administrative Coverage & Supervisory rounds requires Security supervisors to conduct daily rounds and complete the Daily Security Supervisor Report which specifically addressed rounds being unannounced.

The policy and document excerpts noted above support a finding of compliance. Additional reason for a determination of compliance area as follows:

- The auditor requested and received copies of the Daily Security Supervisory Report for a randomly picked date (February 17, 2020) for all three shifts. The document demonstrated that unannounced rounds are conducted.
- Random review of documentation of unannounced rounds randomly requested (1/24/20, 2/24/20), documented in the Weekly Administrative Activity Report, support that unannounced rounds are conducted.
- Interviews with shift supervisors (two) indicate that a strategy is used to make rounds at irregular intervals.
- The interviews with the Superintendent, PREA Compliance Manager and PREA Point Person also supported that the staffing roster is reviewed every two weeks to determine if adjustments are needed. A sergeant is assigned to coordinate staff assignments on a full-time basis.
- Staff were visible in each area of the facility if inmates were present.
- Additional confirmation of these rounds was observed in unit logbooks, randomly checked during the tour. Supervisory staff sign in red ink and note “unannounced round”.
- The auditor requested and viewed logbook pages of unannounced rounds occurring in the SHU on February 14, 2020 (date randomly requested by the auditor)

The interview with the Superintendent confirmed that the “Plot Plan”, based on security level, capacity, physical plant, programs, and general operation is utilized and regularly reviewed on an ongoing basis and formally annually. He noted that incidents of sexual abuse or sexual misconduct are considered among other factors. Video monitoring is analyzed but only as an addition to supervision, not to replace it. He indicated there is a Staffing Lieutenant and a Chart Sergeant who constantly monitor staffing needs, post closures and other temporary adjustments.

Based on the interview with the Superintendent, policy, Employee Manual, documentation of the annual staffing review, randomly requested documentation and observations made during the tour, the auditor finds there is substantial evidence to support that this facility is compliant with this standard.

Standard 115.14: Youthful inmates

115.14 (a)

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

115.14 (b)

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

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

115.14 (c)

- Does the agency make its best efforts to avoid placing youthful inmates in isolation to comply with this provision? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA

- Does the agency, while complying with this provision, allow youthful inmates daily large-muscle exercise and legally required special education services, except in exigent circumstances? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA

- Do youthful inmates have access to other programs and work opportunities to the extent possible? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA

Auditor Overall Compliance Determination

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

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

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

(a) A youthful inmate shall not be placed in a housing unit in which the youthful inmate will have sight, sound or physical contact with any adult inmate through the use of a shared dayroom or other common space, shower area or sleeping quarters.

(b) In area outside of housing units, agencies shall either: Maintain sight and sound separation between youthful inmates and adult inmates or Provide direct staff supervision when youthful inmates and adult inmates have sight, sound or physical contact.

(c) Agencies shall make best efforts to avoid placing youthful inmates in isolation to comply with this provision. Absent exigent circumstances, agencies shall not deny youthful inmates daily large-muscle exercises and any legally required special education services to comply with this provision. Youthful inmates shall also have access to other programs and work opportunities to the extent possible.

Woodbourne Correctional Facility DIR #00 8/4/2016 states, “This facility is used for the general confinement of males 18 years of age or older.” Inmates under the age of 18 are housed at the Hudson Adolescent Offender and Adirondack Adolescent Facility. The State of New York passed a “Raise the Age Law.” *New York Consolidated Laws Service > Correction Law (Arts. 1 — 35) > Article 4 Establishment of Correctional Facilities, Commitment to Department and Custody of Inmates (§§ 70 — 79-c) § 77. Adolescent offender facilities.* Based on these documents and the law, as well as observations made during the tour, the auditor finds this standard does not apply to this facility and therefore is deemed to be compliant.

Standard 115.15: Limits to cross-gender viewing and searches

115.15 (a)

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

115.15 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female inmates in non-exigent circumstances? (N/A here for facilities with less than 50 inmates before August 20, 2017.) ☐ Yes ☐ No ☒ NA

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

115.15 (c)

- Does the facility document all cross-gender strip searches and cross-gender visual body cavity searches? ☒ Yes ☐ No

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

115.15 (d)

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

- Does the facility require staff of the opposite gender to announce their presence when entering an inmate housing unit? ☒ Yes ☐ No

115.15 (e)

- Does the facility always refrain from searching or physically examining transgender or intersex inmates for the sole purpose of determining the inmate's genital status? ☒ Yes ☐ No

- If an inmate's genital status is unknown, does the facility determine genital status during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner? ☒ Yes ☐ No

115.15 (f)

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

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

Auditor Overall Compliance Determination

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

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

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

(a) The facility shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.

Directive #2230 Guidelines for Assignment of Male and Female Correction Officers 2/21/2019 addresses which duties cannot be performed by opposite gender staff which includes strip searches, viewing showers, videos of strip searches, special watch, monitoring of inmate bathrooms via Closed-Circuit television (CCTV), and urine specimen collection.

Directive #4910 Control and Search for Contraband 6/28/2019 supports that strip searches shall be conducted by an Officer or employee of the same sex as the inmate being searched.

HSPM 1.37 Body Cavity Search 12/26/2016 states that this type of search is only authorized by the Superintendent, Acting Superintendent or Facility Officer of the Day upon approval form the Deputy Commissioner/Chief Medical Officer, or designee when there is imminent danger to an inmate's health or facility safety. A correction officer of the same sex as the inmate will be present during the exam. This policy indicates that the exam is only conducted by primary care providers.

(b) As of August 20, 2015, or August 20, 2017 for a facility whose rated capacity does not exceed 50 inmates, the facility shall not permit cross-gender pat-down searches of female inmates, absent exigent circumstances. Facilities shall not restrict female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision.

This facility does not house female inmates.

(c) The facility shall document all cross-gender strip searches and cross-gender visual body cavity searches and shall document all cross-gender pat-down searches of female inmates.

Directive #4910 Control and Search for Contraband 6/28/2019 A strip search form (Form #1140) is completed for all inmates who are strip searched for probable cause. The PAQ indicates that there have been no cross-gender strip searches. During the audit, the auditor randomly asked two officers who both confirmed they have not heard of anyone having to conduct a cross-gender strip search.

(d) The facility shall implement policies and procedures that enable 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. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering an inmate housing unit.

Directive #4001 Facility Administrative Coverage & Supervisory Rounds 4/25/2019 states that staff of the opposite gender shall verbally announce their arrival on a housing unit to avoid unnecessarily invading the privacy of inmate of the opposite gender. It clarifies when the announcement is to be made (i.e. when gender supervision changes) and that it is to be logged in the housing unit logbook.

Directive #2230 Guidelines for Assignment of Male and Female Correction Officers 2/21/2019 states that staff of the opposite gender shall verbally announce their arrival on a housing unit to avoid unnecessary invasion of privacy. It emphasizes the inmates' privacy will be protected to the extent the Department is able to do so. It requires the use of and directions for the use of department-approved shower curtains.

All inmate interviews and staff interviews confirmed that inmates are able to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing the breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Over 90% of the inmate interviews confirm that opposite gender staff are announcing when entering the unit. All random staff interviews confirmed that this is occurring. During the tour, the auditor and escort team was announced prior to entering the unit; this did not appear to be odd based on the observations of the inmates in the unit at the time. The auditor observed the notation of "female in the unit" in logbooks as they were randomly reviewed in the units.

During the tour, the auditor observed the shower located in the individual housing units. As stated in the Facility Description, the showers have individual, separate stalls with solid doors and a window to view sufficiently to ensure safety. It was verified in conversation during the tour, access in and out of the showers is controlled by the officer. Additionally, during the tour the auditor observed the area where strip searches are conducted in Intake, SHU and the Visiting Room. All provided appropriate privacy for the inmate during this process.

The auditor viewed the monitoring station for the limited camera system and found no view that afforded a female staff to view inmates unclothed.

(e) The facility shall not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. If the inmate's genital status is unknown, it may be determined during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

HSPM 1.19 Health Appraisal 6/11/2019 supports that a facility shall not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. If an inmate's genital status is unknown, the facility will determine genital status during conversations with the inmate, by reviewing medical records. It further states that a medical practitioner may conduct a full physical examination of an inmate when relevant to the treatment; such an exam will be conducted in private and with the patient's consent. A full physical exam, including assessment of genital status, can be done during the initial and periodic health appraisals in accordance with DOCCS policies and as needed according to professional judgement. Medical staff shall not conduct a physical exam of an inmate at the direction of the facility's security or administration for the sole purpose of determining the

inmate's genital status. If such an exam becomes necessary as part of an assessment for Gender Dysphoria, in connection with hormone treatment or in connection with inmate placement; then an exam can be done only upon direction and approval of the Deputy Commissioner/Chief Medical Officer. Directive #4910 Control and Search for Contraband 6/28/2019 and excerpts from the training curriculum supports that staff are provided specific training which emphasizes professionalism, dignity and respect when searching inmates and when searching transgender inmates.

Directive #4910 6/28/2019 confirms that a strip frisk of an inmate who has been diagnosed with Gender Dysphoria shall presumptively be conducted by staff of the same gender as the gender classification of the facility. This presumption is subject to review by Central Office on a case-by-case basis following an incarcerated individual's transfer to a facility consistent with their gender identification or identification of other factors that may warrant a different determination. Staff shall apply procedures as appropriate based upon the anatomy of the inmate. The facility (administration/security) shall not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. If the inmate's genital status is unknown, a medical provider may determine the inmate's 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."

(f) The agency shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

Directive #4910 Control and Search for Contraband 6/28/2019 and excerpts from the training curriculum supports that staff are provided specific training which emphasizes professionalism, dignity and respect when searching inmates and when searching transgender inmates.

Memo Jason D. Effman, Associate Commissioner 7/18/2019 RE; Revisions to Directive #4910 states, On June 28, 2019, the Department's Bureau of Internal Controls issued a revision to Directive #4910, "Control of & Search for Contraband." The purpose of this revision was to further clarify the protocols for dealing with contraband searches as they relate to transgender and intersex inmates, and inmates with gender dysphoria/GD. These revisions are highlighted below:

- Any inmate who is to be pat frisked, who has Gender Dysphoria, is intersex or who is transgender and has a permit to possess and wear gender affirming/transgender clothing, may request that a Correction Officer of the inmate's preferred gender conduct the pat frisk. It is the policy of the Department to honor that request whenever possible, as determined by the Area Supervisor.
- Except as provided below, a correction officer shall not perform a non-emergency pat frisk of an inmate who has been issued a permit to possess and wear gender conforming/transgender clothing over their objection when:
    - The inmate presents their permit to possess and wear gender conforming/transgender clothing and requests to be pat frisked by a correction officer of a specified gender; and
    - A correction officer of the specified gender is present at the location where the pat frisk is to be conducted and is available to perform the pat frisk.
- Notwithstanding the above provisions, a correction officer may pat frisk an inmate who has been issued a permit to possess and wear gender conforming/transgender clothing over their objection where exigent circumstances exist, and a correction officer of the specified gender is not present at the location where the pat frisk is to be conducted or, if present, is not available to perform the pat frisk.
- When a male correction officer pat frisks an inmate, who has been issued a permit to possess and wear gender conforming/transgender clothing, the male correction officer shall not use the

palm of his hand when frisking the clothed breast area of the inmate. Instead, a male correction officer shall use the back and side of his hand only and shall use care not to pat the clothed nipples of the inmate. This limitation is not applicable to a female correction officer conducting a pat frisk on the inmate.

- When frisking the clothed inner thigh, groin, or buttocks, a correction officer shall use care not to penetrate any genital opening of the inmate. All correction officers shall conduct themselves professionally, alert to the perceived sensitive nature of the frisk.
- When a correction officer conducts a frisk of an inmate who has been issued a permit to possess and wear gender conforming/transgender clothing over their objection, the correction officer shall record the date, time, place, and the reason for the pat frisk on Form #1140CGPF-T. "Report of Cross Gender Pat Frisk- Transgender Inmate."
- A strip frisk of an inmate who has been diagnosed with Gender Dysphoria shall presumptively be conducted by staff of the same gender as the gender classification of the facility. This presumption is subject to review by Central Office on a case-by-case basis following an incarcerated individual's transfer to a facility consistent with their gender identification or identification of other factors that may warrant a different determination. Staff shall apply procedures as appropriate based upon the anatomy of the inmate. The facility (administration/security) shall not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. If the inmate's genital status is unknown, a medical provider may determine the inmate's 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."

Review of the policies, memo reflecting updated information, the training curriculum, training records as well as all interviews with staff support a finding of compliance with this standard. All staff interviews confirmed that all are aware that transgender inmates are not to be searched for the sole purpose of determining genital status. All staff and inmate interviews support that inmates are allowed to change clothes, shower and use the toilet 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. Staff responses indicate that they are trained on how to conduct pat frisks of transgender and intersex inmates in a professional and respectful manner, and how to conduct searches of transgender and intersex inmates and in the least intrusive manner possible, consistent with security needs. Training emphasizes that staff be professional when conducting personal searches. The auditor was provided training reports that confirmed that 100% of security staff have been trained regarding how to Pat Frisk and Strip Frisk inmates. Staff interviews all confirmed that they have been appropriately trained regarding how to search transgender/intersex persons and cross-gender pat searches. Finally, observations during the tour all support that the facility is compliant with all aspects of the standard.

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

115.16 (a)

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are deaf or hard of hearing? ☒ Yes ☐ No

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are blind or have low vision? ☒ Yes ☐ No

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have intellectual disabilities? ☒ Yes ☐ No

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have psychiatric disabilities? ☒ Yes ☐ No

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have speech disabilities? ☒ Yes ☐ No

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Other (if "other," please explain in overall determination notes)? ☒ Yes ☐ No

- Do such steps include, when necessary, ensuring effective communication with inmates who are deaf or hard of hearing? ☒ Yes ☐ No

- Do such steps include, when necessary, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary? ☒ Yes ☐ No

- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Have intellectual disabilities? ☒ Yes ☐ No

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

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

115.16 (b)

- Does the agency take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient? ☒ Yes ☐ No

- Do these steps include providing interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary? ☒ Yes ☐ No

115.16 (c)

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

Auditor Overall Compliance Determination

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

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

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

(a) The agency shall take appropriate steps to ensure that inmates with disabilities (including, for example, inmates who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with inmates who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, the agency shall 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, limited reading skills, or who are blind or have low vision. An agency is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans With Disabilities Act, 28 CFR 35.164.

Directive #2612 Inmates with Sensorial Disabilities 12/27/2018 references the Americans with Disabilities Act, noting that programs and services provided cannot discriminate against individuals with a disability who are qualified to receive them. It further states, "Qualified Sign Language Interpreting Services: A sign language interpreter certified by the National Registry of Interpreters for the Deaf or other National or New York State credentialing authority, or a sign language interpreter who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary. The qualifications of an interpreter are determined by the actual ability of the interpreter in a particular interpreting context to facilitate effective communication. Except as otherwise indicated below, qualified interpreters may include inmates and correctional staff, including Correction Officers and volunteers, when their skills meet the above definition and factors such as emotional or personal involvement and considerations of confidentiality will not adversely affect their ability to interpret effectively, accurately, and impartially; or jeopardize the safety and security of the inmate."

As noted in the narrative, this facility is designed to house inmates with sensorial deficiencies. As a result, staff are readily available to assist with assistive devices and interpretation when on site.

(b) The agency shall 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, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

Directive #4490 Cultural and Language Access Services 8/1/2019 ensures inmates with limited English skills will have meaningful access to programs, services and benefits.

Pamphlet translations – The Prevention of Sexual Abuse in Prison What Inmates Need to Know is available in English, Spanish, Bengali, Haitian-Creole, Russian, Polish, Italian, Mandarin Chinese, and Korean. The language needed is noted on the receipt of the PREA Sexual Abuse Brochure provided at the intake process. Two completed examples were provided with the pre-audit documentation.

"Ending Sexual Abuse Behind the Walls: An Orientation" is available with audio tracks and closed captioning in English, Spanish, Mandarin Chinese, Haitian Creole, Italian, Korean, Polish and Russian.

The agency has a contract with Language Line Services, Inc. (copy provided to the auditor). Directions for how to access the line was provided to the auditor. In addition, during random staff interviews, many staff, including line staff, are aware of the availability of the line if its use is needed.

(c) The agency shall not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under § 115.64, or the investigation of the inmate's allegations.

Directive #2612 Inmates with Sensorial Disabilities 8/1/2019 supports that generally an inmate will not be used to interpret for another inmate for confidential/sensitive matters unless there are exigent circumstances.

Directive #4490 Cultural and Language Access Services 1/15/2016 states, generally staff shall not rely on an inmate, family member or friend to interpret for communications that involve sensitive confidential or privileged information.

The PAQ indicates that no inmate has been used to interpret for another inmate regarding confidential information. Interviews with random staff confirmed that an inmate will not be used to interpret and has not been used to interpret for confidential information; responses indicated they would seek the assistance of a bi-lingual staff or the Language Line, as noted above. Most random interviews acknowledged they were aware that if no other recourse was available, this can occur; other interviews required prompting to confirm this. Without having a specific scenario to relate this question to, the auditor found no concerns with these responses.

In addition to having Spanish speaking staff, the facility has a Spanish speaking ORC which helps ensure programming needs and other concerns are addressed for Spanish only speaking inmates.

Review of the policies and other documents noted above support that the facility has gone above and beyond by providing information and the video caption in seven additional languages. The documentation for the intake process indicates that language needs are assessed immediately upon arrival, as are any disability needs. Having the SDU unit further ensures that those with disabilities have their needs addressed. The written interview with the Acting Commissioner reiterated his support for all these processes in place. For these reasons, the auditor finds that the facility is in substantial

compliance with this standard. A finding of exceeds standard is due to the numerous language options readily available.

Standard 115.17: Hiring and promotion decisions

115.17 (a)

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? ☒ Yes ☐ No

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse? ☒ Yes ☐ No

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? ☒ Yes ☐ No

- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? ☒ Yes ☐ No

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

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

115.17 (b)

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

115.17 (c)

- Before hiring new employees, who may have contact with inmates, does the agency: perform a criminal background records check? ☒ Yes ☐ No

- Before hiring new employees, who may have contact with inmates, does the agency: consistent with Federal, State, and local law, 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*)

(a) The agency shall not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any contractor who may have contact with inmates, who—

(1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);
(2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
(3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.

Directive #2216, Fingerprinting/Criminal History Inquiry - New Employees and Contractors – 11/01/2018 states, All employees and contractors of the Department of Corrections and Community Supervision (DOCCS) will be subjected to a criminal history inquiry in order to obtain background information pertinent to the security of operations, to verify data on employment applications, and to receive notification when Department employees are arrested. Employees and contractors may also be fingerprinted in accordance with this directive. This policy applies to all titles as defined in Section II, Definitions. Information Technology Services (ITS) staff, Department of Motor Vehicles (DMV) staff, and Office of Mental Health Staff (OMH) will have criminal history inquiries conducted. Policy indicates a request is submitted to the Employee Investigative Unit (EIU) via email transmittal; a response must be received with non-derogatory indicated prior to the first day of employment. The policy has an Attachment A which designates how this background check is conducted on potential employees, contractors and staff from other agencies.

NYS Department of Correctional Services Personnel Procedure Manual #406A Recruitment Process – 4/8/16 – Forms: PPM 406A1, Recruitment Process Checklist, PPM 406A.2 Employment Telephone Verification outlines steps to be taken to prior to filing a position with a candidate.

Memo: from Director of Personnel, 4/30/14, RE: Personnel Procedure #407 – Civilian Promotions, Personal Procedure Manual #407A – Security Promotions, 4/29/14, indicates that prior to employment, every candidate will be reviewed for prior incidents of sexual abuse (criminal conviction or civil administrative finding). In addition, it states that the Department is prohibited from hiring anyone who has engaged in sexual abuse in a confinement setting, convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse or has been civilly or administratively adjudicated to have engaged in this type of activity.

(b) The agency shall 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.

Memo: from Director of Personnel, 4/30/14, states a review will be conducted that identify any incidents of sexual harassment. In addition, RE: Personnel Procedure #407 – Civilian Promotions, Personal Procedure Manual #407A – Security Promotions, 4/29/14 states that the Department is required to consider any incidents of sexual harassment in determining whether to promote anyone who may have contact with inmates. The interview with the Human Resources Supervisor also confirmed that incidents of sexual harassment are considered when determining employment. She indicated that the Director of Personnel will review such cases.

(c) Before hiring new employees who may have contact with inmates, the agency shall:
(1) Perform a criminal background records check; and
(2) 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.

(d) The agency shall also perform a criminal background records check before enlisting the services of any contractor who may have contact with inmates. (e) The agency shall 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.

The following documents support a finding of compliance:

- Directive #2216, Fingerprinting/Criminal History Inquiry - New Employees and Contractors – 11/01/2018 requires the background check for all employees, contractors and per diem employees as well as verification of information on the employment application. Attachment A identifies the process for fingerprinting potential employees, employees, contractors and interns.
- NYS Department of Correctional Services Personnel Procedure Manual #406A Recruitment Process – 4/8/16 specifically requires that previous employers shall be contacted for candidates previously employed by a prison, jail, lock up community confinement or juvenile facility. The contact is documented on the form PPM 406A.2 Employment Telephone Verification. This requirement is included on the Forms: PPM 406A1, Recruitment Process Checklist and PPM 406A2 Employment Telephone Verification
- Personal Procedure #407 4/30/2014 states, Prior to appointment, every candidate selected for a potential promotional appointment will be reviewed for prior incidents of sexual abuse, a conviction for a disqualifying sexual offense, or a civil administrative find for such sexual acts. The review will also identify any incidents of sexual harassment.
- Memo: from Deputy Commissioner and Counsel, 8/18/15, RE: Prison Rape Elimination Act (PREA) – Background Checks – Appendix and Directive #2112, Report of Criminal Charges – 4/10/18. All staff and contractors are fingerprinted prior to employment. The EIU is notified if an arrest is made corresponding to the employee/contractor fingerprint.

The auditor observed documentation regarding staff fingerprints when reviewing eight random newly hired personnel files and two contractual files. The auditor reviewed the detailed process outlined for the personnel staff to use when needing to acquire background information on all candidates. The Employee Investigative Unit (EIU) centrally established, provides information as needed (observed during the review of the personnel files). By fingerprinting, the agency would receive a report of any arrests that have occurred with these employees nationwide (as confirmed by the interview with the Human Resource Office Assistant 3). One completed example was provided to the auditor with the pre-audit documentation.

(f) The agency shall 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 and in any interviews or written self-evaluations conducted as part of reviews of current employees. The agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.

The following documents support a finding of compliance:

- Electronic Mail Memo: from Director of Personnel, 7/15/15, RE: Fair Chance Hiring Application Revisions and Statewide Employment Application reinforces the use of the Application Form 1253 as a supplement as it contains PREA related questions required to be ask per this requirement of this standard.
- Form 1253 - Personal History and Interview Record - 4/13, Availability Inquiry Correction Sergeant, Availability Inquiry Correction Lieutenant. Form EIU23 - Personal History Questionnaire – (Rev. 6/15) specifically asks all candidates if they have been convicted of a crime involving sexual activity by overt or implied threats of force, or coercion or if the victim did

not consent; or if the victim was unable to consent as well as if the candidate has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution. And, 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

- Promotional inquiries within the system (lieutenant, sergeant) include the questions regarding whether the candidate has been involved in an allegation of sexual abuse or sexual harassment, if the allegations were substantiated, if they have been civilly or administratively adjudicated to have engaged in sexual activity in the community by force, overt or implied, or coercion, etc.
- One completed example of a promotional candidate was provided to the auditor with the pre-audit documentation.
- These questions and responses were observed on the sixteen random personnel files observed during the audit.

(g) Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

Form EIU23 - Personal History Questionnaire – (Rev. 6/15) The beginning of the questionnaire specifically informs all candidates that all questions must be answered truthfully as the state law and civil service commission rules have the force and effect of law and provide penalties for making a false statement of material fact in any application. Applicants sign this form acknowledging this. This was reviewed on all of the sixteen personnel files reviewed during the audit. One completed example was provided to the auditor with the pre-audit documentation.

(h) Unless prohibited by law, the agency shall 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.

Directive #2012, Release of Employee Personnel and Payroll Information – 10/7/2019 states information about a former employee will be provided to State agencies without authorization and provided to parties other than State agencies with authorization. The interview with the Human Resource Officer Assistant confirmed that she would be free to provide information in accordance with this policy. She confirmed that a request was received and addressed with the employee's release for an employee who applied for a criminal justice position with another state.

Review of policy directives, Employee Manual, and the application process support compliance. The Agency has an Employee Investigative Unit (EIU) designated to conduct background checks which does conduct a national search for criminal records. The Agency uses a system which notifies them when a current employee has been arrested so that the circumstances can be investigated. The Employee Manual, which each staff signs an acknowledgment of receipt, notifies employees of a continuing duty to report. Reference checks are conducted by central office; information provided to other states would be provided by central office with a signed release. This was all reiterated during the interview with the Human Resource supervisor.

The following additional randomly requested documents were reviewed:

- Personnel files for the last nine new employees which confirmed that the questions are asked on the application, they sign for the employee handbook and background checks have been completed.
- Personnel files for the last promotion supported that the questions are asked, and the employee had signed for the Employee Manual.

- Documentation regarding the first five employees with the last name of C, H, L was retrieved from the EIU confirming that fingerprints were on record.
- One contractual staff personnel file was reviewed which also had evidence of the background check and evidence that the questions in subpart (f) were asked before hiring.

After analysis of the noted written documentation, interviews and observations, the auditor finds that agency/facility to be in compliance with this standard. A finding of exceeds standard is provided due to the fingerprinting operation in which any criminal activity would be immediately reported.

Standard 115.18: Upgrades to facilities and technologies

115.18 (a)

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

115.18 (b)

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

Auditor Overall Compliance Determination

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

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

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

(a) When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect inmates from sexual abuse. (b) When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the agency shall consider how such technology may enhance the agency's ability to protect inmates from sexual abuse.

Directive #3053, Alterations and Construction Request 6/25/18 specifically notes that prior to submitting a request to alter or construct a building, the ability to protect inmates form sexual abuse must be reviewed. In addition it states, when designing or acquiring any new facility or planned any substantial expansion or modification of existing facilities, the agency shall consider the effect of the design,

acquisition, expansion, or modification upon the agency's ability to protect inmates from sexual abuse. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the agency shall consider how such technology may enhance the agency's ability to protect inmates from sexual abuse. Form 1612 Part IV addresses these requirements, specifically requiring that the ability to enhance safety and protect the inmate from sexual abuse is addressed prior to approval of the plans.

Policy noted above supports that sexual abuse and sexual harassment prevention will be considered when making changes to the physical plant or upgrading the camera system. The interview with the Superintendent supports this as well. The last reported upgrade occurred in March 2017Written responses by the Acting Commissioner further ensures that any upgrades to facilities and/or monitoring equipment has a process in place that ensures that changes will be evaluated to protect inmates from sexual abuse. For these reasons, the auditor finds the facility to be in compliance with this standard.

RESPONSIVE PLANNING

Standard 115.21: Evidence protocol and forensic medical examinations

115.21 (a)

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

115.21 (b)

- Is this protocol developmentally appropriate for youth where applicable? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.) ☒ Yes ☐ No ☐ NA

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

115.21 (c)

- Does the agency offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiary or medically appropriate? ☒ Yes ☐ No

- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible? ☒ Yes ☐ No

- If SAFEs or SANEs cannot be made available, is the examination performed by other qualified medical practitioners (they must have been specifically trained to conduct sexual assault forensic exams)? ☒ Yes ☐ No

- Has the agency documented its efforts to provide SAFEs or SANEs? ☒ Yes ☐ No

115.21 (d)

- Does the agency attempt to make available to the victim a victim advocate from a rape crisis center? ☒ Yes ☐ No

- If a rape crisis center is not available to provide victim advocate services, does the agency make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member? ☒ Yes ☐ No

- Has the agency documented its efforts to secure services from rape crisis centers? ☒ Yes ☐ No

115.21 (e)

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

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

115.21 (f)

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

115.21 (g)

- Auditor is not required to audit this provision.

115.21 (h)

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

Auditor Overall Compliance Determination

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

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

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

(a) To the extent the agency is responsible for investigating allegations of sexual abuse; the agency shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

Directive #4027B Sexual Abuse Reporting & Investigation -Inmate on Inmate (11/29/2017) and #4028B Sexual Abuse Reporting & Investigation -Staff on Inmate/Staff-on-Parolee (11/29/17) outline in detail the requirements for the collection of evidence regarding inmate-on-inmate abuse for use for a situation when evidence must be collected at the facility level. Directive #0700 Office of Special Investigations (OSI) (11/28/2018) addresses the role of the Office of Special Investigations (OSI) Sex Crimes Division (SCD) who conduct investigations involving sexual misconduct.

(b)The protocol shall be developmentally appropriate for youth where applicable, and, as appropriate, shall be 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.

State of New York Protocol for the Acute Care of the Adult Patient Reporting Sexual Assault November 2004 (revised 10/08) is used. According to a statement from the PREA Coordinator, it includes minimum standards adopted by the New York State Department of Health as specified in A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," Second Edition April 2013.

(c)The agency shall offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiary or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The agency shall document its efforts to provide SAFEs or SANEs. (d)The agency shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the agency shall make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member. Agencies shall document efforts to secure services from rape crisis centers. For the purpose of this standard, a rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g(b)(2)(C), to victims of sexual assault of all ages. The agency may utilize a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services. (e)As requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.

(c)(d)(e) HSPM1.60 Sexual Assault 10/25/20107 states the following:
All treatment will be provided without financial liability regardless of whether the victim cooperates in the investigation. Inmates victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services expeditiously to a hospital staffed with a Sexual

Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) and a victim advocate available to provide services. Further written authority confirming the compliance with this is located in the confidential OSI Policy Manual (provided to and reviewed by the auditor).
(f) To the extent the agency itself is not responsible for investigating allegations of sexual abuse, the agency shall request that the investigating agency follow the requirements of paragraphs (a) through (e) of this section.

The New York State Department of Corrections and Community Supervision (DOCCS), Office of Special Investigations (OSI), Sex Crimes Division (SCD) and the New York State Police (NYSP), Bureau of Criminal Investigation (BCI) work cooperatively in the investigation of inmates' sexual abuse that may rise to criminal conduct as supported by the Directive #0700 Office of Special Investigations (OSI) and a memo from the Superintendent of the New York State Police (May 2014)provided to the auditor.

(g) The requirements of paragraphs (a) through (f) of this section shall also apply to:
(1) Any State entity outside of the agency that is responsible for investigating allegations of sexual abuse in prisons or jails; and (2) Any Department of Justice component that is responsible for investigating allegations of sexual abuse in prisons or jails.

Auditor is not required to audit this provision.

(h) For the purposes of this section, a qualified agency staff member or a qualified community-based staff member shall be an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general.

Not applicable to this facility. This was supported by the interview with the PREA Coordinator/ statement of compliance from the PREA Coordinator confirming this. As noted, the hospital Sexual Assault Team will provide this individual with a victim advocate from the community.

The PAQ indicates that no forensic examinations, SANE or SAFE examinations or exams performed by a qualified medication practitioner occurred during the previous twelve months. During the audit process, the auditor found no reason to dispute this. Interviews with the OSI supervisor and two OSI investigators involved in investigations at this facility confirmed that the actions taken in the policy and manuals would be taken in the event of an allegation of sexual abuse requiring the ability to preserve evidence. Several of the agency trained investigators have become certified for evidence collection and photographing of crime scenes, above and beyond the specialized training required of investigators (certificates provided to the auditor). For this reason, and due to the specialized nature of the investigators from the Sex Crimes Division, the memo confirming the cooperation between this department and the New York State Police, the auditor finds that the facility exceeds the standard.

Standard 115.22: Policies to ensure referrals of allegations for investigations

115.22 (a)

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

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

115.22 (b)

- Does the agency have a policy and practice in place to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior? ☒ Yes ☐ No

- Has the agency published such policy on its website or, if it does not have one, made the policy available through other means? ☒ Yes ☐ No

- Does the agency document all such referrals? ☒ Yes ☐ No

115.22 (c)

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

115.22 (d)

- Auditor is not required to audit this provision.

115.22 (e)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

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

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

(a) The agency shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. (b) The agency shall have in place a policy 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. The agency shall publish such policy on its Web site or, if it does not have one, make the policy available through other means. The agency shall document all such referrals.

Directive #4027A Sexual Abuse Prevention & Intervention Inmate-on-Inmate, Directive #4028A Sexual Abuse Prevention & Intervention Staff-on-Inmate/Staff-on-Parolee, Directive #4027B Sexual Abuse Reporting & Investigation -Inmate on Inmate (11/29/2017) and #4028B Sexual Abuse Reporting & Investigation -Staff on Inmate/Staff-on-Parolee (11/29/17) all require that all allegations of sexual abuse and sexual harassment or retaliation for reporting such an incident be thoroughly investigated. It further states it will be promptly initiated; the OSI will determine the appropriate investigative response. Directive #0700 Office of Special Investigations 3/9/2018 supports that this will occur as well. The written interview with the Acting Commissioner yielded the following: “In accordance with my authority under Section 112 of the New York State Correction Law, I have designated the Department’s Office of

Special Investigations (OSI) as the Department's investigative branch to investigate allegations of serious misconduct in the facilities. The Office of Special Investigations conducts criminal and administrative investigations of all allegations of sexual abuse. Allegations of sexual harassment are reviewed by OSI and may either be investigated by OSI or by the facility subject to OSI's review. In any potentially criminal case, OSI coordinates with the New York State Police Bureau of Criminal Investigation and the pertinent District Attorney's Office to ensure that any appropriate criminal charges are pursued."

(c) If a separate entity is responsible for conducting criminal investigations, such publication shall describe the responsibilities of both the agency and the investigating entity.

This is not applicable to this facility as OSI is a part of the agency although outside of the facility.

(d) Any State entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in prisons or jails shall have in place a policy governing the conduct of such investigations.

Auditor is not required to audit this provision.

(e) Any Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in prisons or jails shall have in place a policy governing the conduct of such investigations.

Auditor is not required to audit this provision.

The PAQ indicates there were twenty-one sexual abuse and sexual harassment allegations in the previous twelve months. Policies noted above, interviews with the investigators and review of eighteen completed investigations from the 12-month audit time frame support that investigations are all appropriately addressed by the OSI involving sexual abuse and sexual harassment, or retaliation and staff neglect that led to sexual abuse or sexual harassment. These investigations are initiated promptly with investigators being contacted immediately in accordance with the facility's coordinated response. This was determined from the review of the investigations, the investigative process and the interviews with the investigators. The OSI has legal investigative authority within the State of New York and also collaborates with the State Police on any matters that may appear to be criminal as established by the confidential manual.

TRAINING AND EDUCATION

Standard 115.31: Employee training

115.31 (a)

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

- Does the agency train all employees who may have contact with inmates on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on inmates' right to be free from sexual abuse and sexual harassment ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on the dynamics of sexual abuse and sexual harassment in confinement? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on the common reactions of sexual abuse and sexual harassment victims? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on how to detect and respond to signs of threatened and actual sexual abuse? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on how to avoid inappropriate relationships with inmates? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities? ☒ Yes ☐ No

115.31 (b)

- Is such training tailored to the gender of the inmates at the employee's facility? ☒ Yes ☐ No

- Have employees received additional training if reassigned from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa? ☒ Yes ☐ No

115.31 (c)

- Have all current employees who may have contact with inmates received such training? ☒ Yes ☐ No

- Does the agency provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures? ☒ Yes ☐ No

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

115.31 (d)

- Does the agency document, through employee signature or electronic verification, 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*)

(a) The agency shall train all employees who may have contact with inmates on: (1) Its zero-tolerance policy for sexual abuse and sexual harassment; (2) How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures; (3) Inmates' right to be free from sexual abuse and sexual harassment; (4) The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment; (5) The dynamics of sexual abuse and sexual harassment in confinement; (6) The common reactions of sexual abuse and sexual harassment victims; (7) How to detect and respond to signs of threatened and actual sexual abuse; (8) How to avoid inappropriate relationships with inmates; (9) How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates; and (10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Training Manual Section: 0.100 - Frequency Training Chart and Training Bulletins – 12/3/2018 - confirms that PREA Training is provided every two years, and a module on Professional Boundaries provided annually.

Training Manual Section #7.000 4/19/2018, 40 Hour Orientation/Initial Employee Training confirms that all civilian new employees receive mandatory training which includes 3-hour module on Sexual Abuse Prevention and Response.

Recruit Training Program 7/10/2017 ensures that sexual abuse prevention and response training is addressed in recruit training. It is a 3-hour training

Training Bulletin 1/8/2018 ensures that PREA refresher is addressed at line-up training annually. It includes the following topics: zero tolerance for sexual abuse and sexual harassment; definitions of sexual abuse and sexual harassment; all staff have a duty to report including third party allegations, staff neglect and misconduct and anonymous allegations; how to report and investigation of all allegations, supervision and monitoring, employee training and limits to cross gender viewing.

Sexual Abuse Prevention and Response Lesson Plan - March 2015 demonstrates that training covers the following topics: Definitions, Zero Tolerance Policy, Inmate/Parolee right to be free from sexual abuse and sexual harassment, inmates have the right to be free from retaliation for reporting sexual abuse or harassment, dynamics of sexual abuse and sexual harassment in confinement for males inmates and female inmates, common reactions of victims, communicating effectively with lesbian, gay, bisexual, transgender and intersex, or gender nonconforming inmates, how to avoid inappropriate relationships, employee responsibilities of prevention, detection, reporting and response and mandatory reporting. Subject 7.000 40-Hour Orientation/Initial Employee Training confirms that PREA training is provided to all new employees, a 3-hour course.

A report demonstrating that 100% of staff have been trained for course 35029, Preventing Sexual Abuse (covering the time frame of 4/15/15 through to 1/06/20), and 17078 PREA Refresher (covering the audit period) was provided to the auditor.

(b) Such training shall be tailored to the gender of the inmates at the employee's facility. The employee shall receive additional training if the employee is reassigned from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa.

Training Manual Section #7.100 Employee Familiarization In-Service Training Program 7/10/2017 specifies that all transfer staff receive familiarization on compliance with PREA and the Department's Sexual Abuse Prevention and Response procedures. It further states that the training will be tailored to the gender of the inmates at the facility, including gender dynamics, for staff who are transferring from a facility that houses opposite gender staff that they on they worked. The training at this facility provides dynamics of abuse between male inmates. The PREA Introduction/Transfer Training for mal classified facilities updated 12/9/2019 reinforces key terms, zero tolerance, communicating effectively and professionally with LGBTI and GNC inmates, and five actions an employee takes as a first responder and three categories of sexual abuse and misconduct all employees have a duty to report.

The auditor requested the facility to identify staff who have transferred from a female facility to this facility. Two names were provided. Personnel files were reviewed which confirmed orientation training received upon arrival at this facility (as required by NYSDOCCS), which did include PREA refresher training. It should be noted that DOCCS requires all transferring staff to participate in facility orientation that includes PREA training that is tailored to the gender classification of the facility.

(c) All current employees who have not received such training shall be trained within one year of the effective date of the PREA standards, and the agency shall 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. In years in which an employee does not receive refresher training, the agency shall provide refresher information on current sexual abuse and sexual harassment policies.

As stated, Training Manual Subject: 0.100 - Frequency Training Chart and Training Bulletins - 7/12/18 - confirms that PREA Training is provided every two years, and a module on Professional Boundaries provided annually. The PAQ indicates that 438 staff have been trained. PREA Refresher 2020 training was underway during the first quarter of 2020, in conjunction with two other "Commissioner's Initiative" Courses "Stereotype Threat" and "Ensuring Professional Interactions with LGBTIQ+ People". Many random staff interviewees did report they had recently attended this training.

(d) The agency shall document, through employee signature or electronic verification that employees understand the training they have received.

The training form signed by staff after completion of training states, "By signing below you confirm that you participated in the Prevention of Sexual Abuse – PREA training program and that you understand the training that you have received." One example of this form was provided with the pre-audit documentation.

After review and analysis of the documentation, interviews with staff, the auditor concludes that the standard is deemed compliant. The training curriculum supports that all ten topics required by the standard are thoughtfully and thoroughly addressed in the curriculum. The training provides information specific to working with male inmates. Training occurs every two years with a refresher training annually. All staff interviews support that staff have received the training and staff were knowledgeable regarding the various aspects required by the standard.

Standard 115.32: Volunteer and contractor training

115.32 (a)

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

115.32 (b)

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

115.32 (c)

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

Auditor Overall Compliance Determination

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

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

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

(a) The agency shall ensure that all volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection and response policies and procedure. (b)The level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contract they have with inmates, but all volunteers and contractors who have contact with inmates shall be notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

(a)(b) Directive #4027A Sexual Abuse Prevention & Intervention Inmate-on-Inmate, 11/29/2017 and Directive #4028A Sexual Abuse Prevention & Intervention Staff-on-Inmate/Staff-on-Parolee, 11/29/17, Directive #4750 Volunteer Services Program states, Restrictions: During orientation, volunteers must be cautioned regarding the seriousness of personal/emotional involvement with inmates. This will include visiting, corresponding, and accepting phone calls. In order to avoid any misunderstanding, the following guidelines must be strictly observed:

Volunteers are prohibited from having any sexual contact or engaging in any sexual conduct with an inmate. DOCCS has a zero-tolerance policy for sexual abuse. It is a crime for any employee to engage in sexual conduct or sexual contact with an inmate. For purposes of Penal Law §130.05, an employee also includes any person providing direct services to inmates in a State Correctional Facility pursuant to a contractual arrangement with the Department or, in the case of a volunteer, a

written agreement with the Department. All volunteer applicants will read the most updated version of the Policy on the Prevention of Sexual Abuse of Inmates. All volunteers are to be provided with training on Directives #4027A, “Sexual Abuse Prevention & Intervention - Inmate-on-Inmate,” and #4028A, “Sexual Abuse Prevention & Intervention - Staff-on-Inmate/Staff-on-Parolee.” All volunteer applicants must acknowledge receipt in writing that they will be held accountable for and act in accordance with the policy and the law. All volunteer applicants must acknowledge that they understand the Department’s zero tolerance policy regarding sexual abuse and sexual harassment and how to report such incidents under DOCCS’ sexual abuse and sexual harassment prevention, detection, and response policies and procedures and Directive #4071 Guidelines for Construction Projects require that contractors, contract employees, volunteers and interns shall receive orientation and periodic in-service training consistent with their level of inmate contact relating to the prevention, detection, and response to sexual abuse and sexual harassment. This is reinforced in the Standards for Conduct for Volunteers within the New York State Department of Corrections and Community Supervision Form #4750 Guidelines for Construction Projects provide written information for contract workers which also require a signed acknowledgment form.

(c) The agency shall maintain documentation confirming that volunteers and contractors understand the training they have received.

Standards for Conduct for Volunteers within the New York State Department of Corrections and Community Supervision Form #4750 Guidelines for Construction Projects provide written information for contract workers which also require a signed acknowledgment form.

The auditor was able to interview one volunteer who was on site during the audit. She confirmed that the facility is very attentive and excellent at training volunteers to ensure they understand the requirements of the law. She further commented that she, and her staff, are able to approach anyone in uniform if they have any concerns during their time inside the facility. She also indicated that staff are visible and present when she is providing her volunteer services.

The auditor was given access to all volunteer records, seventy-three total. Five records randomly selected demonstrated that volunteers receive background checks and sign acknowledgements noting the volunteer/contractor understands the policy on prevention of sexual abuse and sexual harassment in a confinement setting were included in the documentation. A refresher is required annually, therefore exceeding the standard. These files were very organized. The process to ensure this occurs was verified with an interview the volunteer coordinator.

Contractual staff signs acknowledgements noting that understood the training they receive. At this facility, no contractual staff are used. The only outside staff present during the audit review period were construction workers. An example of documentation reviewed and signed by a construction worker, in addition to an example of volunteer documentation was provided with the pre-audit documentation. Agency nurses were the only contractual staff. One agency nurse was interviewed and confirmed that she received the training and understood her role in preventing, detecting and responding. During the review of personnel files, specifically, two contractual staff files, documents were present which demonstrated that contractual staff have been given the information on PREA and signed indicating they received and understood the information.

Based on review of the information provided to contractual staff and volunteers, review of the randomly requested documentation, and interview with the volunteer coordinator, the auditor finds sufficient evidence to support a finding of exceeds compliance with this standard due to the required annual refresher training for volunteers.

Standard 115.33: Inmate education

115.33 (a)

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

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

115.33 (b)

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

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

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Agency policies and procedures for responding to such incidents? ☒ Yes ☐ No

115.33 (c)

- Have all inmates received such education? ☒ Yes ☐ No

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

115.33 (d)

- Does the agency provide inmate education in formats accessible to all inmates including those who are limited English proficient? ☒ Yes ☐ No

- Does the agency provide inmate education in formats accessible to all inmates including those who are deaf? ☒ Yes ☐ No

- Does the agency provide inmate education in formats accessible to all inmates including those who are visually impaired? ☒ Yes ☐ No

- Does the agency provide inmate education in formats accessible to all inmates including those who are otherwise disabled? ☒ Yes ☐ No

- Does the agency provide inmate education in formats accessible to all inmates including those who have limited reading skills? ☒ Yes ☐ No

115.33 (e)

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

115.33 (f)

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

Auditor Overall Compliance Determination

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

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

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

(a) During the intake process, inmates shall receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.

Directive #4021 Offender Reception/Classification dated 01/23/2019 states, Each inmate is to receive the gender-specific Prison Rape Elimination Act (PREA) pamphlet, "The Prevention of Sexual Abuse in Prison; What Inmates Need to Know," Form #DC055 for inmates assigned to a male classified facility, upon arrival at the facility, and distribution shall be documented on Form #4021A, "Draft Receipt. PREA pamphlets are distributed to each offender upon arrival. . . . Each inmate shall be initially assessed by a Security Supervisor for their risk of being sexually abused by other inmates or sexually abusive toward other inmates using the gender-appropriate PREA Risk Screening Form #115.41M, "PREA Risk Screening Form – Male Facility" in accordance with the facility-specific PREA Risk Screening Facility Operation Manual. Each inmate is to view the gender-specific version of the film "Ending Sexual Abuse Behind the Walls; An Orientation," during the reception and classification process. Viewing of the film is to be documented on Form #115.33, "Report of Inmate Training Participation."

(b) Within 30 days of intake, the agency shall provide comprehensive education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents.

PREA – Sexual Abuse Prevention Inmate Orientation Outline indicates presenters are available at orientation with a guideline of all information that should be presented. PREA – Sexual Abuse Prevention Inmate Orientation Outline is provided to staff presenting the material. The guides ensure the following is addressed: PREA Mission, PREA Coordinator, PREA Compliance Manager, What is PREA, Zero Tolerance, Personal Safety, Standards of Inmate Behavior, What to do if Abused, Reporting Sexual Abuse, Consequences of false reporting, victim services, explaining Pat searches, Confidentiality, Why opposite gender staff verbally announce their presence.

(c) Current inmates who have not received such education shall be educated within one year of the effective date of the PREA standards, and shall receive education upon transfer to a different facility to

the extent that the policies and procedures of the inmate's new facility differ from those of the previous facility.

The PAQ reports that all inmates have received the education on PREA, in addition to a memo from the PPREA Coordinator confirming this as of August 11, 2015.

Directive #4027A Sexual Abuse Prevention & Intervention Inmate-on-Inmate, 11/29/2017 states, all inmates shall receive during orientation at reception and at facility orientation after transfer, information which addresses sexual abuse and sexual harassment. The information shall be communicated orally and in writing, in a language clearly understood by the inmates. This information will address prevention, self-protection (situation avoidance), reporting sexual abuse, and sexual harassment, and the availability of treatment and counseling. The inmate handbook received upon arrival provides detailed information regarding PREA as well as a pamphlet entitled, The Prevention of Sexual Abuse in Prison, What Inmates Need to Know. This pamphlet highlights the inmates' right to be free from sexual abuse and sexual harassment, their right to be free from retaliation, and how to make a complaint should they believe they are subjected to this behavior from staff or inmates. As noted, this can be provided to the inmate in English plus seven different languages.

(d) The agency shall provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills.

See comments in 115.16.

(e) The agency shall maintain documentation of inmate participation in these education sessions.

Form 115.33 Report of Inmate Training Participation Prevention of Sexual Abuse PREA requires the inmate to sign that he has seen the video "Ending the Sexual Abuse Behind the Walls: An Orientation." It specifically states, "REPORT OF INMATE TRAINING PARTICIPATION Prevention of Sexual Abuse – PREA In accordance with Title 28 C.F.R. § 115.33/231(d), by signing below you confirm that you participated in the "Ending Sexual Abuse Behind the Walls: An Orientation" PREA training program." One example of both types of documentation was provided to the auditor with the pre-audit documentation.

(f) In addition to providing such education, the agency shall ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats.

Numerous posters addressing this information were observed throughout the facility. All inmates interviewed verified that they were informed about their right to be free from abuse and harassment, which includes retaliation, and various methods available to them to initiate an investigation, including third party complaints, and how to file a complaint. The auditor viewed the pamphlets and a reference binder located in the inmate library. It was conveyed to the auditor that any inmate can take and view without having to ask permission. The binder is labeled subtlety so that it is not easy for others to readily know what the inmate is viewing. The auditor briefly observed orientation for one inmate who was sent to the facility to serve disciplinary time and was released from the SHU. This demonstrated to the auditor that a sound system is in place to ensure that inmates are not missed from this process. The staff confirmed that had he spent more than 30 days in SHU, this would occur in the SHU.

PAQ reports that 747 inmates received information, 641 inmates received comprehensive education. Review of the policy, inmate interviews regarding their knowledge of PREA and verification of the process in place, in addition to formal and informal interviews with staff all support that the facility is meeting the requirements of this standard. Fifteen inmate files were randomly reviewed (auditor

requested the first fifteen files from February 2020). All demonstrated that the inmate signed for receipt of the Prevention of Sexual Abuse in Prison pamphlet and all had signed indicating they observed the orientation video. The auditor viewed the video. The video used at orientation has been filmed in New York DOCCS using inmates confined in this state. It is twenty-four (24) minutes long and reviews personal testimony from numerous inmates emphasizing that sexual abuse and sexual harassment more commonly occurring through manipulation and how to avoid manipulation. It reinforces that inmates can report to anyone anytime. It is their right to be free from sexual abuse, sexual harassment and retaliation. It addresses how to report outside the agency, to the Inspector General (IG) (now the Office of Special Investigations), Sexual Abuse Prevention & Education Office (SAPEO), outside Rape Crisis Center and how to have family/friends report. There is a personal message from the Acting Commissioner and the PREA Coordinator. A link to this video is available on the agency website for anyone to view.

For all the reason stated, the auditor finds ample evidence to support a finding of compliance. Additionally, the auditor believes the facility exceeds the standard based on the extensive information provided at intake via video and in person, the education provided at orientation, the additional education provided for inmate in Transition Phase I, the numerous culturally diverse posters located throughout the facility, the feedback received during the inmate interview, the availability of pamphlets and the video to be given in eight different languages, CD's available for visually impaired, and the other resources made available to ensure information is conveyed to all individuals in the facility's diverse population.

Standard 115.34: Specialized training: Investigations

115.34 (a)

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

115.34 (b)

- Does this specialized training include techniques for interviewing sexual abuse victims? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA

- Does this specialized training include proper use of Miranda and Garrity warnings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA

- Does this specialized training include sexual abuse evidence collection in confinement settings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA

- Does this specialized training include the criteria and evidence required to substantiate a case for administrative action or prosecution referral? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA

115.34 (c)

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

115.34 (d)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

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

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

(a) In addition to the general training provided to all employees pursuant to § 115.31, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings. (b) Specialized training shall include 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. (c) The agency shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations.

Office of Special Investigations, Sex Crimes Division training curriculum dated September 2018 for PREA includes an overview of the PREA law, state law, staff and inmate sexual abuse definitions, duty to report, evidence protocols, effective communication with special populations, privacy for interviews, techniques for interviewing victims, credibility assessment, criteria to determine substantiated, unfounded and unsubstantiated investigations, Miranda and Garrity warnings. Investigators also received the standard PREA training, as confirmed by interviews with the investigators and documentation. Additional Training provided to Investigators includes, Investigating Physical and Sexual Abuse in an Institutional Setting, National Institute of Corrections Training – PREA Investigating Sexual Abuse in Confinement Settings. In addition, OSI certificates for specialized training in Basic Investigative Photography and Police Crime Scene and Evidence Specialist (thirteen total). In the interview with the investigators, they shared attending recent training in interviewing techniques for sexual abuse victims. A computer report was provided to the auditor demonstrating that sixty-six staff have attended this training. In addition to investigators, staff, such as the Assistant Deputy Superintendent PREA Compliance Managers, have also attended the training.

(d) Any State entity or Department of Justice component that investigates sexual abuse in confinement settings shall provide such training to its agents and investigators who conduct such investigations.

Auditor is not required to audit this provision.

The PAQ reports that the agency has thirty-one (31) trained investigators for PREA allegations. Policy noted above and additional documentation showing the training curriculum support a finding of

compliance. Investigator have received additional specialized training as confirmed by the certificates of completion and feedback in the investigation. Therefore, the auditor finds that the facility exceeds the standards.

Standard 115.35: Specialized training: Medical and mental health care

115.35 (a)

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

115.35 (b)

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

115.35 (c)

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

115.35 (d)

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

Auditor Overall Compliance Determination

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

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

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

(a) 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: (1) How to detect and assess signs of sexual abuse and sexual harassment; (2) How to preserve physical evidence of sexual abuse; (3) How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and (4) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

Medical staff are Department of Corrections employees. Mental Health staff work in Department of Corrections facilities for the Office of Mental Health through a Memorandum of Understanding. This MOU includes the requirement for PREA training including the specialized training for medical and mental health staff. The auditor reviewed the specialized training curriculum for medical and mental health staff. Both medical and mental health staff have attended Specialized PREA Training for Medical and Mental Health Providers. Specifically, the training is entitled Inmate Sexual Assault Post Exposure Protocol/PREA (Course 17083). It addresses the emotional and psychological effects of victims of sexual assault, how to report to the Office of Special Investigations, responding to victims, and sending a victim to an ER for a proper forensic examination and evidence collection. Training in how to detect and assess signs of sexual abuse and sexual harassment is provided in the PREA training all staff receives.

(b) If medical staff employed by the agency conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations.

This is not applicable to this facility.

(c) The agency shall maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere. (d) Medical and mental health care practitioners shall also receive the training mandated for employees under § 115.31 or for contractors and volunteers under § 115.32, depending upon the practitioner's status at the agency.

The PAQ reports there are thirty-one (31) medical and mental health staff. Documentation was provided which demonstrated that all staff, including per diem staff, have received the specialized training. Staff signs the Report of Training Form acknowledging participation in the course; records are maintained by the training staff. Interviews with the Nursing Supervisor and mental health staff demonstrate knowledge of the requirements of this standard support a finding of compliance.

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Standard 115.41: Screening for risk of victimization and abusiveness

115.41 (a)

- Are all inmates assessed during an intake screening for their risk of being sexually abused by other inmates or sexually abusive toward other inmates? ☒ Yes ☐ No

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

115.41 (b)

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

115.41 (c)

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

115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes? ☒ Yes ☐ No

115.41 (e)

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

- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: prior convictions for violent offenses? ☒ Yes ☐ No

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

115.41 (f)

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

115.41 (g)

- Does the facility reassess an inmate's risk level when warranted due to a: Referral? ☒ Yes ☐ No

- Does the facility reassess an inmate's risk level when warranted due to a: Request? ☒ Yes ☐ No

- Does the facility reassess an inmate's risk level when warranted due to a: Incident of sexual abuse? ☒ Yes ☐ No

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

115.41 (h)

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

115.41 (i)

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

Auditor Overall Compliance Determination

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

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

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

(a) All inmates shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates. (b) Intake screening shall ordinarily take place within 72 hours of arrival at the facility.

Directive 4027A, Sexual Abuse Prevention & Intervention Inmate-on-Inmate requires that all inmates be screened upon arrival at each facility for any indication of risk of abuse or being abused. Woodbourne Correctional Facility Operations Manual PREA Risk Screening states, Screening will be completed by a sergeant or above ordinarily within 24 hours of arrival. Directive #4021 Inmate Reception/Classification (1/23/2019) further indicates, each inmate shall be initially assessed by a Security Supervisor for their risk of being sexually abused by other inmates or sexually abusive toward other inmates using the gender-appropriate PREA Risk Screening Form #115.41M, "PREA Risk Screening Form – Male Facility in accordance with the facility-specific PREA Risk Screening Facility Operation Manual. . . . ." The PAQ reports that 747 inmates have been screened for risk of sexual victimization and risk of sexual abusiveness. Inmate interviews and random review of fifteen inmate files all confirmed that this assessment is taking place immediately upon arrival. The auditor observed portions of the intake process during the audit.

(c) Such assessments shall be conducted using an objective screening instrument. (d) The intake screening shall 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; (2) The age of the inmate;(3) The physical build of the inmate; (4) Whether the inmate has previously been incarcerated; (5) Whether the inmate's criminal history is exclusively nonviolent; (6) Whether the inmate has prior convictions for sex offenses against an adult or child; (7) Whether the inmate is or is

perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; (8) Whether the inmate has previously experienced sexual victimization; (9) The inmate's own perception of vulnerability; and (10) Whether the inmate is detained solely for civil immigration purposes.
(e) The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in assessing inmates for risk of being sexually abusive.

An objective screening tool is used that considers the following information:

Risk of Sexual Victimization:

- mental, physical, development disability
- age
- physical build
- incarcerated for less than two years
- convictions for sex offense against an adult or child
- self identifies as gay, lesbian, bisexual, transgender, intersex or gender nonconforming
- previous experience as a victim of sexual abuse
- inmate's perception of risk for sexual abuse
- detained solely for civil immigration

Risk of Sexual Abusiveness:

- conviction for a crime related to sexual abuse in correctional setting
- history of committing institutional sexual abuse
- convicted of a violent offense
- history of institutional violence

On this tool, it also addresses the ability to make a subjective assessment regarding gender non-conforming appearance. It notes the following: SCREENING MUST BE CONDUCTED IN A PRIVATE SETTING. Additionally, it states, Inmates may not be disciplined for refusing to answer or provide complete responses to these questions and Information contained on this form shall not be disclosed to anyone other than to the extent necessary to make security classification, housing placement, programming, treatment, investigation, and other security and management decisions. An example of a completed Risk Assessment was sent to the auditor with the pre-audit documentation.

A Gender Identity Interview process has been developed. A form (115.41GI) with specific interview questions is completed by the ORC. One question is specifically dedicated to asking the individual for any information they may wish to provide with respect to their safety in connections with decisions regarding housing and placement. An example was provided to the auditor with the documentation received prior to the on-site audit.

(f) Within a set time period, not to exceed 30 days from the inmate's arrival at the facility, the facility will reassess the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.

Facility Operations Manual PREA Risk Screening #6002 1/31/2020, states Inmates will be reassessed by an assigned ORC ordinarily within 14 days of arrival. A final risk assessment determination shall ordinarily be made by the Assistant Deputy Superintendent PREA Compliance Manager within 30 days of the inmate's arrival at the facility. Directive #4021 Inmate Reception/Classification also requires the following: Each inmate shall be re-assessed by an ORC for their risk of being sexually abused by other inmates or sexually abusive toward other inmates using the gender-appropriate PREA Risk Screening

Form #115.41M, in accordance with the facility-specific PREA Risk Screening Facility Operation Manual. Sexual orientation and gender identity information from the PREA Risk Screening shall be used to assign Other Security Characteristics as appropriate.

The same form is used for the reassessment. One column is designed to be completed by the Intake Sgt, the other by ORC. This allows the ORC to have an immediate review of the information received at the first assessment.

Interviews with two ORCs confirmed this process as stated in the policy. Inmate interviews all confirmed that their risk assessment was re-evaluated with the meeting with the ORC. Review of the fifteen random inmate files confirmed that the ORC review has occurred. It is also documented in the chronological statement as well as on the portion of the form designated to be completed by this review.

(g) An inmate's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness.

Facility Operations Manual PREA Risk Screening #6002 states, if at any time additional information is received due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness, an inmate's risk level will be reassessed. Reassessment is noted utilizing a new intake screening Form 115.41M. No examples of this were available for review; however, the system is in place. Additionally, this agency reviews a portion of risk assessment at least every 90 days when the inmates have their quarterly assessment with the ORC. All inmates confirmed this process.

(h) Inmates may not be 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.

Facility Operations Manual PREA Risk Screening #6002 states, inmates will not be disciplined for refusing to answer or for not disclosing complete information in response to questions asked. Approximately half of the inmates interviewed were asked if they believed they would be disciplined for not answering the questions. All indicated without hesitation that they had not. As stated, the form also states, "Inmates may not be discipline for refusing to answer or provide complete responses to these questions."

(i) The agency shall implement 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.

Facility Operations Manual PREA Risk Screening #6002 states, PREA Intake Screening Forms (Form 115.41M/115.41F) are confidential. The completed form shall be filed in the Guidance Folder (Assessments Section), and distribution shall be limited to the Watch Commander, Assistant Deputy Superintendent PREA Compliance Manager and DSS/PREA Point Person. Access to completed forms is limited to the Executive Team and Guidance Staff with a business necessity to review the completed forms. Noted on the form is the following: Information contained on this form shall not be disclosed to anyone other than the extent necessary to make security, classification, housing/placement, programing, treatment, investigation and other security and management options.
The new form for the Gender Identity Interview notes "Information contained on this form shall not be disclosed to anyone other than to the extent necessary to make security classification,

housing/placement, programming, treatment, investigation, and other security and management decisions." The distribution is Distribution: Guidance File (Section 7 - Classification); ADS PREA; Facility Health Services; Sexual Abuse Prevention & Education Office. This was reinforced by the interview with the PREA Compliance Manager.

The intake screening process is conducted upon arrival by a sergeant to determine any triggers which are documented and immediately addressed (Form 4021). A completed example of this process/form was sent to the auditor with documentation received prior to the on-site audit. Any pertinent information is immediately reported to the Watch Commander, Assistant Deputy Superintendent (PREA Compliance Manager) and DSS/PREA Point Person. This was confirmed by the interviews with these staff. Within a few days of being assigned to the housing unit, the ORC meets with the inmate for an additional follow-up assessment. The ADS (PREA Compliance Manager) or PREA Point Person (DSS) reviews and makes a final determination on the risk assessment. The auditor viewed the areas in which the assessments are stored and only staff with authorization have access to view them, as confirmed by various interviews with staff. There were staff interviews with one sergeant that is assigned to conduct the screenings as well as one counselor who is responsible for completing the risk assessment. The staff were extremely knowledgeable on their roles and were able to demonstrate to the auditor the importance of the information that they receive and the reason it needs to remain confidential. The auditor was shown the area in which this review takes place, which is private. To further assess compliance, the auditor randomly reviewed fifteen inmate files (per request for first fifteen inmates to arrive in February 2020 that were still housed at this facility); all had the appropriate risk assessment initially completed by the sergeant and reviewed by the ORC. The auditor finds that the facility qualifies for a finding of "exceeds standard" based on the immediate review, secondary, third and final review of the assessment process, re-assessment every 90 days, as well as the procedure to ensure the communication of the safety needs of the inmate based on the finding of the risk assessment.

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Standard 115.42: Use of screening information

115.42 (a)

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

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

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

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

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

115.42 (b)

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

115.42 (c)

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

- When making housing or other program assignments for transgender or intersex inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems? ☒ Yes ☐ No

115.42 (d)

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

115.42 (e)

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

115.42 (f)

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

115.42 (g)

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

- 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*)

(a) The agency shall use information from the risk screening required by § 115.41 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. (b) The agency shall make individualized determinations about how to ensure the safety of each inmate.

Facility Operations Manual PREA Risk Screening #6002 states, If the inmate is assessed as potentially being at “high risk of sexual victimization” or “high risk of being sexually abusive,” an immediate referral shall be made to the Watch Commander for housing assignment. . . . The Watch Commander shall determine the most appropriate housing assignment with the goal of keeping separate inmates at high risk of sexual victimization from those at high risk of being sexually abusive. This is done using form 4021 which requires information on inmate safety be summarized and immediately sent to the Watch Commander. The interview with the Watch Commander confirmed this process.

(c) In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the inmate’s health and safety, and whether the placement would present management or security problems.

Directive #4021 Inmate Reception/Classification Transgender/Intersex Inmate Classification and Placement states, An inmate who identifies as transgender, intersex, or gender non-conforming during PREA Risk Screening, or who has a diagnosis of Gender Dysphoria or Intersex (identified via extended classification codes), shall be asked additional questions by their ORC using the “Gender Identity Interview,” Form #115.41GI, regarding their gender identification, expression, and preferences. The interview will also document the inmate’s statement regarding their safety in connection with decisions regarding their housing and placement. Information from the Gender Identity Interview will be used to assist the Department in making an individualized assessment of the inmate's placement and program assignments in order to maximize the inmate's safety. Facility Operations Manual PREA Risk Screening states, A copy of this form shall be provided to the movement and control officer for housing and bed assignments, the housing unit sergeant and the program committee chairperson who shall use the information to determine appropriate work, education, and program assignments. This is documented through a Memorandum, Report of PREA Risk Screening Information. . . . Upon request from an inmate who identifies as transgender or intersex for a transfer from a male classified facility to a

female classified facility, or vice versa, the ORC shall notify the Supervising Offender Rehabilitation Coordinator (SORC) upon completion of the Gender Identity Interview, Form #115.41GI. The SORC shall notify the Deputy Superintendent for Program Services and the facility's designated Assistant Deputy Superintendent PREA Compliance Manager. The Reception SORC shall notify the Deputy Superintendent for Program Services or Deputy Superintendent for Reception/Classification and the Assistant Deputy Superintendent PREA Compliance Manager. The Deputy Superintendent for Program Services/Deputy Superintendent for Reception/Classification shall notify the Director of Classification and Movement of the inmate's request via electronic mail, including the completed Form #115.41GI, and the most recently completed gender-appropriate PREA Risk Screening Form #115.41M or Form #115.41F, which shall be used to assist the Department in making an individualized assessment of the inmate's placement and program assignments, in order to maximize the inmate's safety. The request will be forwarded to the Central Office Transgender Placement Review Committee for a case-by-case assessment. Housing assignment by gender identity will be made when appropriate.

(d) Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate.

Directive #4401 Guidance & Counseling Services states, all inmates are reviewed on a quarterly basis to assess programs, personal goals, goals for the next quarter in addition to four questions specific to sexual abuse and sexual harassment safety. Inmate interviews confirmed this during the audit.

(e) A transgender or intersex inmate's own view with respect to his or her own safety shall be given serious consideration.

Directive #4401 Guidance & Counseling Services states, a transgender or intersex inmate's own view with respect to his or her own safety shall be given serious consideration. The process describes in subpart C further confirmed the written authority for compliance with this standard. Inmate interviews confirmed this during the audit.

(f) Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.

The facility provided the auditor with a memo regarding Transgender Showers. It explains the following: A & B block contain single shower heads. C & D block have three head congregate showers in a closed room. E & F Dorm have multi-head congregate shower enclosed by curtains. The GY dorm has a multiple head congregate shower room enclosed by walls and a curtain entrance. If a transgender/intersex person requests a separate show time, it will be provided at a time designated by the unit officer. During this period, the shower will remain free from other inmates in order to facility a private setting.

(g) The agency shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such 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 such inmates.

NYS DOCCS does not house lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units or wings solely on the basis of such identification or status. Directive #4021 Inmate Reception/ Classification states, an inmate who identifies as transgender or intersex will not be placed in a gender-specific facility, housing unit, or program based solely on their external genital anatomy. This was further reiterated by the interview with the PREA Coordinator.

Review of the policy and other documentation which included an example of a risk assessment screen for a transgender inmate in addition to Form 4021, comments noted in response to 115.41M and processes in place that communicate risk needs to staff support a finding of compliance. One completed risk assessment was reviewed during the pre-audit. An additional fifteen randomly reviewed on site also demonstrated compliance. As stated, at this facility, all inmates are reassessed quarterly, and asked questions again related to sexual abuse/harassment safety. This was confirmed by staff interviews and a review of the random files. The transgender and intersex inmates confirmed they have the ability to shower separately there were no issues. Based upon this analysis of written authority, completed documentation, interviews with the intake sergeant, ORCs, PREA Coordinator/PREA Compliance Manager, Superintendent, DSS/PREA Point Person and inmates all provide sound evidence for the auditor to find the facility substantially exceeds compliance with this standard.

Standard 115.43: Protective Custody

115.43 (a)

- Does the facility always refrain from placing inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers? ☒ Yes ☐ No

- If a facility cannot conduct such an assessment immediately, does the facility hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment? ☒ Yes ☐ No

115.43 (b)

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

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

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

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Work opportunities to the extent possible? ☒ Yes ☐ No

- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The opportunities that have been limited? ☒ Yes ☐ No

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

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

115.43 (c)

- Does the facility assign inmates at high risk of sexual victimization to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged? ☒ Yes ☐ No

- Does such an assignment not ordinarily exceed a period of 30 days? ☒ Yes ☐ No

115.43 (d)

- If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, does the facility clearly document: The basis for the facility's concern for the inmate's safety? ☒ Yes ☐ No

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

115.43 (e)

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

Auditor Overall Compliance Determination

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

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

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

(a) Inmates at high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If a facility cannot conduct such an assessment immediately, the facility may hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment.

Directive #4948 Protective Custody Status 6/29/2017, Involuntary Protective Status states, An inmate who is appropriate for Involuntary Protective Custody solely because he or she is at high risk for sexual victimization, or following a report that the inmate was the victim of sexual abuse, may be placed in Involuntary Protective Custody after a determination has been made that there is no available alternative means of separation from likely abusers. The facility may hold him for less than 24 hours while completing the assessment using Form #2168A Sexual Victimization - Involuntary Protective Custody Recommendation.

(b) Inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document: (1) The opportunities that have been limited; (2) The duration of the limitation; and (3) The reasons for such limitations.

Directive #4948 Protective Custody Status, Involuntary Protective Status states that inmates placed in Involuntary Protective Custody shall have access to program, privileges, education and work to the extent possible.

(c) The facility shall assign such inmates to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days.

Directive #4948 Protective Custody Status, Involuntary Protective Status states, 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. Directive #4948 also ensures that placement shall not ordinarily exceed 30 days. If that should occur, the inmate will be reviewed every seven days; documentation noted on Form #2170A.

(d) If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, the facility shall clearly document: (1) The basis for the facility's concern for the inmate's safety; and (2) The reason why no alternative means of separation can be arranged.

Form #2168A Sexual Victimization - Involuntary Protective Custody provides an avenue to document the facilities rationale behind the placement.

(e) Every 30 days, the facility shall afford each such inmate a review to determine whether there is a continuing need for separation from the general population.

Directive #4948 also ensures that placement shall not ordinarily exceed 30 days. If that should occur, the inmate will be reviewed every seven days; documentation is noted on Form #2170A.

The interview with the Superintendent confirmed that SHU will be used as a last resort. The PAQ states that no inmates have been placed in involuntary protective custody due to their high risk of sexual victimization. The auditor found no evidence to dispute this during the audit process. The facility has a process in place to ensure proper and quick removal from risk. This process was articulated by all staff during random interviews. Interviews with one supervisor of the SHU and one officer who was working in the SHU support that they have no knowledge of inmates who are alleged victims, or at risk for victimization being placed in this unit. Based upon the written authority and these interviews, the auditor finds the facility is substantially compliant with this standard.

REPORTING

Standard 115.51: Inmate reporting

115.51 (a)

- Does the agency provide multiple internal ways for inmates to privately report: Sexual abuse and sexual harassment? ☒ Yes ☐ No

- Does the agency provide multiple internal ways for inmates to privately report: Retaliation by other inmates or staff for reporting sexual abuse and sexual harassment? ☒ Yes ☐ No

- Does the agency provide multiple internal ways for inmates to privately report: Staff neglect or violation of responsibilities that may have contributed to such incidents? ☒ Yes ☐ No

115.51 (b)

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

115.51 (c)

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

115.51 (d)

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

Auditor Overall Compliance Determination

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

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

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

(a) The agency shall provide multiple internal ways for inmates to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.

Directive #4027A Sexual Abuse Prevention & Intervention Inmate-on-Inmate and Directive #4028A Sexual Abuse Prevention & Intervention Staff-on-Inmate/Staff-on-Parolee - 11/29/17 supports that inmate reports of sexual abuse, sexual harassment, or retaliation can be verbal or in writing. Inmates

are notified through the orientation and the pamphlet received upon intake that they can tell any staff, contract or volunteer. All inmate interviews confirmed that they were aware of multiple avenues for making a report. Most indicated they would call the hotline number, noting they observed the information on the posters by the phone.

(b) The agency shall also provide at least one way for inmates to report abuse or harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials, allowing the inmate to remain anonymous upon request. Inmates detained solely for civil immigration purposes shall be provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security.

The New York State Commission of Correction (SCOC) has agreed to receive all written inmate reports containing sexual abuse and sexual harassment allegations, including anonymous allegation and will immediately forward them to DOCCS for investigation. This is confirmed by a memo from the Chairman of the Commission. This information is provided in the pamphlet given to inmates upon arrival. The New York State Department of Corrections and Community Supervision does not detain inmates solely for civil immigration purposes. Information on how to contact relevant consular officials is available. A Jailhouse Lawyer's Manual: Immigration & Consular Access Supplement is available in all NYSDOCCS Facility Law Libraries. Another method for reporting outside the agency is to the sexual abuse hotline. See comments for 115.53.

(c) Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports.

Directive #4027A Sexual Abuse Prevention & Intervention Inmate-on-Inmate and Directive #4028A Sexual Abuse Prevention & Intervention Staff-on-Inmate/Staff-on-Parolee - 11/29/17 supports that staff will immediately notify his or her supervisor if they receive a report of sexual abuse, sexual harassment sexual threats or retaliation for reporting such an incident. Staff training for PREA further emphasizes the requirement that staff must accept and forward any reports whether verbal, in writing, anonymous or third party of sexual abuse, sexual harassment or retaliation immediately to their supervisor who will then forward the information through the chain of command. In addition, the Employee's Manual notes the requirement of the duty to report sexual abuse and sexual harassment, retaliation that resulted from a PREA complaint as well as staff neglect that may have contributed to an incident of sexual abuse or sexual harassment. "This duty to report includes third party and anonymous reports." Staff interviews all supported that they will respond to any allegation, including suspicion. All indicated this would be immediately reported to their supervisor and then to the Watch Commander. Staff confirmed that follow-up documentation would be done immediately.

(d) The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of inmates.

Staff may report sexual abuse or sexual harassment privately to the Office of Special Investigations by calling their number directly or sending an email directly to them. This is reinforced in the PREA training. All staff interviews supported that they are aware they have a private mechanism for reporting. Some indicated they could call their union, others indicated they could contact Employee Assistance Program (EAP) staff. Most did comment that they could contact OSI directly.

Review of documentation noted above supports a finding of compliance. Inmates noted that there are several ways to file a complaint at this facility and shared examples of such. Staff is aware of the

numerous avenues for filing a complaint, including third party and anonymous. Initial and refresher training emphasize the different avenues for reporting. Staff interviews indicated they would report immediately and knew the process for documenting this. Responses were consistent with the report being made immediately and either through their direct supervisor to the Watch Commander, or directly to the Watch Commander. Review of the investigations support that allegations are reported swiftly to the Watch Commander who initiates the coordinated response. Although sexual abuse and sexual harassment complaints are not processed through the administrative procedure for inmate grievances, if a grievance is filed containing anything resembling an allegation, the grievance supervisor immediately sends a copy to the Watch Commander. To ensure this, the auditor requested and received a list of grievances filed in the previous twelve months and a list of those that were forwarded for review for a potential PREA investigation. The interview with the Grievance Supervisor confirmed that inmates receive appropriate notification indicating that the complaint is deemed exhausted upon filing for Prison Litigation Reform Act (PLRA) purposes. This interview further confirmed that anything that may resemble a PREA allegation is forwarded to the Watch Commander as appropriate for review. Additionally, the interview with the Assistant Deputy Superintendent/PREA Compliance Manager confirmed this process.

Review of the policies, investigations, interviews with staff and inmates, information provided at orientation information confirming how to file a report outside the agency, documentation showing that this has occurred all provided the auditor with sufficient evidence to support a finding of compliance with the standards.

Standard 115.52: Exhaustion of administrative remedies

115.52 (a)

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

115.52 (b)

- Does the agency permit inmates to submit a grievance regarding an allegation of sexual abuse without any type of time limits? (The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.) (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

- Does the agency always refrain from requiring an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

115.52 (c)

- Does the agency ensure that: An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

- Does the agency ensure that: Such grievance is not referred to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

115.52 (d)

- Does the agency issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance? (Computation of the 90-day time period does not include time consumed by inmates in preparing any administrative appeal.) (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

- If the agency claims the maximum allowable extension of time to respond of up to 70 days per 115.52(d)(3) when the normal time period for response is insufficient to make an appropriate decision, does the agency notify the inmate in writing of any such extension and provide a date by which a decision will be made? (N/A if agency is exempt from this standard.)
☐ Yes ☐ No ☒ NA

- At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, may an inmate consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

115.52 (e)

- Are third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse? (N/A if agency is exempt from this standard.)
☐ Yes ☐ No ☒ NA

- Are those third parties also permitted to file such requests on behalf of inmates? (If a third-party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.) (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

- If the inmate declines to have the request processed on his or her behalf, does the agency document the inmate's decision? (N/A if agency is exempt from this standard.)
☐ Yes ☐ No ☒ NA

115.52 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

- After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, does the agency immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken? (N/A if agency is exempt from this standard.).
☐ Yes ☐ No ☒ NA

- After receiving an emergency grievance described above, does the agency provide an initial response within 48 hours? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

115.52 (g)

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

Auditor Overall Compliance Determination

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

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

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

The standard has the following requirements: (a) An agency shall be exempt from this standard if it does not have administrative procedures to address inmate grievances regarding sexual abuse. (b)(1) The agency shall not impose a time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse. (2) The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse. (3) The agency shall not require an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse. (4) Nothing in this section shall restrict the agency's ability to defend against an inmate lawsuit on the ground that the applicable statute of limitations has expired. (c) The agency shall ensure that— (1) An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and (2) Such grievance is not referred to a staff member who is the subject of the complaint. (d)(1) The agency shall 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. (2) Computation of the 90-day time period shall not include time consumed by inmates in preparing any administrative appeal. (3) The agency may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. The agency shall notify the inmate in writing of any such extension and provide a date by which a decision will be made. (4) 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, the inmate may consider the absence of a response to be a denial at that level. (e)(1) Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of inmates. (2) 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. (3) If the inmate declines to have the request processed on his or her behalf, the agency shall document the inmate's decision. (f)(1) The agency shall establish procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse. (2) After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, the agency shall 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, shall provide an initial response within 48 hours, and shall issue a final agency decision within 5 calendar days. The initial response and final agency decision shall document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance. (g) The agency may discipline an inmate for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the inmate filed the grievance in bad faith.

DOCCS Directive #4040, Inmate Grievance Program (IGP) 1/20/2016, confirms that an inmate is not required to file a grievance about sexual abuse or sexual harassment. Any inmate grievance that is filed regarding a complaint of sexual abuse or sexual harassment shall immediately be reported by the IGP Supervisor to the Watch Commander for further handling in accordance with Departmental policies. The inmate is informed of this via a memo which informed him that the complaint is deemed exhausted upon filing for PLRA purposes. If the grievance does not set forth any additional matters that require a response, the grievance shall be closed. The agency has opted to be exempt from this standard.

Standard 115.53: Inmate access to outside confidential support services

115.53 (a)

- Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations? ☒ Yes ☐ No

- Does the facility provide persons detained solely for civil immigration purposes mailing addresses and telephone numbers, including toll-free hotline numbers where available of local, State, or national immigrant services agencies? ☒ Yes ☐ No

- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible? ☒ Yes ☐ No

115.53 (b)

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

115.53 (c)

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

- Does the agency maintain copies of agreements or documentation showing attempts to enter into such agreements? ☒ Yes ☐ No

Auditor Overall Compliance Determination

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

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

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

(a) The facility shall provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and, for persons detained solely for civil immigration purposes, immigrant services agencies. The facility shall enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible.

A memo from Jason D. Effman, Associate Commissioner indicates the following: A PREA Statewide Rape Crisis Hotline went into effect January 8, 2019. A 777-speed dial number, available through the Inmate Telephone System, is active at all New York DOCCS Correctional Facilities, Adolescent Offender Facilities, and the Willard Drug Treatment Campus. Calls made are routed to one number, who provides crisis counseling services and if requested, a referral to a Rape Crisis Program for follow-up services. Multi-language services can be provided. If requested, they will also make referrals to the DOCCS via OSI, the facility Assistant Deputy Superintendent/PREA Compliance Manager, facility designated PREA Point Person or to the PREA Coordinator. As of October 1, 2019, eight current PREA service providers across the state have staff specifically trained to assist incarcerated individuals at all 52 of the NYSDOCCS facilities. All conservations are kept confidential. Ongoing emotional support and victim advocacy services are still provided via legal calls and in some locations via legal visits.

In addition, an announcement dated March 19, 2019, by Governor Cuomo includes quotes from the Governor and key organizations which represents a strong, comprehensive, cohesive support of these services. This includes the Lieutenant Governor, Director of Office of Victim Services, Acting DOCCS

Commissioner, Executive Director of State Office for the Prevention of Domestic Violence (OPDV), the CEO of the Crisis Services of Buffalo and Erie County (who receives calls initiated by the 777 number), the Executive Director of the New York State Coalition Against Sexual Assault, the Director of Victim Assistance Services/ West COP, the Director of the Sexual Assault and Crime Victims Assistance Program at St. Peter's Health Partners, the PREA Outreach and Education Specialist at RESTORE, the Program Director for Safe Harbors of the Finger Lakes, the PREA Program Coordinator at the Crime Victims Treatment Center and the Deputy Executive Director of Just Detention International.

The Winter publication 2018-2019 of DOCCS Today has a detailed headline article outlining the new hotline, educating staff on the transition to the enhanced service, further demonstrating support of the service from the Acting Commissioner of NYDOCCS.

(b) The facility shall 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.

Posters announcing the service were visible throughout the facility. On the poster, it indicates that the calls are confidential and are not monitored by the facility but that they are recorded in the event of misuse. It also provides the agency's address should an inmate wish to correspond instead of talk on the phone. It further educates the inmate population that the counselors are only allowed to report information back to the Department with the permission of the inmate. PREA brochures, "Help for Victims of Sexual Abuse in Prison" are widely available to inmates and provided to inmates upon arrival at each facility. In addition this pamphlet provides victim support information on how to report abuse, and outlining the PREA Statewide Rape Crisis Hotline, and it provides contact information regarding the community-based Rape Crisis Program (RCP) for rape crisis counseling victim advocacy and emotional support services (Crisis Services, Inc., Crime Victims Treatment Center, Family Services, RESTORE Sexual Assault Services, Safe Harbors of the Finger Lakes, Sexual Assault & Crime Victims Assistance Program at Samaritan Hospital, Victims Assistance Center of Jefferson County, and Victims Assistance Services of West COP. It too reinforces that calls are confidential, will not be monitored but are recorded (treated like legal calls). It further informs the inmates that they do not have to have this number on their approved telephone list. Telephone numbers to a specific Rape Crisis Program can be added at any time to their approved telephone list.

The following policy directives support this process: Directive #4423 5/21/2015, Inmate Telephone Calls, an inmate may add an attorney, or Department of Health approved Rape Crisis Program to their telephone list. Directive #4404 Inmate Legal Visits 9/18/2019, there is an area designated for confidential visits. Directive #4421, Privileged Correspondence 06/02/2016, Rape Crisis Programs-inmates can send and receive privileged correspondence. It addresses that any local, state or national organization authorized to provide rape crisis services, victim advocacy services, and emotional support services is considered privileged correspondence.

(c) The agency shall 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. The agency shall maintain copies of agreements or documentation showing attempts to enter into such agreements.

The Agency has a signed MOU with the New York State Office of Victim Services and the New York State OPDV to provide *emotional support services* through September 30, 2020. These State agencies in turn contract with the New York State Coalition Against Sexual Assault and a community service provider to provide both a state-wide rape crisis hotline and, through additional community services providers, a partnership that provides emotional support and victim advocacy services to inmates in all

of the State's 52 correctional facilities. Locally, the Crime Victims Treatment Center provides emotional support and victim advocacy calls and receives referrals for such services through the Statewide Rape Crisis Hotline (777) provider. A contract was provided that demonstrated that the agency agrees to the following: participate in PREA training, participate in quarterly working group calls, provide services for hotline calls and referrals, ensure only PREA trained staff and/or volunteers take calls from and provide services to incarcerated victims of sexual assault ensure answering service partners are trained in PREA, confidentiality and procedures and response, tour all incarceration facilities that are in the service areas, provide incarcerated victims of sexual assault with rape crisis counseling, advocacy and emotional support services, follow-up with incarcerated victims of sexual assault who made direct contact seeking rape crisis services via telephone or mail, as requested by the NYSDOCCS refer victims of sexual assault in state and local incarceration facilities to appropriate service provides, complete forms to track project services among other requirements, effective through March 2020. One example of documentation demonstrating that PREA counseling was requested via the hotline was provided to the auditor with the pre-audit documentation. A Help for Victims of Sexual Abuse in Prison pamphlet does provide detailed information on how to obtain this service. Phone numbers and addresses are provided for agencies throughout the state of New York. This is given to the inmates at intake with the other pamphlet.

During the onsite audit, the auditor observed a poster next to every inmate phone providing information on how to access this line. Many phone areas provide a booth or a separated room for the telephones. Also, there is a private area where inmates can use a phone without anyone in the vicinity listening (same phone provided for legal calls) located outside the living areas, with the assistance of the PREA Compliance Manager/PREA Point Person. This area was observed during the tour. Random inmate interviews revealed that the population is aware that there is the ability to call this number by dialing 777 for reporting. They indicated in the interviews that they knew it was recorded because a pin is required. Approximately half of the inmates interviewed indicated they were not, however, aware of the additional service that could be provided, only that they could report. They further elaborated, though, that they did not need any service like that, so they did not concern themselves with additional information. The inmate orientation manual does dedicate a paragraph on how to get access to outside confidential support services. The auditor did not find these comments concerning as the information is readily available and visible to the inmate population.

The auditor requested and received documentation that inmates are afforded the advocacy service. This documentation showed that over sixty phone calls had been arranged for inmates to have private conversations with a trained sexual abuse counselor. The auditor spoke to the Program Coordinator for the Crimes Victim Treatment Center (CVTC). She confirmed that her staff receive a background check prior to working for this organization. Additionally, staff receive the required forty (40) hours of training to be certified by the New York State Department of Health. She indicated that staff do also receive on-site additional training for working with incarcerated offenders. Finally, she and six of her staff toured this facility in January 2020 to obtain a better understanding of the inmate's and facility's day to day operations.

Analysis of the evidence supporting compliance with the standard requirements:
As illustrated, this service has commitment and support from the Governor's office, Commissioner's office, and key organizations in the state. Review of the policy, observation of the area where the phone calls can be made, and strong knowledge of the availability of the service as demonstrated by the inmate interviews all support a finding of compliance. These enhanced services now provide inmates in the NYSDOCCS the most comprehensive services for incarcerated individuals in the nation, therefore meeting the criteria for "exceeds standards." For all the reason stipulated above, the auditor finds this facility/agency exceeds the requirements of this standard.

Standard 115.54: Third-party reporting

115.54 (a)

- Has the agency established a method to receive third-party reports of sexual abuse and sexual harassment? ☒ Yes ☐ No

- Has the agency distributed publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate? ☒ Yes ☐ No

Auditor Overall Compliance Determination

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

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

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

The agency shall establish a method to receive third-party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate.

The auditor reviewed the NYSDOCCS website which has a link to PREA which provides all information about PREA to the public including policy, history of combating sexual assault, PREA education, Reporting Sexual Abuse and how third party reports on behalf of an inmate can be made. The auditor requested staff to test this process and provide evidence that it that it worked. Documentation was provided to the auditor within hours that the "test" allegation had been received. This online complaint form provides an anonymous option. Interviews with the agency investigators confirmed that they have received complaints through this process. Therefore, the auditor finds this standard to be deemed compliant.

OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

Standard 115.61: Staff and agency reporting duties

115.61 (a)

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency? ☒ Yes ☐ No

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding retaliation against inmates or staff who reported an incident of sexual abuse or sexual harassment? ☒ Yes ☐ No

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment or retaliation? ☒ Yes ☐ No

115.61 (b)

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

115.61 (c)

- Unless otherwise precluded by Federal, State, or local law, are medical and mental health practitioners required to report sexual abuse pursuant to paragraph (a) of this section? ☒ Yes ☐ No

- Are medical and mental health practitioners required to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services? ☒ Yes ☐ No

115.61 (d)

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

115.61 (e)

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

Auditor Overall Compliance Determination

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

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

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

(a) The agency shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

Directive #4027A Sexual Abuse Prevention & Intervention Inmate-on-Inmate and Directive #4028A Sexual Abuse Prevention & Intervention Staff-on-Inmate/Staff-on-Parolee - 11/29/17 Requires all employees (which includes contractors, contract employees, volunteers, interns or other state agency employees assigned to the facility) to immediately report to their immediate supervisor any information pertaining to sexual abuse, sexual harassment, or retaliation. The Employee Manual requires staff to report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse,

sexual harassment, any retaliation against an inmate or staff who report such an incident and any neglect or violation of responsibilities that may have contributed to an incident or retaliation.

(b) Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions.

Directive #4027A Sexual Abuse Prevention & Intervention Inmate-on-Inmate and Directive #4028A Sexual Abuse Prevention & Intervention Staff-on-Inmate/Staff-on-Parolee - 11/29/17 states that reports are confidential and only to be shared with essential employees involved in the reporting, investigation, discipline and treatment process or as otherwise required by law. The Employee Handbook also reinforces this requirement. Form 115.61 Sexual Abuse Response and Containment Checklist is deemed “Confidential” on the form.

(c) Unless otherwise precluded by Federal, State, or local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to paragraph (a) of this section and to inform inmates of the practitioner’s duty to report, and the limitations of confidentiality, at the initiation of services.

Directive #4027A Sexual Abuse Prevention & Intervention Inmate-on-Inmate and Directive #4028A Sexual Abuse Prevention & Intervention Staff-on-Inmate/Staff-on-Parolee 11/29/17 specifically addresses that a medical practitioner is required to report the minimum information necessary. Interviews with the medical and mental health staff and additional the Assistant Deputy Superintendent PREA Compliance Manager confirmed that this is solidified by addressing this specifically at the facility orientation. Additionally, inmates sign a consent form before getting services.

(d) If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable person’s statute, the agency shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws.

This facility does not house inmates under the age of 18 (see 115.14). In this state, vulnerable person statues do not apply to those incarcerated. NY Soc Serv § 492 establishes the “vulnerable persons' central register” It states, this section excludes persons in DOCCS custody. Interview with the PREA Coordinator indicated the following: Our Office of Special Investigations, Sex Crimes Division ensures that outside agencies with jurisdiction are notified of the report. DOCCS is not included within the statutory jurisdiction of the State entity that investigates allegations concerning vulnerable adults. As stated by the PREA Coordinator, “historically, our OSI SCD would notify the Child Abuse Hotline when an allegation was received concerning a Youthful Inmate under the age of 18. Effective October 1, 2018, two of the Department’s facilities have been changed under state law and are now classified by New York State as “Adolescent Offender Facilities.” The facilities now fall under the PREA Standards for Juvenile Facilities going forward. Directive #4029 “Reporting Suspected Child Abuse or Maltreatment” was adopted in October 2018 and training regarding compliance with child abuse reporting laws has been conducted at these facilities to ensure that Mandated Reporters comply with New York State law regarding child abuse reporting to the Statewide Central Register of Child Abuse and Maltreatment”.

(e) The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility’s designated investigators.

Sexual Abuse Response and Containment Checklist, which is the form used to communicate an allegation, also addresses confidentiality and the reporting of the incident to the appropriate investigator. As stated, the appropriate investigating agency is the OSI. Directive #0700Office of Special Investigations (OSI) supports the following:

Sex Crimes Division: The Sex Crimes Division (SCD) conducts investigations involving unauthorized relationships and sexual misconduct between inmates or parolees and Departmental staff, as well as inmate-on-inmate sexual abuse.
Furthermore, the SCD coordinates with outside law enforcement and prosecutors in the development of these cases for criminal prosecution. The SCD also collaborates with others within the Department to ensure compliance with the Prison Rape Elimination Act (PREA).

In addition, the MOU with OMH supports that mental health staff will report any knowledge or suspicion of sexual misconduct directly to the Watch Commander. The interview with mental health staff confirmed that she and her staff are aware of this obligation.

Interviews with security staff, security supervisors, the Watch Commander, and non-first responders support a strong knowledge of the process. The Superintendent confirmed that all allegations will be reported to the investigators via the Watch Commander. The auditor did not find any instance of an allegation that was not reported using this process during the PREA audit. In addition, staff has been issued pocket cards that reflect the process. All staff interviewed had the card on their person. Interviews with the investigators ensured they are receiving all allegations of sexual abuse or sexual harassment immediately for their review and action.

Standard 115.62: Agency protection duties

115.62 (a)

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

Auditor Overall Compliance Determination

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

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

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

When an agency learns that an inmate is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate.

Directive #4948 - Protective Custody Status – 6/29/17 addresses the use of involuntary protective custody for an inmate who is subject to a substantial risk of imminent sexual abuse. It supports that placement will occur immediately until the facility can complete an assessment. The interview with the Acting Commissioner further elaborated, “Each case is evaluated by the facility or Office of Special Investigations based upon the nature of the report and the potential harm. Supervisory rounds will also be increased as appropriate. An inmate at risk of victimization or being a potential predator may be moved to another housing unit or transferred. If no other options are available, a potential victim may be temporarily placed in protective custody until other steps can be taken.”

The interview with the Superintendent confirmed that an inmate at imminent risk of sexual abuse or any imminent risk of harm shall have immediate action taken to ensure his safety. The facility (PAQ) reports that the facility has not had any inmates that were subject to Involuntary Protective Custody due to a substantial risk of imminent sexual abuse during this audit period. The auditor found no evidence to

dispute this during the audit process. All staff interviews confirmed to the auditor that they would take immediate action if they believed an inmate was at imminent risk of sexual abuse. Inmate interviews illustrated to the auditor that staff are approachable. Corrections Officers and supervisors confirmed that this request would be supported, and action would be taken to protect the inmate before the believed event occurred. Based on this and overall observations during the audit, the auditor found this credible an to be an integral part of the culture of this facility.

Standard 115.63: Reporting to other confinement facilities

115.63 (a)

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

115.63 (b)

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

115.63 (c)

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

115.63 (d)

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

Auditor Overall Compliance Determination

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

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

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

(a) Upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred. (b) Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. (c) The agency shall document that it has provided such notification.

Memo: from Jason D. Effman, Associate Commissioner RE: PREA Standard 115.63, addressed to “All Superintendents” states that allegations received from an inmate regarding abuse at another facility will be forwarded from the Superintendent to the Superintendent at the facility where the alleged incident occurred within 72 hours of receiving the report. Form 115.63 shall be used to make the notification. Additionally, the Office of Special Investigations shall be sent a copy. This process was reinforced by the written interview responses from the Acting Commissioner. The PAQ indicates there have been four

allegations received regarding sexual abuse that occurred at another facility. The interview with the Superintendent supported that these notifications are made by his office within 72 hours of receipt. Copies of this documentation was readily provided to the auditor with the pre-audit documentation. Review confirmed that the notification is made from the Superintendent to the Head of the Facility immediately, typically the same day.

(d) The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.

PAQ indicates four allegations were received from other facilities regarding abuse that occurred at Woodbourne Correctional Facility in the past 12 months. Copies of each were provided to the auditor during with the pre-audit documentation. Again, these notifications were from the Head of the Facility to the Superintendent, the appropriate response (Containment Check List) was initiated.

The policy, review of notification forms and interview with the Superintendent provided the auditor with sufficient evidence to support a finding of compliance. There is a process in place to ensure the requirements of this standard are met. To further ensure the efficiency of this process, the agency maintains a contact list for all Jail Administrators in the state. The list provided to the auditor was dated 2019.

Standard 115.64: Staff first responder duties

115.64 (a)

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Separate the alleged victim and abuser? ☒ Yes ☐ No

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence? ☒ Yes ☐ No

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

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

115.64 (b)

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

Auditor Overall Compliance Determination

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

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

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

(a) Upon learning of an allegation that an inmate was sexually abused, the first security staff member to respond to the report shall be required to: (1) Separate the alleged victim and abuser; (2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence; (3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and (4) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. (b) If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.

Directive #4027A Sexual Abuse Prevention & Intervention Inmate-on-Inmate and Directive #4028A Sexual Abuse Prevention & Intervention Staff-on-Inmate/Staff-on-Parolee - 11/29/17, Sexual Abuse Response and Containment Checklist, Sexual Abuse Prevention and Response (SAPR) Lesson Plan, PREA Pocket Card all address the requirements of this standard. Whether a first responder or not, all reports go to the immediate supervisor and to the Watch Commander. The scene is immediately secured. An inmate victim is asked and any alleged perpetrator are told to not take any action which could potentially destroy evidence such as washing, brushing teeth, changing clothes, urinating, defecating smoking, drinking or eating. The Sexual Abuse Response and Containment Checklist is initiated.

The PAQ indicates that there has been no occurrence of a security staff member responding to an incident requiring preservation of physical evidence, nor a non-first responder. Of the noted allegations of sexual abuse reviewed by the auditor, this confirmed there was no incident requiring this. Both first responder staff and non-first responder staff attend training as required in 115.31; these requirements are reinforced at that time. Also, staff carry a Pocket Card to review in the event of a situation. All staff interviews demonstrated knowledge of the process support a finding of compliance. Review of the investigations confirmed that no incidents occurred during the 12-month audit period that involved a first responder. For these reasons noted, the auditor finds the facility to be in compliance with the requirements of this standard.

Standard 115.65: Coordinated response

115.65 (a)

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

Auditor Overall Compliance Determination

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

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

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

The facility shall develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

Woodbourne Correctional Facility FOM 6001,1/31/2020 Coordinated Response Plan to an Incident of Inmate Sexual Abuse provides a detailed plan for all staff to follow in the event of a response to an incident of sexual abuse. It addresses First Party/Victim Report action, Third-party, Anonymous report actions, the details of the Coordinated Response as directed by the Watch Commander. This includes notification to OSI, Health Services, and specifics on how to arrange for outside transport and what hospitals to use. It addresses post medical assessment, mental health staff actions, and emphasizes confidentiality. All staff interviewed was knowledgeable regarding the process. The interview with the Superintendent further solidified that the facility has a Coordinated Response Plan in which staff are knowledgeable regarding it, and it consistently does to the Watch Commander who ensures notifications and appropriate actions are made. Based on the feedback in interviews, the review of the plan, and review of completed investigations, the auditor finds there is ample evidence to support a finding of compliance.

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

115.66 (a)

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

115.66 (b)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

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

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

(a) Neither the agency nor any other governmental entity responsible for collective bargaining on the agency's behalf shall enter 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. (b) Nothing in this standard shall restrict the entering into or renewal of agreements that govern: (1) The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of §§ 115.72 and 115.76; or (2) Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.

Directive #2110, Employee Discipline-Suspension from Duty During the Continuation of Disciplinary Proceedings - 7/13/2018, Directive #2114, Function of the Bureau of Labor Relations - 7/17/2015 both comply with the requirements of this standard. There are seven bargaining units represented by four unions representing employees at the NYSDOCCS. The contracts do not preclude the facility from removal of alleged staff pending an outcome of the investigation. This was reinforced by the written interview responses form the Acting Commissioner: The current collective bargaining agreement between the State of New York and the Public Employees Federation, AFL-CIO (PEF) is for the period of 2016-2019. The current collective bargaining agreement between the State of New York and The Civil Service Employees Association, Inc. (CSEA) is for the period 2016-2021. In addition, the collective bargaining agreement between the State of New York and the New York State Correctional Officers and Police Benevolent Association, Inc. (NYSCOPBA) was ratified on January 24, 2019 and is retroactively effective for the period April 1, 2016, through March 31, 2023. McKinney Civil Service Law §209-a ensures that contracts are continued until a new agreement is reached. The applicable contracts permit the agency to take appropriate action when warranted to remove alleged staff sexual abusers from contact with any inmate pending the outcome of an investigation or a final determination of whether and to what extent discipline is warranted. The contracts permit the agency to suspend an employee without pay or temporarily reassign an employee when a determination is made that there is probable cause that such employee's continued presence on the job represents a potential danger to persons or property or would severely interfere with operations. Additionally, the auditor spoke with a union representative for the correctional officers who further assured the auditor there is no concern from the union if a staff member needs to be re-assigned.

Standard 115.67: Agency protection against retaliation

115.67 (a)

- Has the agency established a policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff? ☒ Yes ☐ No

- Has the agency designated which staff members or departments are charged with monitoring retaliation? ☒ Yes ☐ No

115.67 (b)

- Does the agency employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with

victims, and emotional support services for inmates or staff 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*)

(a) The agency shall establish 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, and shall designate which staff members or departments are charged with monitoring retaliation. (b) The agency shall 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. (c) For at least 90 days following a report of sexual abuse, the agency shall monitor the conduct and treatment of inmates or staff who reported the sexual abuse and 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, and shall act promptly to remedy any such retaliation. Items the agency should monitor include any inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The agency shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. (d) In the case of inmates, such monitoring shall also include periodic status checks. (e) If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation. (f) An agency's obligation to monitor shall terminate if the agency determines that the allegation is unfounded.

Employee Manual 2.19 requires that all employees have a duty to report retaliation against inmates or staff who reported such an incident. Memo from Jason D. Effman, Associate Commissioner – 4/18/2019 requires each facility to use multiple protection measure such as housing changes, transfers, removal of alleged staff or inmate abusers from contact with the victim and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse, sexual harassment and/or cooperating with the investigation. It requires the monitoring for a minimum of four months, exceeding the requirements of the standard. Form 115.67 Retaliation Monitoring Form ensures that all aspects of this standard are proactively monitored and documented. There is a monitoring form for inmates and another form for staff. It also requires the facility to conduct periodic in-person status checks at least every 30 days. The PREA ADS and PREA Point person are responsible for coordinating these actions. In the event of an allegation, the OSI will be contacted promptly. With the consultation of the OSI, the facility shall promptly remedy the retaliation. Finally, it supports the following: "The obligation to monitor the conduct and treatment of any inmate who reported an incident of sexual abuse or sexual

harassment, or who was reported to have suffered sexual abuse or sexual harassment, shall terminate if the agency determines that the allegation is unfounded or if the monitored inmate is released."

The PAQ indicates there have been no incidents of retaliation during the past twelve months. The auditor found no reason to dispute this during the audit process. During the pre-audit phase, the facility provided the spreadsheet tracking mechanism utilized to document these actions in addition to six examples of completed Retaliation Monitoring Forms (two demonstrated a transfer to another facility). An additional nine completed retaliation monitoring forms were reviewed; they were detailed, addressed the requirements. Interviews with the Superintendent, PREA Coordinator, PREA Compliance Manager and PREA Point Person all support that retaliation monitoring is taken seriously and well documented. Even if an inmate transfers, the retaliation monitoring is continued at the next NYSDOCCS facility which is another reason for the decision of "exceeds standard."

Standard 115.68: Post-allegation protective custody

115.68 (a)

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

Auditor Overall Compliance Determination

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

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

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

Any use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse shall be subject to the requirements of § 115.43.

Finding of compliance based on the following: See comments on 115.43. The PAQ indicates that no inmates have been placed in segregated housing due to suffering sexual abuse. This was confirmed by interviews with one staff who work/supervise those areas. The auditor found no reason to dispute this during the audit process. Based on comments noted on 115.43 this standard is found to be compliant.

INVESTIGATIONS

Standard 115.71: Criminal and administrative agency investigations

115.71 (a)

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

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

115.71 (b)

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

115.71 (c)

- Do investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data? ☒ Yes ☐ No

- Do investigators interview alleged victims, suspected perpetrators, and witnesses? ☒ Yes ☐ No

- Do investigators review prior reports and complaints of sexual abuse involving the suspected perpetrator? ☒ Yes ☐ No

115.71 (d)

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

115.71 (e)

- Do agency investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and not on the basis of that individual's status as inmate or staff? ☒ Yes ☐ No

- Does the agency investigate allegations of sexual abuse without requiring an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding? ☒ Yes ☐ No

115.71 (f)

- Do administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse? ☒ Yes ☐ No

- Are administrative investigations documented in written reports that include a description of the physical evidence and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings? ☒ Yes ☐ No

115.71 (g)

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

115.71 (h)

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

115.71 (i)

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

115.71 (j)

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

115.71 (k)

- Auditor is not required to audit this provision.

115.71 (l)

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

Auditor Overall Compliance Determination

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

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

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

PAQ indicates one substantiated allegations of conduct that appeared criminal referred for prosecution since the last PREA audit Seven investigations were reviewed for this facility with the investigator; five were completed, two were still open.

- One inmates-on-inmate abuse
- One inmate-on-inmate harassment
- Two staff-on-inmate harassment
- Three staff-on-inmate abuse
- No retaliation allegations however, retaliation was added to the other investigations and addressed.

One investigation was concluded to be substantiated, three were deemed unsubstantiated and one was unfounded.

(a) When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.

Directive #0700 Office of Special Investigations (OSI) states that the Sex Crimes Division (SCD) conducts investigations involving sexual misconduct between inmates and departmental staff as well as inmate-on-inmate sexual abuse. Directive #4027B Sexual Abuse Reporting & Investigation - Inmate-on-Inmate and Directive #4028B Sexual Abuse Reporting & Investigation -Staff-on-Inmate/Staff-on-Parolee states, A prompt, thorough, and objective investigation shall be conducted in all instances of reported sexual abuse, sexual harassment, or retaliation concerning such an incident. As directed herein and in accordance with Directive #0700, "Office of Special Investigations (OSI)," this investigation shall be initiated promptly and shall be the responsibility of the Office of Special Investigations. Allegations of sexual harassment or sexual threats shall be reviewed by the Office of Special Investigations for a determination as to the appropriate investigative steps to be taken, which may include directing specific steps to be taken in a facility investigation. Furthermore, in instances where any complaint is vague, requires clarification, or appears to lack credibility based upon all of the information available at the time of the report, the Office of Special Investigations may direct that a preliminary inquiry be conducted (e.g., interview, video review, etc.) so that the appropriate response can be determined.

(b) Where sexual abuse is alleged, the agency shall use investigators who have received special training in sexual abuse investigations pursuant to § 115.34.

All investigators in the SCD receive training. See 115.34

(c) Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.

The Response Plan and Containment Checklist specify that OSI SCD investigators are immediately contacted when a PREA allegation is received, in accordance with the facility's response plan. In accordance with the plan, the first responders ensure evidence is preserved; the OSI SCD investigators complete any evidence gathering required. Interview with the OSI SCD investigators supported that they are and have been immediately contacted regarding all allegations. Additionally, the review of the completed investigations supported this requirement.

(d) When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution. (e) The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as inmate or staff. No agency shall require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.

The Office of Special Investigations Policy Manual Chapter 5 August 2019 is considered confidential but was provided to the auditor. The auditor reviewed the document and found it supports compliance with this standard. Additionally, polygraph tests are prohibited in accordance with the New York Criminal Procedure Law 160.45 and therefore not used in any aspect of the investigation for sexual abuse or sexual harassment. Review of investigations supported that the credibility of victim, suspect or witness is based on alignment with established facts. This requirement was confirmed by the interview with the investigators.

(f) Administrative investigations: (1) Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and (2) Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

The Office of Special Investigations Policy Manual Chapter 5 & 11 is considered exempt from disclosure. The auditor reviewed the document and found it supports compliance with this standard. The interview with the investigators did confirm that staff actions are reviewed in every case. Review of investigations support that they are in standardized, written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

(g) Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible. (h) Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.

The Office of Special Investigations Policy Manual Chapter 11 is considered exempt from disclosure. The auditor reviewed the document and found it supports compliance with this standard. One investigation was reviewed were referred for criminal prosecution. Compliance with his requirement was confirmed by the review of the confidential manual and the interview with the investigators. The SCD would be the entity to report all substantiated allegations to licensing bodies, as well as ensures all matters that rise to the level of criminal prosecution are referred for criminal handling.

(i) The agency shall retain all written reports referenced in paragraphs (f) and (g) of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.

Directive #4027B Sexual Abuse Reporting & Investigation - Inmate-on-Inmate and Directive #4028B Sexual Abuse Reporting & Investigation -Staff-on-Inmate/Staff-on-Parolee states supports the following: Physical (paper) case records of the Office of Special Investigations will be retained by that office for a minimum of seven years. The electronic case file, including copies of the investigative report and other critical documents, shall be permanently retained.

(j) The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.

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, as confirmed by the interview with the three investigators. This is further reinforced directly in the letter to the New York State Police Superintendent regarding collaboration with the investigation of potential criminal actions of staff. No investigations reviewed had an incident where the accused left employment during the audit review period. The interview with the investigators also confirmed that the investigation would continue.

(k) Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.

Auditor is not required to audit this provision.

(l) When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

Directive #0700 Office of Special Investigations (OSI) states that the Sex Crimes Division (SCD) conducts investigations involving sexual misconduct between inmates and departmental staff as well as inmate-on-inmate sexual abuse. It further states they will assist outside law enforcement in the development of cases for criminal prosecution. A memo from the Superintendent of the New York State Police dates May 2, 2014 further confirms support by stating, This will serve to confirm that the New York State Department of Corrections and Community Supervision (DOCCS), Office of the Inspector General (IG), Sex Crimes Unit (SCU) and the New York State Police (NYSP), Bureau of Criminal Investigation (BCI) shall continue to work cooperatively in the investigation of reported incidents of staff-on-inmate and inmate-on-inmate sexual abuse that may involve criminal conduct.

Based on review of the policies, agency manual, seven investigations and interviews with the investigators, the auditor concludes that investigators address investigations promptly, thoroughly, in a manner which will hold up in court, and with a review of incidents to address staff actions, and assesses credibility consistently.

Standard 115.72: Evidentiary standard for administrative investigations

115.72 (a)

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

Auditor Overall Compliance Determination

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

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

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

The agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

The established definition for concluding that an investigation has been substantiated supports that the agency uses a preponderance of evidence. This is noted in written policy for OSI and confirmed by the interview with three investigators. Review of the investigation supports that the agency uses a finding of substantiated based on a preponderance of the evidence.

Standard 115.73: Reporting to inmates

115.73 (a)

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

115.73 (b)

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

115.73 (c)

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

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

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

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

115.73 (d)

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

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

115.73 (e)

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

115.73 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

(a) Following an investigation into an inmate's allegation that he or she suffered sexual abuse in an agency facility, the agency shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

Memorandum from the Deputy Commissioner/Chief of Office of Special Investigations and Associate Commissioner for PREA Compliance - 5/17/18 RE: Notification of Investigative Determination to Inmates or Parolees/Residents. Notifications of the investigations are provided to the Superintendent where the complainant/inmate is currently housed, via a "Notification of Investigation Determination" who in turn notifies the complainant/inmate via Privileged Mail which the complainant/inmate will sign for receipt.

(b) If the agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate.

All investigations will conclude with the OSI investigator, who will therefore make the notification.

(c) Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the agency shall subsequently inform the inmate (unless the agency has determined that the allegation is unfounded) whenever: (1) The staff member is no longer posted within the inmate's unit; (2) The staff member is no longer employed at the facility; (3) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or (4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility. (d) Following an inmate's allegation that he or she has been sexually abused by another inmate, the agency shall subsequently inform the alleged victim whenever: (1) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or (2) The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility. (e) All such notifications or attempted notifications shall be documented. (f) An agency's obligation to report under this standard shall terminate if the inmate is released from the agency's custody.

The Office of Special Investigations Policy Manual Chapter 5 is considered exempt from disclosure. The auditor reviewed the document and found it supports compliance with all requirements of this standard. Accordingly, the investigator ensures that the notification is made either through the facility superintendent or in person. One example was provided to the auditor with the documentation reviewed. It supported compliance with these requirements. Notifications were viewed with every investigation reviewed with OSI. Therefore, the auditor finds there was sufficient evidence to support a finding of compliance based on policy and documents noted above.

DISCIPLINE

Standard 115.76: Disciplinary sanctions for staff

115.76 (a)

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

115.76 (b)

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

115.76 (c)

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

115.76 (d)

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

- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Relevant licensing bodies? ☒ Yes ☐ No

Auditor Overall Compliance Determination

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

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

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

(a) Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.

Directive #4028A Sexual Abuse Prevention & Intervention Staff-on-Inmate/Staff-on-Parolee 11/29/17 specifically states, Discipline and Prosecution: When investigation substantiates an allegation of sexual abuse and/or inappropriate relationships, it is the Department's policy to refer such incident to the appropriate law enforcement agency or prosecutor, through the Department's Office of Special Investigations, for consideration of criminal charges. Any conduct constituting sexual abuse, sexual harassment, staff voyeurism, inappropriate relationships or any act of retaliation against an inmate,

parolee, or employee for reporting an incident of sexual abuse, sexual harassment, staff voyeurism, inappropriate relationships, or for participating in an investigation involving any of those acts may be the basis for disciplinary action whether or not prosecution or a conviction results.

Directive #2110 – Employee Discipline – Suspension form Duty During the Continuation of Disciplinary Proceedings – 7/13/18 states, When the OSI receives a report of staff sexual misconduct, they shall evaluate the facts and circumstances of the report together with any other available information and consult with the appropriate Bureau of Labor Relations representative regarding appropriate action, including removal of the employee from contact with any inmates pending the outcome of an investigation.

Employee Manual – Rev. 2013 specially reinforces that any staff perpetrator of abuse, harassment or voyeurism will be dealt with severally. And, it emphasizes the duty to report sexual abuse and sexual harassment. Memo: Daniel F. Martuscello III, Deputy Commissioner for Administrative Services – 2/5/16 RE: Prison Rape Elimination Act / Presumptive Disciplinary Sanction for Staff Sexual misconduct confirms that termination is the presumptive disciplinary sanction for staff who have engaged in sexual abuse of an inmate. And, disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall continue to be 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."

Directive #2111- Report of Employee Misconduct – 1/5/16 additionally confirms that staff will be disciplined, noting sanctions up to termination for sexual misconduct.

(b) Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.

Memo: Daniel F. Martuscello III, Deputy Commissioner for Administrative Services – 2/5/16 RE: Prison Rape Elimination Act / Presumptive Disciplinary Sanction for Staff Sexual misconduct supports that termination is the presumptive disciplinary sanction for staff who have engaged in sexual abuse.

(c) Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be 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.

Memo: Daniel F. Martuscello III, Deputy Commissioner for Administrative Services – 2/5/16 RE: Prison Rape Elimination Act / Presumptive Disciplinary Sanction for Staff Sexual misconduct and Directive #2111- Report of Employee Misconduct – 1/5/16 supports that disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment are commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

(d) 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, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

Office of Special Investigations Policy Manual is considered exempt from public disclosure. The auditor reviewed the document and found that it supports compliance with this standard.

During the twelve-month audit period, no staff was terminated for violations of these standards; however, one staff was terminated prior to the twelve-month period and was referred for criminal prosecution. The auditor was able to review documentation surrounding the incident. This evidence directly supports that the facility is compliant with this standard. Additionally, dialogue with the Superintendent, investigators, PREA Coordinator and PREA Compliance Manager support that all allegations against staff for sexual abuse, sexual harassment, retaliation or neglect are investigated and disciplinary action would be commensurate with the circumstances up to termination for sexual abuse.

Standard 115.77: Corrective action for contractors and volunteers

115.77 (a)

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

115.77 (b)

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

Auditor Overall Compliance Determination

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

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

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

(a) Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. (b) The facility shall take appropriate remedial measures and shall consider whether to prohibit further contact with inmates, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

Directive #4750, Volunteer Services Program requires that volunteers be notified of the zero tolerance and that they can be criminally liable for their behavior under the definition sexual conduct with an inmate. It states, DOCCS has a zero-tolerance policy for sexual abuse. It is a crime for any employee to engage in sexual conduct or sexual contact with an inmate. For purposes of Penal Law §130.05, an employee also includes any person providing direct services to inmates in a State Correctional Facility

pursuant to a contractual arrangement with the Department or, in the case of a volunteer, a written agreement with the Department.

STANDARDS OF CONDUCT FOR VOLUNTEERS WITHIN THE NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION states, Relationship with Inmates states, "Sexual abuse and sexual harassment violate Department rules and threaten security. All allegations of sexual abuse, sexual harassment, or retaliation for reporting such an incident or participating in an investigation will be thoroughly investigated. It is a crime for a volunteer or intern who provides direct services to inmates in a State Correctional Facility to engage in a sexual act with an inmate or parolee assigned to that facility, even if the inmate or parolee 'willingly' participates in the act. Furthermore, any perpetrator of a sexual abuse or sexual harassment incident will be dealt with severely through discipline or prosecution to the fullest extent permitted by law and will be reported to any relevant licensing bodies."

Volunteers sign an acknowledgment that they have received this information, which confirms they will be held accountable and indicates they understand this. Examples were provided with the pre-audit documentation demonstrating compliance. In addition, as noted, the auditor randomly reviewed four volunteer folders and observed the signed acknowledgement. This acknowledgement is re-issued when the volunteer received refresher orientation. The interview with the one volunteer confirmed that this process occurs.

The Pre-Audit Questionnaire notes that no contractor or volunteer has been involved in an investigation regarding sexual abuse or sexual harassment towards an inmate. The auditor found no evidence to dispute this statement during the audit process. The interview with the Superintendent confirmed that he is able and willing to stop volunteers from entering the facility if there is a suspicion of misbehavior. See comments to 115.32. The interview with the Superintendent confirmed that he has the authority to prohibit contact with inmates, the agreement for working in the facility would be terminated and, if the incident appeared criminal, it would be referred for prosecution. After analysis of this documentation, policy, and interview, the auditor finds the standard to be compliance.

Standard 115.78: Disciplinary sanctions for inmates

115.78 (a)

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

115.78 (b)

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

115.78 (c)

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

115.78 (d)

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

115.78 (e)

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

115.78 (f)

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

115.78 (g)

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

Auditor Overall Compliance Determination

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

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

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

(a) Inmates shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse.

Hearing Officer Reference Book, The Hearing Officers determine guilt on misconducts received by inmates in accordance with the requirements reflected in Directive #4932 – Chapter V, Standards Behavior & Allowances – Rev. 8/30/18.Category 101 addresses Sex Offenses. 101.10 Sex Offense An inmate shall not engage in or encourage, solicit or attempt to force another to engage in any sexual act. Forcing or attempting to force another to engage in sexual encouraging or soliciting sexual act; Engaging in sexual act (No Force or coercion) 101.11 Forcible touching,101.20 Lewd Conduct, 101.21 Physical Contact, 101.22 Stalking.

(b) Sanctions shall be 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.

The auditor reviewed the Hearing Officer Reference Book. It provides the guidance for Hearing Officers when imposed disciplinary sanctions on inmate's misconducts. Aggravating and mitigating factors are considered. In accordance with the Handbook, these include age of the inmate, inmate's medical condition, inmate's intellectual capacity, past disciplinary history and record of adjustment, and seriousness of the misconduct. Confinement/sanctions recommendations are based on the severity of the incident and formatted in a table to reflect appropriate graduated sanctions.

(c) The disciplinary process shall consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.

Hearing Officer Reference Book addresses that a review of mentally ill inmates should be considered before imposing confinement sanctions that includes the following: referral to programming or counseling, non-confinement sanction would be most likely to correct negative behavior, if non-confinement sanctions have been tried in the past, and any other special consideration.

Directive #4932 – Chapter V, Standards Behavior & Allowances – Rev. 8/30/18.states, mental state or intellectual capacity. When an inmate's mental state or intellectual capacity is at issue, a Hearing Officer shall consider evidence regarding the inmate's mental condition or intellectual capacity at the time of the incident and at the time of the Hearing in accordance with this Section.

(d) If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to require the offending inmate to participate in such interventions as a condition of access to programming or other benefits.

Sex Offender Counseling and Treatment Program Guideline – April 2018 verifies that an inmate is eligible for treatment if found guilty of sexual abuse while incarcerated. The inmate will be referred to this program. Directive 4401 Guidance and Counseling, 4/30/2018 addresses treatment services, including sex offender treatment programs, available for inmates at NYSDOCCS. It indicates that this will include guilty findings at a tier hearing per Inmate Standards of Behavior for any sexually abusive and/or assaultive act. One example was provided for referral to this program based on sexual behavior that occurred within the prison. Failure to participate, according to staff, can and will prevent an inmate from release.

(e) The agency may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

Directive #4028A, Sexual Abuse Prevention & Intervention – Staff-on-Inmate/Staff-on-Parolee, 11/29/17 supports that the agency disciplines inmates for sexual conduct with staff only upon finding that the staff member did not consent to such contact.

(f) For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

Directive #4028A, Sexual Abuse Prevention & Intervention – Staff-on-Inmate/Staff-on-Parolee, 11/29/17, Directive #4027A, Sexual Abuse Prevention & Intervention – Inmate-on-Inmate – 11/29/17 support that a report of sexual abuse made in good faith based upon a reasonable belief that the

alleged conduct occurred does NOT constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

(g) An agency may, in its discretion, prohibit all sexual activity between inmates and may discipline inmates for such activity. An agency may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

Directive #4027A, Sexual Abuse Prevention & Intervention – Inmate-on-Inmate – 11/29/17, consistent with Standard of Inmate Behavior indicates that unless deemed sexual abuse or sexual harassment, other sexual contact of a sexual nature is prohibited. One disciplinary packet example was provided for the auditor to review with the pre-audit documentation.

Review of the policies and documents noted above support a finding of compliance. The interview with the Superintendent supported that sanctions are proportionate to the nature and circumstance and mental disability/illness sis considered when determining sanctions in accordance with policy. The interview with the mental health professional supports that the inmate will be referred for appropriate counseling if found guilty of a sexual misconduct as described in Category 101. Based on analysis of the evidence, the auditor finds the facility to be compliant with the requirements of this standard.

MEDICAL AND MENTAL CARE

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

115.81 (a)

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

115.81 (b)

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

115.81 (c)

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

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*)

(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, staff shall ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening. (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, staff shall ensure that the inmate is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.

HSPM 1.44 – Health Screening of Inmates - 7/26/2018 addresses information received related to sexual victimization or abusiveness. It states, upon arrival at a DOCCS facility, every newly received or transferred inmate, including inmates being moved from an owning correctional facility to the same correctional facility Special Housing Unit (SHU), SHU200, separate keep lock unit or Juvenile Separation Unit, will receive a health screening by a Registered Nurse (RN). This screening will include an inquiry into the inmate's current and past health, mental health, and PREA history and immediate referral of any inmate to a health provider if indicated. In accordance with the National Prison Rape Elimination Act (PREA) Standards, 28 C.F.R. 115.81, any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law. Medical and mental health practitioners shall obtain informed consent (HIPAA release) 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. As above, informed consent/HIPAA release is not required for a referral to the Office of Mental Health. PREA Screening Form directs the screener to forward a copy of the form directly to Mental Health to serve as the Mental Health Referral Form. Staff can also submit a referral form.

Woodbourne Correctional Facility PREA Risk Screening FOM #6002 1/31/2020 indicates, If during the screening process, it is determined that the inmate previously perpetrated sexual abuse whether in an institutional setting or in the community, the Sergeant shall offer to refer the inmate to OMH. The Watch Commander will be notified of the referral.

#4301 – Mental Health Satellite Services and Commitments to CNYPC - 8/18/15, Mental Health Referral Form 3150 supports that referrals received will be addressed within fourteen days. The Facility Operations Manual for Woodbourne Correctional Facility, PREA Risk Screening both describe the specific steps needed to ensure a referral is made at this facility.

(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, staff shall ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.

The facility is a prison, not a jail.

(d) Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law.
(e) Medical and mental health practitioners shall 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.

HSPM 1.44 – Health Screening of Inmates - 7/26/2018 states that any information related to sexual victimization or abusiveness that occurred in an institutional setting is strictly limited to medical and mental health practitioners and other staff as necessary to inform treatment plans and security management decisions, including housing, bed, work, education and program assignments, or as otherwise required by Federal, State, or local law. It also requires medical and mental health practitioners to obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18. The PREA Screening Form also notes an area for reports of sexual victimization that occurred outside the institutional setting.

Form 3278 includes a brief review again of whether the inmate has been sexually abused or victimized. It is completed by health care staff upon arrival. It affords a place to obtain consent for those who report abuse that occurred outside the prison to obtain consent. It is specified that it is for inmates over the age of eighteen. It provides a referral for mental health and notification to the Watch Commander if the information triggers a concern, demonstrating that the information is only provided to staff to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments.

The PAQ notes the 100% of inmates who disclosed prior victimization during screening were offered a follow-up meeting with medical or mental health, and 100% of inmates who have previously perpetrated sexual abuse during the screening were offered a follow-up meeting with a mental health practitioner. Review of the randomly reviewed risk assessments supported that the procedure as established by this Agency is being followed. Policy, written authority, interviews with mental health staff and intake staff in addition to evidence of compliance in the randomly reviewed files supports a finding of compliance with this standard.

Standard 115.82: Access to emergency medical and mental health services

115.82 (a)

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

115.82 (b)

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

- Do security staff first responders immediately notify the appropriate medical and mental health practitioners? ☒ Yes ☐ No

115.82 (c)

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

115.82 (d)

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

Auditor Overall Compliance Determination

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

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

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

(a) Inmate victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment. (b) If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim pursuant to § 115.62 and shall immediately notify the appropriate medical and mental health practitioners. (c) Inmate victims of sexual abuse while incarcerated shall be 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. (d) Treatment services shall be 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.

The Facility Coordinated Response (FOM #6002 1/31/2020), HSPM 1.60 Sexual Assault and the New York Public Health Law support that inmates will receive timely, unimpeded access to emergency medical treatment and crisis intervention services. First responders will ensure medical and mental health staff are notified. These documents support that inmate victims of sexual abuse are offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis and treatment services will be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation. The MOU with OMH supports that mental health staff will evaluate and treat victims.

Medical staff are available twenty-four hours a day, seven days a week (24/7). Mental health staff are available each business day and crisis observation is available 24/7. Interviews with medical, mental health staff, the Superintendent and PREA Compliance Manager support that victims will receive immediate unimpeded access to emergency medical care in accordance with professionally accepted standards of care. Post Exposure prophylactic needs will be immediately evaluated prior to sending the victim to the hospital, in accordance with the HSPM 1.12B Inmate Blood borne Pathogens Significant Exposure Protocol. A List of SANE/SAFE hospitals is maintained with Health Services and the Watch Commander.

Interviews with the medical and mental health staff confirm that inmates have and will receive this treatment in accordance with the professional judgment and community standards of care. One example of medical treatment after a PREA allegation was provided to the auditor to illustrate this. It demonstrated an additional referral for mental health assessment.

During the audit period, it was reported that no inmates were sexually abused warranting medical care provided at the hospital. The auditor found no reason to dispute this during the audit process. Based on the interviews and policy, the auditor finds the standard to be compliant as the coordinated response plan and staff knowledge of the process support that this will be provided.

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

115.83 (a)

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

115.83 (b)

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

115.83 (c)

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

115.83 (d)

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

115.83 (e)

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

115.83 (f)

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

115.83 (g)

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

115.83 (h)

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

Auditor Overall Compliance Determination

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

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

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

(a) the facility shall 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. (b) The evaluation and treatment of such victims shall 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. (c) The facility shall provide such victims with medical and mental health services consistent with the community level of care.

HSPM 1.60 - Sexual Assault – 10/25/17 and Office of Mental Health Memorandum of Understanding 9/14/16 confirms compliance with the requirement that all victims will be provided with ongoing medical and mental health services consistent with community standards. It states, treatment will include follow-up services, treatment plans, and if needed, continuing care upon release.

(d) Inmate victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests. (e) If pregnancy results from the conduct described in paragraph

These requirements are not applicable to this facility as it houses all males.

(f) Inmate victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.

HSPM 1.60 - Sexual Assault – 10/25/17, HSPM 1.12B Inmate Blood borne Pathogens Significant Exposure Protocol – 10/25/17 confirms that a victim will be offered appropriate tests for sexually transmitted infections, in accordance with medically established timeframes.

(g) Treatment services shall be 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.

HSPM 1.60 - Sexual Assault – 10/25/17 supports that medical treatment will be without cost to the victim, regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

(h) All prisons shall 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.

Directive #4401 Guidance and Counseling addresses treatment services available for inmates at NYSDOCCS.HSPM 1.60 - Sexual Assault – 10/25/17 confirms that a mental health evaluation of all known inmate-on-inmate abusers will be conducted within sixty (60) days. They will be referred to the Sex Offender Counseling and Treatment Program per the guideline. In accordance with the SOCTP Guidelines, inmates referred to the program receive an evaluation by specialized staff upon referral to the program.

Policies noted above, interviews with the medical staff, mental health staff, and the Superintendent support a finding of compliance. It was reported that there has been no occurrence in the previous twelve months to warrant additional follow up treatment. The auditor found no reason to dispute this during the audit process.

DATA COLLECTION AND REVIEW

Standard 115.86: Sexual abuse incident reviews

115.86 (a)

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

115.86 (b)

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

115.86 (c)

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

115.86 (d)

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

115.86 (e)

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

Auditor Overall Compliance Determination

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

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

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

(a) The standard requires that the facility shall 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. (b) Such review shall ordinarily occur within 30 days of the conclusion of the investigation. (c) The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners. (d) The review team shall: (1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; (2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual,

transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility; (3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; (4) Assess the adequacy of staffing levels in that area during different shifts; (5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and (6) Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1)-(d)(5) of this section, and any recommendations for improvement and submit such report to the facility head and PREA compliance manager. (e) The facility shall implement the recommendations for improvement, or shall document its reasons for not doing so.

Memo: from Joseph F. Bellnier, Deputy Commissioner and Jason D. Effman, Associate Commissioner - 5/9/14 RE: Prison Rape Elimination Act Procedural Enhancements Sexual Abuse Response and Containment Checklist; Sexual Abuse Incident Reviews and Security Staffing Audits and the Sexual Abuse Incident Review Checklist – 7/21/17 addresses the requirements of the standard as follows: Sexual Abuse incident reviews are required, a form has been developed which captures the review and any recommendations of the review team. Reviews are conducted by the Assistant Deputy Superintendent (PREA Compliance Manager), PREA Point Person (DSS) and a third member; at this facility it is the Supervising Offender Rehabilitation Coordinator (SORC) or member of the Executive Team. Input is collected from investigators, the area sergeant, Health Services and the Office of Mental Health in addition to others deemed necessary. It requires a review within 30 days of the conclusion of the investigation unless determined to be unfounded. It also supports that the staff will work closely with the facility staff to ensure any recommendations are successfully implemented. The Sexual Abuse Incident Review Checklist – 8/17/2019 is a 6-page form which addresses and requires assessment with all requirements of the standard. Four completed examples were provided to the auditor with the pre-audit documentation. The auditor requested and received all completed PREA Incident reviews from the previous 12-month evaluation period six total. These documents demonstrated a thorough review of the incidents.

During the interview with the Assistant Deputy Superintendent/PREA Compliance Manager, it was revealed that due to one substantiated incident, supervisory rounds were increased. The auditor requested an receive a copy from the logbook for February 3, 2020 (randomly selected by the auditor). It demonstrated that during two shifts, seven supervisory rounds were conducted. (The area is closed on the night shift).

Interviews with the Superintendent, ADS/PCM and PREA Point Person confirm that incident reviews are completed for each investigation, except those deemed unfounded.

Written authority, the established format, interviews with the staff that complete the incident reviews in addition to review of completed reviews all provided ample evidence for this standard to be deemed compliant.

Standard 115.87: Data collection

115.87 (a)

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

115.87 (b)

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

115.87 (c)

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

115.87 (d)

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

115.87 (e)

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

115.87 (f)

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

Auditor Overall Compliance Determination

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

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

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

(a) The agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions; (b) The agency shall aggregate the incident-based sexual abuse data at least annually; (c) The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.

Directive #4027B, Sexual Abuse Reporting & Investigation Inmate-on-Inmate, Directive #4028B, Sexual Abuse Reporting & Investigation Staff-on-Inmate/Staff-on-Parolee, Office of Program Planning Research and Evaluation – PREA Data Collection, Review, Retention and Publication Manual support that the facility will maintain monthly sexual abuse/threat incident summaries which are forwarded to the Deputy Commissioner for Correctional Facilities and the Associate Commissioner for Prison Rape Elimination Act (PREA). This provides information that can address the Survey of Sexual Victimization

if requested from the Bureau of Justice Statistics. The information is used for the Agency report. An example of this monthly report specific to Woodbourne Correctional Facility was provided with the pre-audit documentation.

(d) The agency shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews

Office of Program Planning Research and Evaluation supports that the data base is set up to capture agency data from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. It describes the process for data collection, review, storage and reporting of sexual abuse data.

(e) The agency also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates;

Documentation was provided demonstrating that Information from the private agencies are incorporated into the agency data base and therefore included.

(f) Upon request, the agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

The agency provided documentation indicating receipt of the Survey of Sexual Victimization from the DOJ for data dated November 2019.

As stated above, the policies, retention schedule, review of the data gathering operation, interview with the PREA Coordinator and Assistant Deputy Superintendent PREA Compliance Manager all demonstrate that the requirements of this standard are addressed and therefore the standard is deemed to be compliant. There is a report available on the webpage for the agency that provides an in-depth analysis for the years 2013-2016, completed and published December 2018.

Standard 115.88: Data review for corrective action

115.88 (a)

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas? ☒ Yes ☐ No

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis? ☒ Yes ☐ No

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

115.88 (b)

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

115.88 (c)

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

115.88 (d)

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

Auditor Overall Compliance Determination

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

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

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

(a) The agency shall 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: (1) Identifying problem areas; (2) Taking corrective action on an ongoing basis; and (3) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole. (b) Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse. (c) The agency's report shall be 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. (d) The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.

Office of Program Planning Research and Evaluation – PREA Data Collection, Review, Retention and Publication Manual requires the PREA Analyst to prepare an aggregate data collected in order to assess and improve the effectiveness of its sexual abuse and sexual harassment prevention program. An annual report is prepared which compares the statistics from each year, compares the data and action plans and assesses the program towards prevention. There are no personal identifiers in the report, as required by the manual. Information that may present a clear and specific threat to the safety and security of a facility can be redacted; however, an explanation of the contents would be provided. This report is available on the NYSDOCCS website and complies with the requirements of this standard. The auditor reviewed the annual reports which analyzed the data for 2013 to 2016. It is twenty-six (26) pages. Problem areas are identified, an analysis of corrective action is provided. It is approved by the Agency head and the PREA Coordinator (noted on the document as well as indicated

in their interviews). For these reasons, the auditor finds the standard compliant. The interview with the PREA Coordinator confirmed that a Program Research Specialist in the Program Planning Research and Evaluation department is dedicated to PREA matters. This person is able to monitor trends and communicate directly with the PREA Coordinator to adjust prevention strategies. This was supported by the written responses for the interview with the Acting Commissioner.

Standard 115.89: Data storage, publication, and destruction

115.89 (a)

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

115.89 (b)

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

115.89 (c)

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

115.89 (d)

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

Auditor Overall Compliance Determination

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

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

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

(a) The agency shall ensure that data collected pursuant to § 115.87 are securely retained. (b) The agency shall 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. (c) Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers. (d) The agency shall 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.

Office of Program Planning Research and Evaluation – PREA Data Collection, Review, Retention and Publication Manual states that the information is securely retained by the Office of Special

Investigations, retained for ten years after the date of the initial collection, personal identifiers are removed before publishing on the website. Interview with the investigators and PREA Coordinator supported that investigations are securely retained. The auditor viewed where sexual abuse/sexual harassment data is retained at the facility. No personal identifiers required redaction on the published data. Therefore, the auditor finds this standard to be in compliance.

AUDITING AND CORRECTIVE ACTION

Standard 115.401: Frequency and scope of audits

115.401 (a)

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

115.401 (b)

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

115.401 (h)

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

115.401 (i)

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

115.401 (m)

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

115.401 (n)

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

Auditor Overall Compliance Determination

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

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

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

See comments in audit narrative and in response to standards throughout this report.

Standard 115.403: Audit contents and findings

115.403 (f)

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

Auditor Overall Compliance Determination

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

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

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

The Agency has 60 facility PREA reports posted on the website site for audits conducted in the previous three years This includes six contractual community based PREA reports posted. Currently there are 52 correctional facilities (prisons) operating.

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.

Amy J. Fairbanks
Auditor Signature

March 30, 2020
Date