

# PREA AUDIT REPORT FINAL ADULT PRISONS & JAILS

NATIONAL  
**PREA**  
RESOURCE  
CENTER



**BJA**  
Bureau of Justice Assistance  
U.S. Department of Justice

<b>Name of facility:</b>	Hale Creek Correctional Facility		
<b>Physical address:</b>	279 Maloney Road Johnstown, New York 12095-3769		
<b>Date report submitted:</b>	4/12/2016		
<b>Auditor Information</b>	American Correctional Association		
<b>Address:</b>	206 North Washington Street, Suite 200 Alexandria, Virginia 22314		
<b>Email:</b>	ddafalls@hotmail.com		
<b>Telephone number:</b>	(715) 896-2648		
<b>Date of facility visit:</b>	March 14-15, 2016		
<b>Facility Information</b>			
<b>Facility mailing address:</b> <i>(if different from above)</i>			
<b>Telephone number:</b>	(518) 736-2094		
<b>The facility is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> County	<input type="checkbox"/> Federal
	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Municipal	<input checked="" type="checkbox"/> State
	<input type="checkbox"/> Private not for profit		
<b>Facility Type:</b>	<input type="checkbox"/> Jail	<input checked="" type="checkbox"/> Prison	
<b>Name of facility's Chief Executive Officer:</b>	David Hallenbeck	<b>Title:</b> Superintendent	
<b>Number of staff assigned to the facility in last 12 months:</b>	220		
<b>Designed facility capacity:</b>	480		
<b>Current population of facility:</b>	367		
<b>Facility security levels/inmate custody levels:</b>	Secure Medium A		
<b>Age range of the population:</b>	19-74		
<b>Name of PREA Compliance Manager:</b>	Teri Kozak	<b>Title:</b> ADS PREA Compliance Manager	
<b>Email address:</b> Teri.Kozak@doocs.ny.gov	<b>Telephone:</b>	(315) 339-5232 ext. 2160	
<b>Agency Information</b>			
<b>Name of agency:</b>	New York State Department of Corrections and Community Supervision		
<b>Governing authority or parent agency:</b> <i>(if applicable)</i>			
<b>Physical address:</b>	1220 Washington Avenue Albany, New York 12226-2050		
<b>Mailing address:</b> <i>(if different from above)</i>			
<b>Telephone number:</b>	(518) 457-8126		

<b>Agency Chief Executive Officer</b>		
<b>Name:</b> Anthony J. Annucci	<b>Title:</b>	Acting Commissioner
<b>Email address:</b> commissioner@doccs.ny.gov	<b>Telephone number:</b>	(518) 457-8134
<b>Agency-Wide PREA Coordinator</b>		
<b>Name:</b> Jason D. Effman	<b>Title:</b>	Associate Commissioner
<b>Email address:</b> Jason.effman@doccs.ny.gov	<b>Telephone number:</b>	(518) 457-3955

## **AUDIT FINDINGS**

### **NARRATIVE:**

The PREA audit of the Hale Creek Correctional Facility was conducted on March 14-15, 2016 by PREA certified auditor David Andraska. Prior to the on-site audit, contact was made with the facility and Regional PREA Coordinator regarding logistics and checking on the posting of notices (posting was initiated through the American Correctional Association and the facility). Three weeks prior to the audit, the auditor, received the PREA Pre-Audit Questionnaire and documents on a thumb drive provided by the facility. The thumb drive documentation contained a file for each of the forty-three (43) PREA standards with supporting documentation, Pre-Audit Questionnaire, and other facility supporting documentation. The auditor reviewed and evaluated the information provided by the facility as well as the New York State Department of Corrections and Community Supervision website prior to the audit.

On Sunday March 13, 2016, the auditor attended a "meet and greet" dinner with the Associate Commissioner/Agency-wide PREA Coordinator, Regional PREA Compliance Manager, the Hale Creek Superintendent and administrative staff from his facility. Also in attendance was the Superintendent from Coxsackie Correctional Facility and his administrative staff and accreditation auditors from the America Correctional Association (ACA). Back to back PREA and ACA accreditations audit were scheduled for the two facilities during this week.

The audit began on Monday March 14, 2016 with an entrance meeting with the Superintendent and key staff in the morning. The audit process began with a complete tour of the facility. There are 32 buildings on grounds, 5 of which are housing units.

All required facility and staff and inmate interviews were conducted on-site during the two day audit. Sixteen (16) inmate interviews were completed (4% of the 367 inmates). The random interviewees were selected by the auditor from the housing rosters and designated lists of inmates provided by the facility. A minimum of two inmates from each housing area (11), limited English speaking ability (4), LGBTI (1) were interviewed. A total of twenty-one (21) staff was formally interviewed during the audit (10% of 215 staff). Staff was randomly selected from each of the three shift rosters and different departments within the facility. Additionally, specialized staff were interviewed including the Superintendent, Intermediate-Higher Level Staff, Medical and Mental Health, SAFE/SANE, Contractor, Investigator, Staff Who Perform Screening, Incident Review Team, Staff Who Monitor Retaliation, and Intake staff. The auditor also utilized interviews of Agency staff from previous PREA audits. In addition to these formal interviews, many informal discussions were held with staff and inmates which assisted in this PREA compliance audit.

There were no allegation of sexual abuse and sexual harassment in the past twelve months at the Hale Creek Correctional Facility. The last allegation reported was in January, 2015 and was determined to be unfounded.

An exit meeting was conducted by the auditor at the completion of the on-site audit. While the auditor could not give the facility a final finding, the auditor did provide a preliminary status of their findings and stated he would be in contact for any follow up needed to complete the report. The auditor thanked the Superintendent, the Hale Creek Correctional staff, the New York Department of Corrections and Community Supervision for their hard work and commitment to the Prison Rape Elimination Act.

## **DESCRIPTION OF FACILITY CHARACTERISTICS:**

The Mission of the State of New York Department of Corrections and Community Supervision (DOCCS) and Hale Creek Correctional Facility is to "improve public safety by providing a continuity of appropriate treatment services in safe and secure facilities where offenders' needs are addressed and they are prepared for release followed by supportive services under community supervision to facilitate a successful completion of their sentence." Hale Creek Correctional Facility is one of 54 facilities in the Department of Corrections and Community Supervision that shares the mandate to maintain the security of the community while providing a safe, clean and humane environment for all who live and work within the facility.

Hale Creek Correctional Facility is a medium-A security prison sitting on 30 acres of land located in the picturesque Mohawk Valley of upstate New York, situated in the Town of Johnstown within Fulton County. This facility is used for the general confinement of males ages 18 and older. Hale Creek Correctional Facility is also classified as an Alcohol Substance Abuse Treatment Correctional Annex (ASATCA).

All five of the housing units at Hale Creek Correctional Facility are dorm like in design, fashioned in a therapeutic community model. All residents in the housing units have assignments based on their positions in the dorm housing residential hierarchical system. These assignments are an integral and vital clinical component of the therapeutic community structure. The structure of the therapeutic community is a pyramid of job functions and the community's daily regimen is based on work. All residents in a therapeutic community, from the newest member to the oldest, have an assigned job function. You enter the system at the bottom where jobs entail relatively minor responsibility, mostly physical labor with few rewards and little status. Higher level job functions require more responsibility, skill and leadership and are accomplished by earned status and privilege. Progression up the job function / hierarchy in a therapeutic community is much like the real world; advancement requires hard work, discipline and good work skills. Upward mobility depends on psychological growth and progress towards their treatment goals.

Each level of the hierarchy requires specific and more complex psychological, social and occupational tasks that you must master to move up. Each job function provides specific challenges and the staff can use these challenges as tools to help individuals master particular skills. Nothing you do is so menial as to be unworthy of taking pride in it.

Hale Creek Correctional Facility offers a six month Comprehensive Alcohol and Substance Abuse Treatment (CASAT) program and an Alcohol and Substance Abuse Treatment (ASAT) program. Successful completion of the CASAT program can lead to work release or to a community-based residential program. An Alternative Shock program is provided to inmates that have medical contradictions and cannot participate in Shock. A 90 day Alternative Drug Treatment is provided to parolees and Judicially

Sanctioned inmates. A 60 day Relapse Treatment program is provided to inmates that have tested positive or report drug/alcohol use while on work release.

Hale Creek Correctional Facility is managed by a Superintendent and three Deputy Superintendents. The facility is well run and staff knowledgeable of the PREA standards.

### **SUMMARY OF AUDIT FINDINGS:**

On March 14-15, 2016, a site visit was completed at the Hale Creek Correctional Facility. The final report was provide on April 12, 2016. The results of the Hale Creek Correctional Facility PREA audit are listed below:

Number of standards exceeded: 2

Number of standards met: 39

Number of standards not met: 0

Non-applicable: 2

## **§115.11 - Zero Tolerance of Sexual Abuse and Sexual Harassment; PREA Coordinator**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The State of New York Department of Corrections and Community Supervision (DOCCS) have written directives mandating zero tolerance towards all forms of sexual abuse and sexual harassment. Directive #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate and Directive #4028A Sexual Abuse Prevention and Intervention Staff on Inmate address zero tolerance towards all forms of sexual abuse and sexual harassment. They also outline the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment. The Department's Employee Manual also outlines the zero tolerance policy in Sections 2.19 and 2.20.

The Agency-Wide PREA Coordinator is an Associate Commissioner; the appointment is documented through directive memo of March 14, 2012. He has direct access to the Commissioner and has the authority to manage the agency's PREA Program. His office supervises the eleven (11) regional PREA Compliance Managers and provides training and guidance as needed. Agency updates and changes are forwarded from this office to the units. Information updates and directives are shared during weekly conference calls with the regional PREA Compliance Managers. The Agency's PREA Coordinator was present during the audit.

The DOCCS regional PREA Compliance Manager for the "Oneida HUB" which includes Hale Creek Correctional Facility is an Assistant Deputy Superintendent. The Assistant Deputy Superintendent / PREA Compliance Manager was present during the audit. She was knowledgeable of the PREA standards and the agency's compliance measures. She is a Certified PREA auditor. As the facility's PREA Compliance Manager, she works with the PREA Point Person at the facility. She works at the facility an average of one day per week. She meets weekly with executive staff to share PREA updates and concerns; she participates in inmate orientation training, makes rounds within the facility, and participates in the inmate population meeting. She also chairs or would be part of the committee for sexual abuse incident reviews.

Each facility within the Department has identified a "point person" that will ensure that effective practices and procedures are in place at the facility to ensure compliant with standards. The Deputy Superintendent for Security has been designated as the point person for the Hale Creek Correctional Facility. The point person will liaison with the facility's designated ADS/PREA Compliance Manager and provide guidance on operational matters with respect to the implementation of the PREA standards.

Interviews of the Agency-wide PREA Coordinator, Regional PREA Manager and facility Point Person indicated they have sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards. Through observation of bulletin boards, posters, handouts and materials, review of inmate and staff handbooks, training curriculums and interviews with staff and inmates it was apparent that the Hale Creek Correctional Facility is committed to zero tolerance of sexual abuse and sexual harassment. Each staff member is provided a card identifying the steps to take as a first responder, reporting requirements, and how to report privately to the Office of Special Investigations.

## 115.12 - Contracting with other Entities for the Confinement of Inmates

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DOCCS has twenty contracts currently: Community Based Residential Programs (12) and Residential Stabilization Programs (8). The Community Based Residential Program contracts have contract dates of May 1, 2012 through April 30, 2017. One of the contracts will be discontinued on February 18, 2016. The Residential Stabilization Program contracts run from December 31, 2015 through April 30, 2017.

Each contact agency received notification from DOCCS in April 2014 that any residential program which contracts with DOCCS is now subject to the law, rules, and regulations of PREA and to include contract monitoring to ensure that the contract facility is complying with PREA standards. This language will be part of the Scope of Services in the contract. Each contract agency was required to acknowledge the regulations by completing a form and submitted it to the Department. It also identified the PREA Coordinator. The PREA Coordinator will work directly with the Contract Management Unit Staff and Re-Entry Staff to ensure the contract agencies are knowledgeable and compliant with the PREA requirements. Quarterly goals are being built for monitoring of compliance. The PREA Coordinator stated that the contract agencies will be in compliance by the first anniversary of the contract.

DOCCS also sent PREA brochures and PREA posters to each contract agency. The brochure, "The Prevention of Sexual Abuse: Community Supervision Residential Program Information," was to be included in the orientation materials at the facility. The posters are to be posted in the inmate common areas for notification of the zero tolerance policy.

## 115.13 – Supervision and Monitoring

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Hale Creek Correctional Facility has developed a staffing plan that is based on the eleven criteria of this standard to include generally accepted detention and correctional practices; any judicial finding of inadequacy; and findings of inadequacy from Federal investigative agencies; any findings of inadequacy from internal and external oversight bodies; all components of the facilities physical plant (including "blind spots" or areas where staff or inmates may be isolated); the composition of inmate population; the number and placement of supervisory staff; institutional programs occurring on a particular shift; any applicable State, or local laws, regulations, or standards; the prevalence of substantiated and unsubstantiated incidents of sexual abuse; and any other relevant factors. Based on the review of the staffing plan and interviews, the staffing plan was developed by the leadership of the Hale Creek Correctional Facility with input from the PREA Coordinator and PREA Point person. The facility makes its

best efforts to comply with the plan. When deviations occur, the position deviated and the reasons for the deviation are documented on the staffing charts and staff tracking sheet reports. The staff tracking sheet is updated every fifteen minutes per post every shift. The Superintendent indicated during his interview that the staffing reports are reviewed daily by the shift Lieutenant. The Deputy of Security and the Superintendent review staffing reports the following day. The last staffing plan was completed in July 2015.

Intermediate and higher level staff conduct unannounced rounds. Through reviews of housing area logs, and interviews with staff and inmates, it was confirmed that unannounced rounds are done randomly throughout the facility. The intermediate and higher level security staff stated during interviews that they conduct random rounds by changing the pattern of their rounds and listen to radio traffic to ensure announcements are not made to the units. The Superintendent establishes a schedule for management staff to conduct rounds. These rounds are documented on the Weekly Administrative Activity Report Form. DOCCS Directive, #4001 Facility Administrative Coverage and Supervisory Rounds, prohibits staff from alerting other staff members that supervisory staff rounds are occurring.

### 115.14 – Youthful Inmates

- Exceeds Standard (substantially exceeds of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)
- Non-Applicable Standard

This standard is non-applicable for the Hale Creek Correctional Facility. The facility does not house youthful inmates.

### 115.15 – Limits to Cross-Gender Viewing and Searches

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Through a review of DOCCS Directive #4910 Control of and Search for Contraband, Directive Memo #4910, governing inmate searches and cross gender searches confirms, and Health Services Policy #1.37 Body Cavity Search, confirms the policies and procedures address the standard. Interviews with staff and inmates and observation of actual searches conducted during the audit indicated that Hale Creek Correctional Facility does not conduct cross gender strip searches. The policy does allow cross gender strip searches only in emergency situations. There were no cross gender searches conducted or logged for exigent situations during this audit period. All body cavity searches are completed only by medically trained professionals. The policy also prohibits staff from frisking or searching transgender and intersex inmates for the purpose of determining genitalia status. There were no transgender or intersex inmates

at the facility during the audit. The review of the training lesson plans showed the procedure in the annual training.

Procedures require that staff of the opposite gender announce their presence when entering inmate housing areas; this was observed during the audit. Female staff announced female in the dorm or female on the floor when entering the housing area. When a female staff member entered the housing area, it was noted that male officers also announce female in the unit. Staff is also provided training on rounds to help assure compliance with the standard that limits cross gender viewing.

### **115.16 – Inmates with Disabilities and Inmates Who are Limited English Proficient**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DOCCS Directives #4490 Cultural and Language Access Services and #2612 Inmates with Sensorial Disabilities with the Directive Memo Reasonable Accommodations PREA Information has established procedures to provide disabled inmates equal opportunity to participate in and benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Facility staff, the Office of Cultural and Language Access Services staff interpreters, and a Language Line Service are available to the facility for interpretation services. PREA handouts, PREA DVD "Ending Sexual Abuse Behind the Walls: An Orientation," and the inmate handbook are available in English, Spanish, Italian, Mandarin Chinese, Russian, Korean, Polish, and Haitian Creole. Audio education is available to the visually impaired through CDs and cassette tapes. The PREA posters are posted in English and Spanish throughout the facility. During the audit, two interviews were conducted with limited English inmates through an interpreter. Those inmates and other limited English proficiently interviewed during the facility tour, all indicated they have received the PREA information and knew how to report if needed.

The agency directives prohibit the use of inmate interpreters or other types of inmate assistants except in limited circumstances where there may be delay in obtaining an effective interpreter. During the staff interviews, several staff thought they could use inmates as interpreters and this was addressed with them. There were no instances where an inmate interpreter was utilized during this audit timeframe.

### **115.17 – Hiring and Promotion Decisions**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Per DOCCS Personnel Procedure Manual #406A –Recruitment Process, #407 Civilian Promotions, #407A Security Promotions, and Directive #2216 Fingerprinting/Criminal History Inquiry New Employees and

Contractors; it was determined that the agency has established a system of conducting criminal background checks for new employees and contractors who have contact with inmates to ensure they do not hire or promote anyone who engaged in sexual abuse in a prison or other confinement setting; been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, coercion, or if the victim did not consent or was unable to consent to refuse; or had civilly or administratively adjudicated to have engaged in sexual activity in the community facilitated by force, coercion, or if the victim did not consent. Personnel Procedure #406A –Recruitment Process was revised on 4/8/16 to bring DOCCS recruitment process in compliance with PREA regarding contacting all prior institutional employers for information on substantiated allegations of sexual abuse or any resignations during a pending investigation of an allegation of sexual abuse. The contact will be documented on form PPM 406A.2.

DOCCS has an agreement with the New York State Division of Criminal Justice Services to provide notification to the agency of subsequent arrests of the subject individual unless the Division is prohibited by State statute to do so. This process is an immediate notification and exceeds the standard requiring background checks at least every five years. DOCCS Directive policy #2112 Report of Criminal Charges requires staff to report any criminal charges.

The Personal History and Interview Record Form, Availability Inquiry Form, and Personal History Questionnaire Employees require the employee to answer questions of: have not engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution and have not been civilly or administratively adjudicated or convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to refuse. These forms are utilized for new hires and promotions. Personnel files were reviewed with the Human Resource Manager. Also through interviews with the Deputy Superintendent of Administration, Superintendent, and PREA Coordinator it was determined that the agency policy and PREA standards were being followed concerning hiring, promotional decisions, and background checks.

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

## **115.18 – Upgrades to Facilities and Technology**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The DOCCS Directive #3053 Alterations and Construction Request and Form #1612 Alterations and Construction Request requires facilities to consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect inmates from sexual abuse. The Superintendent must complete and submit Form #1612 which will indicate whether the alteration's impact will enhance, be neutral, or have a negative impact on the ability to protect inmates from sexual abuse. The Office of Facilities Planning, Deputy Commissioner for Correctional Facilities and the PREA Coordinator all review the request before approving.

The Acting Commissioner's interview indicated the Department has wide-spread audio/video surveillance in a number of facilities. Hale Creek Correctional Facility has limited video surveillance. Cameras are located on the perimeter fence of the facility viewing the fence and yard. Mirrors are used throughout the facility to enhance observation.

## 115.21 – Evidence Protocol and Forensic Medical Examinations

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The DOCCS is responsible for criminal and administrative investigations. The Department's Office of Special Investigations (OSI) Sex Crimes Division conducts the investigations. The Department has a working agreement with the New York State Police, Bureau of Criminal Investigation to work cooperatively in the investigations of reports of Staff-on-Inmate and Inmate-on-Inmate sexual assault cases that may involve criminal conduct. The Department's Directive #4027B Sexual Abuse Reporting and Investigation and Operational Guidelines- OSI Immediate Dispatch, Inmate on Inmate/Staff on Inmate outline evidence protocols for administrative proceeding and criminal prosecutions. The Department utilizes the New York Department of Health Protocol for the Acute Care of the Adult Patient Reporting Sexual Abuse for evidence protocols and forensic medical examinations. The protocols were reviewed and found to be in line with the DOJ's National Protocol for Sexual Assault Medical Forensic Examinations. Interviews were conducted with investigators of the Office of Inspector General. The interview confirmed the practices for PREA investigations and both investigators were very knowledgeable of the investigation process, the uniformed evidence protocol, and the use of the Sexual Abuse Checklist.

Emergency medical healthcare along with forensic examinations by SANE/SAFE staff are provided at an outside facility, with no cost to the inmate. An advocate will be provided to the inmate upon request to provide emotional support through the forensic medical examination and investigation interviews. There were no forensic medical exams performed by SANE/SAFE staff during the last twelve months.

The DOCCS and facility has a contract with Samaritan Hospital Sexual Assault and Crime Victims Assistance Program for victim advocate services. The agreement outlines the services provided by Sexual Assault and Crime Victims Assistance Program as: follow-up with inmates who made direct contact seeking rape crisis services via telephone or mail or requested through DOCCS; maintain active, confidential communication with DOCCS staff in order to facilitate treatment for inmate victims, consistent with the victim's right to confidentiality; to provide in person follow-up rape crisis counseling and emotional support services at the facility; and must be willing to participate in training to advance the goals and program objectives with DOCCS. The current contract has been extended while the Department develops a statewide hotline and the expansion of programs and counseling services.

## 115.22 – Policies to Ensure Referrals of Allegations for Investigations

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The DOCCS Directives, #4027B Sexual Abuse Reporting and Investigations Inmate on Inmate, #4028B Sexual Abuse Reporting and Investigations Staff on Inmate and #0700 Office of Special Investigations, direct that all allegations of sexual abuse and sexual harassment be referred for investigation. The Department's OSI Sex Crimes Division conducts the investigations. The Department has a working agreement with the New York State Police Department to work cooperatively in the investigations that may involve criminal conduct. All allegations are investigated and reported with findings. Documentation of the administrative investigation is maintained in the OSI and outcomes are shared with the facility administration. Interviews were conducted with the investigators of the OSI. They demonstrated the knowledge of their responsibilities and the responsibilities of the New York State Police Department in a criminal investigation. The roles and responsibilities of each agency was clearly defined and understood. The agency's policy is available on the agency's website.

There were no allegations of sexual abuse and sexual harassment in the past twelve months at the Hale Creek Correctional facility.

## 115.31 – Employee Training

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The DOCCS has been training staff on sexual abuse prevention and reporting prior to the PREA requirement. In March 2015, the Department expanded the lesson plan to a three hour course titled Sexual Abuse Prevention and Response that replaced the two hour Prevention of Sexual Abuse of Offenders. The expanded lesson plan addresses all the PREA requirements: the zero tolerance policy; the agency policy and procedures for prevention; reporting and response to a sexual assault or sexual harassment incident, and the dynamics of sexual abuse and harassment in a confinement setting; common reactions of sexual abuse and sexual harassment victims; how to detect and respond to signs of threatened and actual sexual abuse; how to avoid inappropriate relationships with inmates; how to communicate effectively and professionally with inmates; and how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities. This training course will be required for each employee once in their career. A refresher course, Sexual Abuse Prevention and Response Refresher, is required every two years during in-service training. Further training is provided to staff through line up and staff meetings to share PREA updates. Documentation of staff participating and understanding the training is achieved by staff signing the Report of Training Form Sexual Abuse and Prevention Response (PREA).

The facility's staff had completed the two hour training on Prevention of Sexual Abuse of Offenders of June 2013. The expanded lesson plan, Sexual Abuse Prevention and Response, is part of the annual training that is being conducted the first quarter of 2016.

The DOCCS Directive #2401 Facility Familiarization states "all transferees shall receive familiarization on compliance with PREA and the Department's Sexual Abuse Prevention and Response procedures. Such familiarization training shall be tailored to the gender of the inmates at the facility, including addressing gender dynamics for staff who are transferring from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa." This facility familiarization is provided through the Sexual Abuse and Prevention and Response Training, Section Dynamics Between Male Inmates and Dynamics Between Female Inmates.

Interviews of random staff and general questions asked during the tour clearly indicate staff is knowledgeable on how to perform their responsibilities in detention, reporting and responding to sexual abuse and sexual harassment. During the formal interviews, all staff indicated they had recently attended the PREA training or were scheduled to complete during March, 2016. Each staff member is provided a card identifying the steps to take as a first responder, reporting requirements, and how to report privately to the Office of Special Investigations.

### **115.32– Volunteer and Contractor Training**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The DOCCS Directive #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate, Directive #4028A Sexual Abuse Prevention and Intervention Staff on Inmate and Directive #4750 Volunteer Services Program address the requirement for orientation, training and acknowledgement that they understand the training. All contractors and volunteers who have contact with inmates at the Hale Creek Correctional Facility receive PREA training prior to assuming their responsibilities. The three hour orientation training includes the agency's policy and procedures regarding sexual abuse and sexual harassment prevention, detention, reporting, and response including zero tolerance. Upon completing training, the volunteer/contractor will sign the Division of Ministerial, Family and Volunteer Services Acknowledgment Form, which documents in writing, that acknowledges they will be held accountable for and act in accordance with the PREA policy and the law. Interviews of a volunteer and contractor demonstrated their knowledge of PREA, their responsibilities, and the agency's zero tolerance policy. Training records reviewed demonstrated the contractors and volunteers received training and documented the understood the training through a signature.

### **115.33 – Inmate Education**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Does Not Meet Standard (requires corrective action)

DOCCS provide a comprehensive inmate PREA education to the inmate population beginning at reception into the agency. At reception into the agency, inmates are provided information through a PREA pamphlet and inmate handbook that explains the agency's zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents. When receiving inmates at the facility, the intake staff during the risk assessment process covers the PREA information with the inmate. The inmate also receives an Inmate Orientation Manual that includes PREA information and a pamphlet "The Prevention of Sexual Abuse in Prison." These materials cover the agency's zero tolerance policy and how to report incidents. This information is provided in formats accessible to all inmates. The brochures and handbooks are available in English, Spanish, Haitian-Creole, Russian, Polish, Italian, Chinese, and Korean. Audio education is available to the visually impaired through CDs and cassette tapes. Facility staff, the Office of Cultural and Language Access Services staff interpreters, and a Language Line Service are available to the facility for interpretation services when needed.

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

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

### **115.34 – Specialized Training: Investigations**

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

DOCCS policy, Training Requirements for Sex Crimes Investigations, reflect that investigators are to be trained in conducting sexual abuse investigations in confinement settings. The following training curriculums are utilized to provide training on sexual abuse investigations: PREA Specialized Training: Investigations, OSI Overview Training, NIC PREA Investigating Sexual Abuse in a Confinement Setting, and Evidence Collection Training, and Sexual Abuse Investigations and PREA. These training curriculums cover the topics of techniques for interviewing sexual abuse victims, proper use of the Miranda and Garrity warnings, sexual abuse evidence collection in confinement setting, and the criteria and evidence to substantiate a case for administrative action or prosecution referral. The investigators attend the

general PREA training and the required specialized training for investigators. The DOCCS currently has 24 trained investigators. They are required to complete annual mandatory training for investigations. The specialty training was verified through the investigator interviews and review of the training records.

### **115.35 – Specialized Training: Medical and Mental Health Care**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The DOCCS require that all full and part-time medical and mental health care practitioners complete specialized training. This is documented through the Health Services Policy Manual 1.60 Sexual Assault, Initial Employee Training, 6.60 Training Manual, the 40 Hour Orientation Program for Full-time Non-Security Staff, and the PREA Medical and Mental Health Training Curriculum. The training curriculum includes how to detect and assess signs of sexual abuse and sexual harassment; how to preserve physical evidence of sexual abuse; how to respond effectively and professionally to victims of sexual abuse and sexual harassment; and how and who to report allegations or suspicions of sexual abuse and sexual harassment. The New York Office of Mental Health staff provides mental health services for DOCCS and Hale Creek Correctional Facility. The DOCCS has a MOU with the New York Office of Mental Health that staff will complete the required training. The mental health staff complete the Division of Health Services Form with a signature acknowledging receipt of policies, zero tolerance policy, how to report incidents, and the prevention, detection, and response to sexual abuse and harassment.

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

### **115.41 – Screening for Risk of Victimization and Abusiveness**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The DOCCS Directive #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate, Hale Creek FOM #10.06 PREA Risk Screening and Memo from M.D. Deputy Commissioner/Chief Medical Officer dated 3/16/15, RE: Health Screening Forms 3278RC and 3278TR, outlines the screening process. An initial assessment is conducted of all inmates at the reception center. This assessment assists with determining and inmate's vulnerability or tendencies of acting out with sexually aggressive behavior. Inmates identified as high risk with a history of sexually assaultive behavior or vulnerability will be identified,

classified appropriately, and monitored. This initial assessment will follow the inmate to the receiving facility. The receiving facility's correction counselor is to screen the inmate's records prior to the transfer for any history of sexual vulnerability or sexually aggressive behavior.

The intake staff begins the process by reviewing the incoming inmate's information in the agency's computer data system. At the arrival to the facility, the intake staff completes the PREA Risk Screening Form. This process conforms to the PREA standards. The screening forms include questions regarding mental, physical, and developmental disabilities; age of the inmate; physical build of the inmate; whether the inmate has been previously incarcerated; whether the inmate's criminal history is exclusively nonviolent; whether the inmate has prior convictions against an adult or child; whether or not the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; whether or not the inmate has previously experienced sexual victimization; and the inmate's own perception of vulnerability. The forms are usually completed on the day of receiving. The policy requires the screening should occur within 24 hours but no longer than 72 hours of arrival. An additional form Other Security Characteristics regarding Sexual Orientation and Gender Identity (SOGI) may be used based on information from the initial screening tool.

The Offender Rehabilitation Coordinators will reassess the inmate's risks of victimization and abusiveness within 21 working days. DOCCS directives addresses the reassessment of inmate's risk level when warranted by a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization. This information is reviewed quarterly with the inmate to determine if there are any changes as part of the caseload reviews with the guidance staff. As part of the quarterly caseload reviews, the staff member will review the inmate disciplinary history and any notes in the inmate's files prior to the meeting. A Quarterly Review Worksheet GNC-400R is completed during the meeting. No inmates were identified for reassessment during this audit period.

As part of the inmate's initial medical screening, health service staff also asks questions regarding sexual abuse and safety. This affords the inmate three opportunity to report or disclose any concerns regarding victimization and abusiveness upon transfer to a new facility.

Through policy review and confirmed through staff interviews, inmates will not be disciplined for refusing to answer or disclosing information during the risk assessment process. The staff interviews also confirmed appropriate controls have been implemented to ensure that sensitive information is not exploited by staff or other inmates. The screening tools are maintained in the inmate's institutional file in the Record Department. Information is shared with appropriate staff (medical, mental health, and supervisors) as needed to make housing, bed, work, education, program assignments and mental health and medical referrals.

## 115.42 – Use of Screening Information

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DOCCS Directive #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate, Directive #4401 Guidance and Counseling Services and Hale Creek FOM #10.06 PREA Risk Screening, address the assessment process and the use of the screening information to determine housing, bed, work,

education, and program assignments with the goal of keeping inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. If an inmate screens for high risk of sexual victimization or high risk of being sexually abusive, an immediate referral will be made to the watch commander to determine housing assignment. The housing assignment will be documented on the PREA screening form with copies forwarded to the Regional PREA Compliance Manager, PREA Point Person, and the Guidance Office. The inmate is asked during the screening and reassessment process "Do you have any current concerns for your personal safety?" This material is taken into consideration for education and program assignments. The housing and program assignments are made on a case by case basis based on information obtained during the screening interview. The housing and program assignments may be changed after the inmate is further evaluated by the appropriate staff. Through inmate and staff interviews, it was determined that the facility addresses the needs of the inmate consistent with the security and safety of the individual inmate.

### **115.43 – Protective Custody**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DOCCS Directive #4948 Protective Custody Status, prohibits the placement of inmates at high risk for sexual victimization in the involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. Hale Creek Correctional Facility does not have segregated housing and would transfer inmates at high risk for sexual victimization to another facility.

### **115.51 – Inmate Reporting**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The DOCCS established procedures allowing for multiple internal and external ways for inmates to report sexual abuse, sexual harassment, and retaliation. PREA reporting methods are shared with inmates at intake, during orientation, in the PREA brochure, and on posters throughout the facility. The PREA Brochure, The Prevention of Sexual Abuse in Prison What Inmates Need to Know, inform inmates they can report verbally and in writing to staff, write the PREA Coordinator, write the OSI, and report to an outside agency the New York State Commission of Correction. Inmates may also report allegations through third party reporting or send an anonymous note. This was documented during the audit through emails to the agency. Reports to the New York State Commission of Correction may be made confidentially and remain anonymous upon request. The New York State Commission of Correction and OSI offices immediately forward any reports of sexual abuse and sexual harassment to agency officials

for investigation. These reporting systems were demonstrated through review of policies and procedures, inmate handbook, posters throughout the facility, and interviews with inmates and staff. During the inmate interviews, most inmates indicated they felt comfortable reporting sexual abuse or sexual harassment and they know the options available to them for reporting.

Staff indicated through interviews they were aware of the methods available to them to report sexual abuse and sexual harassment of inmates. Directive #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate provides reporting and documentation requirements for staff. Staff were also knowledgeable on the ways inmates could report to staff and their responsibility in the process. The staff's PREA information card also outline that staff can privately report by calling the Office of Special Investigations, Sex Crimes Division.

### **115.52 – Exhaustion of Administrative Remedies**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)
- Non-Applicable Standard

This standard is non-applicable. The DOCCS is exempt in accordance with Directive #4040 Inmate Grievance Program and #702.2(i) Correction Law, Section 139.9, 9NYCRR Part 7695. A grievance filed is deemed exhausted upon filing with regards to the Prison Litigation Reform Act. The agency Directive #4040 The Inmate Grievance Program states that the Inmate Grievance Program Supervisor shall refer any grievance of an emergency nature directly to the appropriate response level having authority to issue an immediate or expeditious and meaningful response. During the audit, the Inmate Grievance Program Supervisor was interviewed regarding the grievance process. If a sexual abuse or sexual harassment allegation is received through a grievance, it is removed from the grievance process and submitted to the PREA Point Person, Watch Commander, or Superintendent to investigate as a PREA occurrence immediately. During the past twelve months, there were no allegations received through the grievance program.

### **115.53 – Inmate Access to Outside Confidential Support Services**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The DOCCS provides access to victim advocates for emotional support services through a hotline and mailing addresses. The library provides access to the Just Detention International New York Resource Guide which lists programs that are able to provide services to address needs related to sexual abuse. Inmates are able to add telephone numbers from the resource guide to their calling list at any time by

submitting a request to the guidance staff. Inmates are also able to write as a privileged correspondence to one of these agencies or have a "legal" visit. Staff can assist inmates with placement of emotional support calls, these calls will not be monitored. The agency through a memo to all inmates (dated April 4, 2014) informed inmates that conversations with representatives of Rape Crisis Programs are confidential and information can only be shared with the department if the inmate authorizes it. Inmates can write the New York State Commission of Correction confidentially and remain anonymous upon request. The inmate is able to use the weekly free postage allowance to write rape crisis programs. Correspondence to rape crisis programs is processed as privileged "legal" mail.

The DOCCS and facility has a contract with Samaritan Hospital Sexual Assault and Crime Victims Assistance Program for victim advocate services. The agreement outlines the services provided by Sexual Assault and Crime Victims Assistance Program as: follow-up with inmates who made direct contact seeking rape crisis services via telephone or mail or requested through DOCCS; maintain active, confidential communication with DOCCS staff in order to facilitate treatment for inmate victims, consistent with the victim's right to confidentiality; to provide in person follow-up rape crisis counseling and emotional support services at the facility; and must be willing to participate in training to advance the goals and program objectives with DOCCS. This information is posted in the housing areas near the unit phones. The current contract has been extended while the Department develops a statewide hotline and the expansion of programs and counseling services.

### **115.54 – Third-Party Reporting**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DOCCS website provides a link to the Office of Special Investigations as a method for third party reporting of sexual abuse and sexual harassment. The link encourages family members and the general public to report allegations of sexual assault to the facility Superintendent, Watch Commander, PREA Coordinator, and/or the Office of Special Investigations. Third party reporting information is shared through the agency website, brochures, pamphlets, and handouts. Observations during the tour of the facility found printed information and material strategically posted in the facility.

### **115.61 – Staff and Agency Reporting Duties**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DOCCS Employee Manual Section #2.20 and Directives, #4027A Sexual Abuse Prevention and Intervention Inmate and Inmate and #4028A Sexual Abuse Prevention and Intervention Staff and Inmate requires that all staff must report immediately any knowledge, suspicion, or information regarding an

incident of sexual abuse or sexual harassment; 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. It also states that staff is not to reveal any information related to a sexual abuse report to anyone other than extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions. This is covered in the PREA Sexual Abuse Prevention and Response training and the in-service training Sexual Abuse Prevention and Response Refresher for all staff.

The specialized and random staff interviews confirm that staff are knowledgeable in their reporting duties, the process of reporting, and to whom to report sexual abuse and sexual harassment of inmates. Directive #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate provides reporting and documentation requirements for staff. Staff were also knowledgeable on the ways inmates could report to staff and their responsibility in the process. The Sexual abuse Response and Containments Checklist is used to ensure all steps of the reporting process are followed. Each staff member is provided a card identifying the steps to take as a first responder, reporting requirements, and how to report privately to the Office of Special Investigations.

The agency's Memorandum of Understanding with the New York Office of Mental Health (OMH) documents OMH acknowledgment of the staff and agency reporting duties for sexual abuse and to inform inmates of the practitioner's duty to report, and the limitations of confidentiality at the initiation of services.

The DOCCS Directive #4027B Sexual Abuse Reporting and Investigations Inmate on Inmate, #4028B Sexual Abuse Reporting and Investigations Staff on Inmate and #0700 Office of Special Investigations Sex Crimes Division, direct that all allegations of sexual abuse and sexual harassment be referred for investigation including third party and anonymous reports. The OSI, Sex Crime Division conducts the investigations.

## 115.62 – Agency Protection Duties

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DOCCS Directives #4027A Sexual Abuse Prevention and Intervention Inmate and Inmate and #4028A Sexual Abuse Prevention and Intervention Staff and Inmate, requires staff to take immediate action to protect any inmate subject to substantial risk of sexual abuse. The directive outlines the immediate action that is to be taken to protect inmates who are in substantial risk of sexual abuse by removing the inmate immediately from the area to a safe location. Directive #4948 Protective Custody Status addresses the involuntary placement process for an inmate who is at high risk for sexual victimization. All staff interviewed knew the steps to take to protect an inmate at risk for sexual abuse. Line and supervisory staff work simultaneous to take protective measures as information is reported.

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

## 115.63 – Reporting to Other Confinement Facilities

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DOCCS procedures require upon receiving an allegation that an inmate was sexually abused while confined at another facility, that the Superintendent of the facility that received the inmate must notify the head of the facility where the sexual abuse is alleged to have occurred within 72 hours. This notification shall be made via electronic mail utilizing Form #115.63. This is outlined in the Memo Directive to all Superintendents regarding PREA Standard 115.63/263 dated August 24, 2015. The facility must also notify the Office of Special Investigations via electronic mail. The allegations will also be recorded in the Sexual Abuse/Threat Incident Log. In the past twelve months, there were no allegations of sexual abuse occurring at Hale Creek Correctional Facility reported at another facility.

## 115.64 – Staff First Responder Duties

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The DOCCS Employee Manual Section #2.20 and directives, #4027A Sexual Abuse Prevention and Intervention Inmate and Inmate and #4028A Sexual Abuse Prevention and Intervention Staff and Inmate requires that all staff must report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse. The directives clearly specify the detailed procedures for security and non-security staff when responding to an allegation of sexual abuse. The first security staff member to respond to the report is required to separate the alleged victim and abuser; preserve and protect the crime scene; and request the alleged victim and alleged abuser to take no action to destroy evidence. Policy also outlines that staff are to notify the Watch Commander and immediate supervisor. The Watch Commander will make further notifications to the Superintendent, medical, mental health, and OSI, as noted on the Sexual Abuse and Containment Checklist.

The first responder responsibilities to separate the alleged victim and abuser, instruct not to take any actions that could destroy physical evidence, and ensure the crime scene is secure was also outlined in a Memo Directive Response to Inmate Sexual Activity, October 1, 2015. The first responder duties is covered in the PREA Sexual Abuse Prevention and Response training and the in-service training Sexual Abuse Prevention and Response Refresher for all staff. Each staff member is provided a card identifying the steps to take as a first responder and reporting requirements. Training provided at line up also prepares staff to respond.

Through interviews with investigative staff, higher and intermediate level supervisors, and random staff it was demonstrated that staff was knowledgeable in the steps to as a first responder. All staff are

considered first responders. In the past twelve months, there were no allegations of sexual abuse reported at Hale Creek Correctional Facility.

### **115.65 – Coordinated Response**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Hale Creek Correctional Facility has a written institutional plan, Facility's Operational Manual #10.01 Coordinated Response Plan to an Incident of Inmate Sexual Abuse. The plan coordinates the actions taken in response to an incident of sexual abuse among first responders, security, medical and mental health practitioners, OSI, facility leadership, and victim advocates. A checklist, Sexual Abuser Response and Containment Checklist Form, is utilized to ensure all process steps are completed and notifications are made. During staff interviews, each area detailed their responsibilities in their coordinated efforts during an incident. Interviews with the Superintendent and higher-level staff indicated a commitment by the facility leadership for handling a coordinated response.

### **115.66 – Preservation of Ability to Protect Inmates from Contact with Abusers**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The DOCCS has not entered into or renewed any collective bargaining agreements since August 20, 2012. The state has state union contracts with: Administrative Services Unit (April 2, 2011- April 1, 2016); Institutional Services Unit (April 2, 2011 - April 1, 2016); Operational Services Unit (April 2, 2011- April 1, 2016); Security Services Unit (April 1, 2009 –March 31, 2016); Professional, Scientific, and Technical Services Unit (2011-2015), and Security Supervisors Unit (April 1, 2009 –March 31, 2016). The Professional, Scientific, and Technical Services Unit contract is currently in negotiations. The State union contracts allow removing alleged staff sexual abusers from contact with inmates pending the outcome of the investigations or of a determination of whether and to what extent discipline is warranted.

The language in DOCCS Directives #2110 Employee Discipline – Suspension from Duty During the Continuation of Disciplinary Proceeding and #2114 Functions of the Bureau of Labor Relations address the requirements of the standard. The facility can remove alleged staff sexual abusers from contact with any inmates or place an employee on administrative leave pending the outcome of an investigation.

## 115.67 – Agency Protection Against Retaliation

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DOCCS Employee Manual Section #2.19 – Sexual Abuse and Harassment and a Memo dated 8/20/2015 from the Agency-wide PREA Coordinator RE: Agency Protection against Retaliation establish a practice to protect inmates and staff who report sexual abuse or sexual harassment or cooperates with sexual abuse or sexual harassment investigations, and from retaliation by staff or inmates. Each facility designates a staff member with the responsibility of coordinating the monitoring for retaliation. The monitoring will include any disciplinary reports, housing and program changes, or any negative performance reviews or reassignments of staff. The monitoring shall include periodic in-person status checks every thirty days. There is a ninety (90) day monitoring time period for retaliation review, however the time frame can be extended if warranted. If a staff member or inmate who reported sexual abuse or cooperated with an investigation expresses a fear of retaliation, the facility and agency will take appropriate measures to protect that individual against retaliation.

Reviews are completed at a minimum every thirty (30) days for retaliation. This is documented on the PREA Retaliation Form #115.67 and the PREA Monitoring Log. There was one file for review and no reports of retaliation during the past twelve months.

## 115.68 – Post-Allegation Protective Custody

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DOCCS Directive, #4948 Protective Custody Status, prohibits the placement of inmates who alleged to have suffered sexual abuse in involuntary segregated housing unless an assessment of all available alternatives have been made and a determination has been made that there is no available alternative means of separation from likely abusers. The Directive states inmates who allege sexual abuse and are placed in protective custody status are evaluated and recommended for transfer to facilities where they may be appropriately housed and programmed in general population. Inmates that are placed in protective custody on this basis shall have access to programs privileges, education, and work opportunities to the extent possible. If restrictions occur, the facility will document the restrictions, duration of the limitation, and reasons for the limitation on form #4948A Restriction of Inmate's Program Participation. Hale Creek Correctional Facility does not have segregated housing, if needed the inmate may be transferred to another facility to meet his needs.

## 115.71 – Criminal and Administrative Agency Investigations

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 PREA standard is met through DOCCS Directives #4027A Sexual Abuse Prevention and Intervention Inmate and Inmate and #4028A Sexual Abuse Prevention and Intervention Staff and Inmate, #0700 Office of Special Investigations, Training Requirement for Sex Crime Investigators, Inmate on Inmate Sexual Abuse Dispatch and Operational Guidelines, and Letter to Superintendent D’Amico Re: Implementation of the Prison Rape Elimination Act Standards dated May 2, 2014. The letter outlines the working relationship between OSI, Sex Crimes Division and the New York State Police, Bureau of Criminal Investigation for investigations of staff on inmate and inmate on inmate sexual abuse that may involve criminal conduct.

The agency follows a uniform evidence protocol to investigate sexual abuse and sexual harassment, sexual investigations are conducted promptly, early, and objectively including third party and anonymous reports, and the use of investigators who have been specially trained in sexual abuse investigations. The training curriculums are PREA Specialized Training – Investigators and Training Requirements for Sex Crimes Investigations. Based on the review of the investigations, the agency’s policies, and interviews with facility staff and investigators, it was determined investigations into allegations of sexual abuse and sexual harassment are done promptly, thoroughly and objectively for all allegations. When an allegation is reported, the OSI begins an administrative investigation immediately. If criminal prosecution is warranted, the New York State Police is contacted and the two agencies continue the investigation working together. The investigators indicated the two agencies have a good working relationship with open communication during the progress of the investigation. If determined a crime has been committed, the case is referred for prosecution. The credibility of an alleged victim, suspect, or witness is assessed on an individual basis and not determined by the person’s status as an inmate or staff. Neither the agency nor New York State Police 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. Investigators complete a written report with investigation findings that contains a thorough description of physical, testimonial, and documentary evidence. Written reports are maintained for seven years as a hard case and are permanently maintained electronically.

There were no allegations of sexual abuse in the past twelve months at the Hale Creek Correctional Facility. A review of prior closed investigations was conducted. The Investigation files reviewed were properly documented and organized.

## 115.72 – Evidentiary Standard for Administrative Investigations

- Exceeds Standard (substantially exceeds requirement of standard)

- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

### **115.73 – Reporting to Inmate**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DOCCS directives require that all inmates who make allegations of sexual abuse shall be informed of the investigation outcome whether the finding was substantiated, unsubstantiated, or unfounded. The procedures for reporting investigation outcomes to inmates are documented in Directive Memo Sex Crimes Divisions Closeout Procedures and Directive Memo Notification of Investigation Determination. The process directs the OSI investigator to notify the inmate in person the outcome of the investigation when it is determined to be substantiated or unsubstantiated. The notification is documented in the electronic case file with date of notification. If the case is determined unfounded, the Superintendent of the facility will be notified by the investigator and the inmate will be notified by the facility. Documentation of unfounded notifications is the written response to the inmate.

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

During the past twelve months, there were no investigations of alleged inmate sexual abuse at Hale Creek Correctional facility. No inmate notifications were made or required.

### **115.76 – Disciplinary Sanctions for Staff**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Does Not Meet Standard (requires corrective action)

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

### **115.77 – Corrective Action for Contractors and Volunteers**

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

DOCCS Directive #4750 Volunteer Service Program, Directive Memo Policy on the Prevention of Sexual Abuse of Offenders, and OSI Reporting of Misconduct to Outside Agencies prohibit contractors or volunteers who engaged in sexual abuse to have contact with inmates and require they be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. They are also prohibited from further contact with inmates. Interviews with contractors and volunteers confirmed they were aware of the policies and remedial measures taken for engaging in sexual abuse or sexual harassment of inmates. The Superintendent stated during the interview that the volunteer/contractor would be suspended from entering the facility during the investigation. If the sexual abuse case is substantiated, the volunteer/contractor would be prohibited from entering an agency facility and may be turned over for prosecution if warranted. The facility would take appropriate remedial measures for any violation of agency sexual abuse or sexual harassment policies and would consider whether to prohibit further contact with inmates. In the past twelve months, there have been no contractors or volunteers suspended or reported to law enforcement for engaging in sexual abuse of inmates.

### **115.78 – Disciplinary Sanctions for Inmates**

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

DOCCS Directive #4027A Sexual Abuse Prevention and Intervention Inmate on Inmate and Directive Memo Disciplinary Disposition Guidelines, and Guidelines for Disciplinary Dispositions, outline disciplinary sanctions for inmates for sexual abuse and sexual harassment. The inmates are subject to disciplinary sanctions following an administrative findings that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse, sanctions are commensurate with the nature and circumstances of the abuse committed, the inmates disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories, and considers whether an inmate's mental disabilities or mental illness contributed to his behavior. The Guidelines for Disciplinary Disposition outlines the rule violation, tier levels (I, II, III), types of misbehavior, and confinement time clearly indicating a formal disciplinary process resulting in administrative findings. DOCCS directives prohibit all sexual activity between inmates to include consensual sexual activity and will process discipline on inmates, but will not consider it sexual abuse. The Standards of Inmate Behavior indicates an inmate may be disciplined for sexual conduct with staff only upon finding that the staff did not consent to such contact. The directive states an inmate reporting a sexual abuse in good faith upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even is the investigation does not establish sufficient to substantiate the allegation for purposes or disciplinary action. In the past twelve months, there were no administrative findings of inmate on inmate sexual abuse. There was no criminal finding of guilty for inmate on inmate sexual abuse.

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

### **115.81 – Medical and Mental Health Screenings; History of Sexual Abuse**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DOCCS Health Services Policy #1.19 Health Appraisal and Directive #4301 Mental Health Satellite Services and Commitments, requires medical and mental health follow-up within fourteen days for those inmates who disclosed during screening prior sexual victimization or previously perpetrated sexual abuse whether it occurred in an institutional setting or in the community. At intake screening, if the inmate has disclosed prior sexual victimization and/or previously perpetrated sexual abuse, the inmate is referred for medical and mental health services. If deemed as an emergency or a serious nature, the inmate is seen immediately by medical and mental health. All other follow-ups from referrals will be seen by medical and mental health within 14 days. Interviews with medical and mental health staff outlined the screening process and confirmed that follow-ups are conducted within the proper time frames. Information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners, and other staff as needed. Per Health Services Policy #1.44 Health Screening of Inmates, information is shared with appropriate staff as needed to make housing, bed, work, education, and program assignments, and medical and mental health staff shall obtain informed consent before reporting prior sexual victimization that did not occur in an institutional setting.

## 115.82 – Access to Emergency Medical and Mental Health Services

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DOCCS, Health Services Policy #1.60 Sexual Assault, Directive #4027B Sexual Abuse Reporting and Investigations Inmate on Inmate, and Directive #4028B Sexual Abuse Reporting and Investigations Staff on Inmate, state that inmates who are victims of sexual abuse shall be afforded access to forensic medical examinations at an outside facility without financial cost where evidentiary or medically appropriate. 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. Emergency medical attention is provided through the facility's medical department. Inmates in need of emergency and/or SANE/SAFE services are transported to an outside facility. Upon an allegation of sexual abuse, the Watch Commander begins the notifications which include medical and mental health services. This process was verified through incident reviews and interviews with staff and inmates. The inmates also receive timely information about sexually transmitted infections prophylaxis. Treatment services are provided without any financial costs to every victim.

## 115.83 – Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DOCCS Health Services Policy #1.60 Sexual Assault, Inmate Bloodborne Pathogens Significant Exposure Protocol, Health Service Policy #1.44 Health Screening of Inmates, Health Service Policy 1.12B Inmate Bloodborne Pathogens Significant Exposure Protocol and the MOU with Office of Mental Health address the requirements of the standard. The policies outline medical and mental treatment including evaluations, on-going care, and treatment to all inmates that have been victims and abusers. The services and treatment is at no cost to the inmates and are consistent with the community level of care. Per policy, inmate victims of sexual abuse while incarcerated are offered tests for sexually transmitted infections as medically appropriate. Interviews with medical and medical health staff, inmates, and file reviews verify and document the process. There were no confirmed victims or inmate abuser during the last twelve months.

## 115.86 – Sexual Abuse Incident Reviews

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

The incident review team reviews the circumstances of the incident; the name(s) of the person(s) involved; a consideration of whether the actions taken were consistent with agency policies and procedures; consider whether the allegation or investigation indicates a need to change policy or practice to better detect, or respond to sexual abuse; consider whether the incident or allegation was motivated by race, ethnicity, gender identity, lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status, gang affiliation, or was motivated or otherwise caused by other group dynamics at the facility; an examination of the area in the facility where the incident alleged occurred to assess whether physical barriers in the area may enable abuse; an assessment of the adequacy of staffing levels in that area during different shifts; and an assessment as to whether monitoring technology should be deployed or augmented to supplement supervision by staff. The report is forwarded to the Superintendent, Facility PREA Compliance Manager, and PREA Coordinator for review. The facility shall implement recommendations that result from the review, or document the reasons for not doing so.

In the past twelve months, there were no criminal and/or administrative investigations of alleged sexual abuse completed at Hale Creek Correctional Facility, therefore no sexual abuse incident reviews were completed or required.

## 115.87 – Data Collection

- Exceeds Standard (substantially exceeds requirement of standard)
- 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's Deputy Superintendent for Security is responsible for maintaining a Monthly Sexual Abuse Threat/Incident Summary (forms #2103SAII and #2103SASI) that is a chronological listing of each sexual abuse, threat, or complaint that occurs in a month. This information is forwarded to the Associate Commissioner for Correctional Facilities on a monthly basis. The agency collects the uniform data using a standardized instrument and data dictionary. DOCCS Directive #4027B Sexual Abuse Reporting and Investigations Inmate on Inmate; #4028B Sexual Abuse Reporting and Investigations Staff on Inmate; and the PREA Data Collection, Review, Retention and Publication Manual outlines the data collection process utilized by the agency. The agency aggregates the incident based sexual abuse data at least annually. The 2013-2014 Annual Report on Sexual Victimization is available for review on the agency's website. The report was reviewed as part of the audit process.

### **115.88 – Data Review for Corrective Action**

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

DOCCS PREA Data Collection, Review, Retention, and Publication Manual (revised on 8/18/15) states the PREA Analyst will prepare and aggregate data collected throughout the agency. An annual report is prepared which includes identification of problem areas, corrective action for each facility, and the agency as a whole. The annual report includes a comparison of the current year's data and corrective actions with those from prior years and provides an assessment of progress in addressing sexual abuse. Before publishing the annual report, the agency removes all personal identifiers. The annual report is made available to the public through the agency's website. The 2013-2014 Annual Report on Sexual Victimization is available for review on the agency's website. The report was reviewed as part of the audit process. Through interviews with the PREA Coordinator, PREA Compliance Manager and Superintendent and review of the facility's monthly reports it documents the data collection process and correction actions taken by the facility.

Per DOCCS Annual Report on Sexual Victimization 2013-2014, the number of substantiated sexual victimization at Hale Creek Correctional Facility was 0 in both 2013 and 2014. DOCCS continues to implement enhancements based on patterns and trends that may be addressed through training or policy changes.

### **115.89 – Data Storage, Publication, and Destruction**

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

DOCCS PREA Data Collection, Review, Retention, and Publication Manual (revised on 8/18/15) ensures that the incident based information and aggregate data is collected and securely retained for at least ten years after date of initial collection unless Federal, State or local law requires otherwise. The data is retained and secured by OSI and the PREA Analyst. The manual also states the agency will prepare an annual report. The annual report includes: identification of problem areas, corrective action for each facility, and the agency as a whole, a comparison of the current year's data and corrective actions with those from prior years, and provides an assessment of progress in addressing sexual abuse. Before publishing the annual report, the agency removes all personal identifiers. The annual report is made available to the public through the agency's website. The 2013-2014 Annual Report on Sexual Victimization is available for review on the agency's website at [www.doccs.ny.gov/PREA/PREAINfo.html](http://www.doccs.ny.gov/PREA/PREAINfo.html). The report was reviewed as part of the audit process.

**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.

/s/ David Andraska  
Auditor

\_\_\_\_\_ 4/12/2016  
Date