

ADULT PRISONS & JAILS

Date of report: April 18, 2016

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<b>Date of facility visit:</b> March 22-24, 2016			
<b>Telephone number:</b> 515-323-5260.			
<b>Facility Information</b>			
<b>Facility name:</b> Sing Sing Correctional Facility			
<b>Facility physical address:</b> 354 Hunter Street, Ossining, NY 10562			
<b>Facility mailing address:</b> <i>(if different from above)</i> Click here to enter text.			
<b>Facility telephone number:</b> 914-941-0108			
The facility is:			
<input type="checkbox"/> Federal	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private for profit
<input checked="" type="checkbox"/> State	<input type="checkbox"/> Private not for profit	<input type="checkbox"/> Jail	
<input type="checkbox"/> County	<input checked="" type="checkbox"/> Prison		
<b>Name of facility's Chief Executive Officer:</b> Micheal Capra	<b>Number of staff assigned to the facility in the last 12 months:</b> 854		
<b>Designed facility capacity:</b> 1747			
<b>Current population of facility:</b> 1576			
<b>Facility security levels/inmate custody levels:</b> Maximum Security / with medium and minimum inmates			
<b>Age range of the population:</b> 19 - 78			
<b>Name of PREA Compliance Manager:</b> Elizabeth Mastroieno			
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<b>Telephone number:</b> 914-941-0108 ext 2160		<b>Agency Information</b>	
<b>Name of agency:</b> New York Department of Corrections and Community Supervision			
<b>Governing authority or parent agency:</b> <i>(if applicable)</i> Click here to enter text.			
<b>Physical address:</b> 1220 Washington, Albany, NY 12226-2050			
<b>Mailing address:</b> <i>(if different from above)</i> Click here to enter text.			
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<b>Agency Chief Executive Officer</b>			
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## AUDIT FINDINGS

### NARRATIVE

The site visit for the PREA Audit of the Sing Sing Correctional Facility, New York, was conducted March 22<sup>nd</sup> thru March 24<sup>th</sup>, 2016. The audit was coordinated with the American Correctional Association and the New York Department of Corrections and Community Supervision. It should be noted this facility is accredited through the American Correctional Association and a concurrent reaccreditation audit was being conducted. The PREA audit team consisted of the Audit Chair and an assisting Auditor. During the Pre-Audit phase, the Audit Chair reviewed the documentation of the Pre-Audit Questionnaire completed by the facility. This documentation was stored on a flash drive and over nighted to the Chair prior to the visit.

An entrance meeting was conducted at the beginning of the site visit. The facility superintendent conducted the meeting during which command staff was introduced, as well New York State Central Office PREA staff. PREA compliance is coordinated state wide through the Central Office by an Associate Commissioner. During the meeting, auditors were provided a description of the facility and the Superintendent explained the tour would include all areas of the prison where inmates had access. After the entrance meeting, the Superintendent conducted the tour. The tour encompassed the majority of the day and allowed the auditors to conduct informal interviews with staff and inmates. The tour confirmed posting of PREA information in all areas visited. Inmates admitted to the facility are screened for PREA issues during intake and re-screened within seven days of admission.

The facility provided the auditors inmate lists by housing assignment, and the auditor selected an inmate from each gallery. The auditors were also provided a listing of staffing assignments, of which they selected staff members to be interviewed. Interviews and documentation reviews were conducted for the remainder of the visit. During the formal interviews the auditors spoke with security staff, specialized staff, the PREA Coordinator and the Superintendent. Inmates selected by the auditors were also interviewed formally, and each interview was conducted in a private setting. The inmate interviews included a non-English speaking inmate, a gay inmate, a transgender inmate and an inmate who reported a PREA incident.

The tour of the facility and interviews conducted by the auditors confirmed that PREA compliance is a high priority in daily operations, as well as is the safety of the inmates. There were two inmates who refused to participate, but both these inmates confirmed they felt safe in the facility.

## **DESCRIPTION OF FACILITY CHARACTERISTICS**

The Sing Sing Correctional Facility is a maximum-security institution that also houses medium and minimum adult males. The facility originally opened in the 1820's and has been continually in use. The housing units are of a linear design that requires staff supervision for all inmate movement. This type of design is rather staff intensive, but the facility-staffing plan allows for smooth daily operations. The auditors did not see any situations where inmates lacked visual supervision by staff.

It should be noted, the vast majority of the inmates in house want to be in the facility due to the wide range of programs available and the proximity of New York City where it is accessible for family visits. The auditors found the atmosphere in the facility calm.

The facility is divided by a commuter train track and a concrete wall surrounds the complex. Towers enhance security and are staffed when there is normal inmate movement. The vast majority of inmates have required work assignments and/or programming. The programming segment is wide ranged from providing work skill training to include carpentry, plumbing and electrical. Educational programming provides opportunities for inmates to complete a GED, an associates' degree, a bachelors' degree and a masters program.

There was a notable air of camaraderie throughout the staff. Additionally, the uniformed staff presented a high level of professional appearance. Uniforms were clean and pressed, and foot gear was well-polished. Non-uniformed staff was appropriately, professionally attired.

## **SUMMARY OF AUDIT FINDINGS**

A site visit for a PREA audit was conducted March 22<sup>nd</sup>, 23<sup>rd</sup> & 24<sup>th</sup>, 2016 for the Sing Sing Correctional Facility, which is under the jurisdiction of the New York Department of Corrections and Community Supervision. The audit consisted of a tour of the facility, various interviews and documentation review. The audit concluded the facility had the following results:

Number of standards exceeded: 10

Number of standards met: 30

Number of standards not met: 0

Number of standards not applicable: 3

### **Standard 115.11 Zero tolerance of sexual abuse and sexual harassment; PREA Coordinator**

- XX** 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)

#### **AUDIT FINDINGS:**

The facility has policy that mandates zero tolerance towards any form of sexual abuse and harassment. The policy outlines procedures for detecting, reporting and how to respond to any violations of the zero tolerance mandate. The policy also has provisions for the prevention of violations. The facility goes to the extent of training outside contract workers in PREA procedures, even though security staff always accompanies these workers.

The standard requires the governing agency designate and agency wide coordinator to oversee compliance to PREA. The State of New York designated an Associate Commissioner to this position, who reports directly to the Commissioner. The Associate Commissioner is dedicated full-time to this position.

The standard also requires that the facility have a PREA Compliance Manager. The State of New York created a position of Deputy Superintendent to fulfill this requirement. The Assistant Deputy Superintendent reports to both the Associate Commissioner and the facility Superintendent. The auditors found the Compliance Manager to be knowledgeable in all aspects of PREA. According to interviews, both the Associate Commissioner and the Assistant Deputy Superintendent have adequate authority and time required to do their assignments.

During the facility tour the auditors observed posters, handouts and materials emphasizing the facility's zero tolerance commitment. This commitment was also verified by formal and informal interviews with staff and inmates. Staff members carry pocket cards that outline the zero tolerance policy and the response procedure to be followed for reported PREA violation.

The auditors determined the facility's commitment to zero tolerance to sexual abuse and sexual harassment exceeds the standard requirements.

### **Standard 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)

#### **AUDIT FINDINGS:**

This standard is non applicable because the facility does not contract with any entity for the confinement of inmates.

### **Standard 115.13 Supervision and monitoring**

- XX** 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)

**AUDIT FINDINGS:**

The facility is required to develop a staffing plan that provides maximum protection for inmates to be free of sexual abuse and sexual harassment. During the tour the auditors noted inmates were normally under constant observation by staff. While in their cells, the inmates were observed by security staff through walking patrols.

The auditors noted an area where staff supervision minimal, but observed by camera. Due to partitions in the area, the camera did not provide maximum coverage. The auditors suggested the facility should limited access to the area by logging inmates in and out and augment the camera with walking patrols. The superintendent immediately implemented the change in operations that was recommended.

The auditors found the staffing plan was quite extensive and completely encompassing. Observation of operations and inmate movement revealed the staffing level provided for smooth, day-to-day, operations. The facility demonstrated it is dedicated to providing adequate staffing as noted by the amount of overtime used. The facility reviewed staffing levels in 9/15 and provided a copy of the review.

The standard requires mid-level or higher level conduct unannounced rounds throughout the facility to deter sexual abuse and sexual harassment. These rounds must be documented and conducted on each shift. Additionally, there must be a policy that prohibits staff from alerting staff members of the supervisory rounds.

The facility mandates that supervisors make unannounced rounds throughout each shift. Directive 4001 spells out the requirements of the rounds. These rounds are documented by Log Book entries as well as completion of Form 4001B. During the tour the auditors noted the communication link between staff is via portable radios that are carried by each officer. It would be very difficult for a staff member to alert another staff member of rounds without the supervisor hearing on the radio.

Based on the observations of the auditors, staff interviews and review of the documentation, it was concluded the facility's compliance exceeds the standard.

**Standard 115.14 Youthful 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)

**AUDIT FINDINGS:**

This standard is non applicable because the facility does not hold youthful inmates.

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

- XX** 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)

#### **AUDIT FINDINGS:**

The standard restricts the use of cross-gender strip searches or visual body cavity searches. Additionally, the facility must provide policies and procedures that allow inmates to shower, change clothes and perform bodily functions without being viewed by non-medical staff of the opposite sex. This viewing includes video camera monitoring. Opposite gender staff are required to announce their presence on a housing unit. Facility staff is prohibited from examining intersex and transgender inmates to determine genital status. The standard requires staff be trained on conducting cross-gender pat down searches as well as searches of intersex and transgender inmates.

The auditors found documentation on the restrictions against cross-gender searches was quite extensive. This documentation included Directive 2230 that prohibited the searches. This directive also went the extent to mandate when transporting at least one officer must be a member of the same sex of the inmates. Directive 4001 spelled out that supervisors are responsible to make inspections to insure these directives are being followed and opposite gender announcements are made when entering a housing unit. Specific detail is contained in Directive 4910 on how personal searches should be performed and outlined procedures to be followed for transgender and intersex inmates. The facility provided documentation showing all staff had been trained on personal searches, as well as dealing with transgender and intersex inmates in an appropriate manner.

During the tour the auditors noted that the inmates are afforded a reasonable level of privacy. There was a concern in regard to the group bath area where showers are provided for galleries, away from the housing units. The inmates in individual showers are visible to staff supervising. During interviews with the superintendent, staff and inmates the auditors learned only same sex officers staff this area. There was also a concern about the shower facilities at the ends of the housing galleries. The Superintendent did develop and begin installing privacy panels on the shower gates for these showers. Several panels were installed while the auditors were at the facility.

Also during the tours the auditors observed announcements on PA systems of opposite gender officer entering a housing unit.

Due to the detailed directives governing cross-gender searches, the facility-wide training (to include outside contractors) and the interviews that verified cross-gender searches are not allowed, it was determined the standard had been exceeded.

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

- XX** 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)

## **AUDIT FINDINGS:**

The facility is required to have in place procedures to provide disabled inmates equal opportunities to benefit from all aspects of efforts to prevent, detect and respond to sexual abuse and harassment. They must have procedures to provide limited English inmates equal opportunities to benefit all aspects of efforts to prevent, detect and respond to sexual abuse and harassment.

Policy is required that prohibits inmate interpreters or other type inmate of assistance, except in circumstances where obtaining a qualified interpreter could compromise the inmate's safety or the first responders' response of an inmate's allegation. The facility must document the use of inmate interpreters and inmate assistant's in PREA situations.

The facility has directives in place that provide the necessary equal opportunities of disabled and limited English inmates. The State of New York has developed a video that provide PREA information in several different languages and the facility routinely runs the videos to insure all inmates have access to the information.

Directive #2612 addresses inmates who have sensorial disabilities. This directive provides guidance on how the inmates may access all resources to allow equal access with inmates with no disabilities. Limited English Proficiency (LEP) inmates are addressed in Directive #4490. Again, this directive provides detailed procedures to allow the LEP inmate equal access.

There is a system-wide Language Line Service available 24 hours a day that allow LEP inmates to access the facility's programs and services.

The State of New York has developed DVD's entitled: Ending Sexual Abuse Behind the Walls: An Orientation. These DVD's are made in the following languages: English, Spanish, Chinese, Italian, Polish, Korean and Haitian Creole. The DVD's are shown periodically in the facility to remind inmates of resources available. The state also developed pamphlets in the same languages that are also available to the inmates. These are entitled: Prevention of Sexual Abuse in Prison.

Additionally, the State of New York has a system-wide Language Access Policy Committee who charge is to meet quarterly and review how effective access is for inmates. The committee is also charged with formulating changes, which will increase equal access for disabled inmates, as well as LEP inmates.

The facility has not used any unqualified interpreters or any other type of inmate assistance for PREA situations. Staff verified, during informal and formal interviews that inmate assistance and interpreters can only be used in an emergency situation. The auditors learned during the tour the facility has diverse, bi-lingual staff members.

Due to the Language Access Policy Committee and the number of bi-lingual staff, the facility exceeded the requirements of this standard.

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

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

## **AUDIT FINDINGS:**

This standard requires a policy that prohibits or promoting anyone who may have contact with inmates who has engaged in sexual abuse in a facility, or has been convicted of engaging or attempting to commit a sex crime in the community, or been civilly adjudicated of a sex crime. The agency must consider any incidents of sexual harassment in determining to hire or promote anyone who may have contact with inmates.

The agency is required to conduct background checks of any new employee who might have contact with inmates and to make a valid effort to contact prior institutional employer for any instances of sexual misconduct or resignation pending an investigation of sexual misconduct.

The institution is required to do a background check on any contractor who may have contact with inmates. An agency must conduct a background check every five years for current employees, by policy. Lastly, the agency must have a policy that says omissions and providing false information by employees shall be grounds for termination.

Documents reviewed for this standard included:

- Directive #2216 that mandates criminal record check be conducted on all applicants. The directive also specifies the type of records check to be conducted on each classification of employee.
- Memo from the State Director of Personnel the outlines Procedures 407A and 407B all candidates for hire or promotion must be reviewed for any incidents of sexual misconduct.
- Procedures 407A and 407B prohibit hiring or promoting anyone who has a history of sexual misconduct.
- An 8/15 memo from New York Division of Criminal Justice Services, Deputy Commissioner & Council was reviewed. This memo recognizes that the Department of Corrections and Community Supervision is authorized to obtain criminal record checks. The memo also advises will notify the Department of Corrections and Community Supervision of any subsequent arrests of an employee.
- Directive #2112 is titled “Report of Criminal Charges” and spells out how Department is to deal with an employees who have accused of a criminal offense.
- Form #1253 Personnel History and Interview Record. This form is completed doing the interview process and makes inquiry into a wide range of issue regarding criminal conduct, to include sexual misconduct.
- Form EIU23 inquires of an applicant's criminal conduct spells out omissions and untruthful answers will result in action up to and including revocation of employment and prosecution. The form asks a number of questions to specific sexual misconduct.
- A completed Form #1253 was reviewed. (personal information about the applicant had been redacted.)

Interviews with the Associate Commissioner, the Superintendent and the facility Human Resource Director verified the required policies were in place and utilized for hiring and promotional purposes.

### **Standard 115.18 Upgrades to facilities and technologies**

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

## **AUDIT FINDINGS:**

The standard requires when designing or acquiring a new facility and planning any substantial expansion or modification of an existing facility, the agency must consider the effect of the design to the agency's ability to protect inmates from sexual abuse. The standard also requires the agency, when installing or updating a video monitoring system, electronic surveillance or other monitoring technology, to consider how the technology can enhance the ability to protect inmates from sexual abuse.

Interviews with both the Acting Commissioner and the Superintendent verified that this standard is practiced in this facility, as well as agency-wide. Directive 3053, by the agency spells out considerations that are required for PREA and requires an actual evaluation for PREA compliance. The facility supplied a completed Form 1612 for a project. The facility met the requirements of this standard.

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

- XX** 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)

## **AUDIT FINDINGS:**

The agency is required to follow a uniform evidence protocol that maximizes the potential for using physical evidence for criminal prosecutions and administrative proceedings. The agency must offer victims access to forensic medical examinations, at no cost. The examination shall be performed by a Sexual Assault Forensic Examiner (SAFE) or a Sexual Assault Nurse Examiner (SANE).

A victim advocate must be available to the victim and the facility is required to document these services have been obtained. This advocate must accompany the victim through the forensic examination and investigative process if requested by the victim.

Staff interviews verified that necessary protocols were in place. The staff is, in fact, required to carry a card that dictates the proper response. The staff is also provided specialized training for PREA investigations.

The response planning is documented in detail. Directive #4027B deals with evidence collections and preservation of the evidence so it will be admissible for prosecution and administrative processes. This also spells out the chain of custody log for the evidence. Health Services Policy 1.60 mandates victims will be provided hospital care outside the correctional system. When possible, the hospital should provide SAFE or SANE for the examination.

Operational guidelines are provided to officers in the Office of Special Investigations for both inmate – on - inmate and staff – on – inmate investigations. These investigations are conducted in conjunction with the New York State Police Bureau of Criminal Investigations. The investigators must provide an advocate to the victim, if requested. The State of New York has developed a protocol for the Acute Care of the Adult Patient Reporting Sexual Assault, which deals with the patient's actual care as well as DNA evidence. Interviews and document review showed the agency conducts sexual abuse investigations in compliance with PREA standards.

Due to the fact the agency mandates hospital care, outside the correctional system, provides the victim a higher level of comfort. This exceeds the standard.

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

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

#### **AUDIT FINDINGS:**

The agency must ensure an investigation is completed for all allegation of sexual misconduct. There must be a policy in place to ensure allegations of sexual misconduct are referred to an agency with authority to conduct criminal cases and the referral must be documented. This policy must be published for public review.

The Department has designated the Office of Special Investigations (OSI) to handle investigation of sexual abuse and sexual harassment. In cases of abuse, OSI handles the entire investigation. Cases of sexual harassment are reviewed by OSI and investigated or referred back the facility for disposition. Criminal cases are investigated in conjunction with the New York State Police Bureau of Criminal Investigation, as well as the District Attorney's Office.

Directive #4027B and Directive #4028B is the policy that outlines the requirement that all allegations of sexual misconduct be investigated. Directive # 0700, Directive # 4027A and Directive # 4028B specify on how the criminal and administrative investigations are fulfilled.

Interviews with the agency head and investigative staff verified the facility complies with this standard. At the time of the audit the facility had received 26 allegations of sexual abuse or sexual harassment. 16 of these allegations resulted in administrative investigations. 10 of the allegations resulted on a criminal investigations and two were pending disposition during the audit.

The facility meets the requirements of this standard.

### **Standard 115.31 Employee training**

- XX** 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)

#### **AUDIT FINDINGS:**

In this standard the facility must provide training in the following areas: Zero tolerance for sexual abuse and sexual harassment; how the employee are to fulfill their responsibilities for prevention, detection, reporting and response; Inmates' right to be free of sexual harassment and sexual abuse; the right inmates and staff reporting sexual misconduct to be free of retaliation; the dynamics of sexual harassment and sexual abuse in confinement; common

reactions of sexual abuse and harassment victims; how to detect and respond to signs of sexual abuse and harassment; how to avoid inappropriate relationships; how to communicate professionally and effectively with LGBT and gender nonconforming inmates and how to comply with mandatory reporting of sexual abuse.

This training must be tailored to the gender of inmates at the facility and an employee transferred from a female only facility must receive additional training. Employee must receive PREA training and receive refresher training every two years. There must be documentation verifying the employee has received the training.

The document review consisted of: Training Manual-Subject 0.100 Frequency Training Charts and Training Bulletins; Training Bulletin #7, PREA: Sexual Abuse Prevention and Response; Training Manual-Subject 6.500 Facility Familiarization; Memo from the Commissioner regarding Policies and Standards Generally Applicable to all Employees; Sexual Abuse Prevention and Response lesson plan; Report of training form: Sexual Abuse Prevention and Response; Memo from Deputy Commissioner and Associate Commissioner regarding Sexual Abuse Prevention and Response Training. This documentation covered all aspects of the training required by the standard.

This training is tailored to the all male inmate facility. Policy requires initial PREA training and a refresher every two years. In addition, the facility provides bulletins to keep employee current in the year that refresher training is not conducted. Verification of the training is well documented by use of employee sign sheets.

The facility showed to a commitment to the training function. This was noted through informal and formal staff interviews, review of training plans, training curriculum, training rosters and verification tracking.

The interview with the superintendent revealed a professional commitment to PREA training and a high priority to the entire training process. This exceeded the requirements of the standard.

### **Standard 115.32 Volunteer and contractor training**

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

### **AUDIT FINDINGS:**

Volunteers and contractors who have contact with inmates must be trained on the responsibilities regarding sexual abuse and harassment in regard to prevention, detection and response. This training must be based on the service they provide and the level of inmate contact.

Volunteers and contractors must be informed of the agency's zero-tolerance policy and informed on how to report such incidents. The facility must have documentation that confirms volunteers/contractor understand the training.

Directives #4027A and #4028A mandates that volunteers/contractors must receive an orientation relating to the prevention, detection and response to sexual abuse and receive a periodic update. Directive #4750 addresses the Volunteer Services Program. This directive spells out the zero-tolerance policy for sexual abuse policy and requires the volunteer/contractor to read the Policy on the Prevention of Sexual Abuse of Inmates. They must acknowledge in writing of their understanding. A memo from the Commissioner to all employees, contractors and volunteers reinforces the agency's PREA commitment and the duty to report any violations.

Sing Sing utilizes a large number of volunteers. Over the past twelve months Sing Sing has trained 486 volunteers and contractors. The facility maintains records of the volunteers/contractors acknowledging receipt and understanding of the training. An interview with a contractor verified he had received the training, even though he did not have contact with any inmates.

The facility meets this standard.

### **Standard 115.33 Inmate education**

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

### **AUDIT FINDINGS:**

Inmates must receive information during intake about the zero-tolerance policy and how to report incidents of sexual abuse or harassment. The inmates must be educated on PREA and also receive PREA information when transferred from another facility. That information must include the right to be free from sexual abuse and harassment and to be free from retaliation for reporting such activity.

The facility must provide the education material accessible to inmates who may be limited English, deaf, visually impaired or have limited reading skills. The facility must document inmate participation in these education sessions and ensure that key information is readily available through posters, handbooks or other written formats.

Directive #4021 requires that inmates receive a PREA pamphlet during the intake process. Under Directive #4027A the information must be provided in a language clearly understood by the inmate. It also requires the information address prevention, reporting sexual abuse and availability of treatment and counseling.

A memorandum from the Associate Commissioner directs the facility to routinely show the video *Ending Sexual Abuse Behind the Walls: An Orientation* during the intake process. This video is available in the languages of English, Spanish, Chinese, Haitian Creole, Italian, Korean, Polish and Russian. Inmate training in PREA is required to be maintained electronically or written documentation in the inmate's Guidance file.

During orientation inmates are provided with a brochure *The Prevention of Sexual Abuse in Prison: What Inmates Need to Know* to supplement the video. The memo also directs facilities to maintain posting information on PREA throughout the facility. The department has developed an outline PREA – Sexual Abuse Prevention Inmate Orientation. This outline addresses in detail that information that is to be given to an inmate during the orientation process. The inmate is to sign verification he has received the information during the intake process.

Interviews of intake staff verified Zero-tolerance policy information was part of the process. Only a limited number of inmates selected for interviews had entered the facility in the past two years, but those that did confirmed they had received the information. Staff interviews and inmate interviews confirmed that PREA training is provided throughout the facility. During the tour it was noted that PREA information is posted in all areas where inmates have access.

The facility met the requirements of this standard.

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

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

#### **AUDIT FINDINGS:**

Investigators are required to be trained in conducting sexual abuse investigations in confinement settings. The training must include interview techniques for sex abuse victims; use of the Miranda and Garrity warnings; sex abuse evidence collection in a confinement setting; the criteria and evidence needed on a case for administrative action or prosecution. The agency is required to maintain documentation that investigators have completed the training.

Policies and procedures - Training Requirements for Sex Crimes Investigation from the Office of Special Investigations (OSI), ensures investigators received training in investigation sex crimes. This training is specifically tailored to a confinement setting. The training includes interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, evidence collection and criteria required to substantiate a case for prosecution or administrative action.

Investigative training and policies, the training curriculum and personnel policies demonstrate that investigators are trained to conduct sexual misconduct. Interviews with investigators verified that they had received the training mandated to conduct sexual abuse and harassment cases. Documentation is maintained by the agency showing investigators have received the required training. It was noted that the investigators are not assigned to the facility, but are assigned as needed.

The facility meets this standard.

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

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

#### **AUDIT FINDINGS:**

The agency is required to ensure medical and mental health staff are trained how to detect and assess signs of sexual abuse and harassment; how preserve physical evidence of sexual abuse; how to effectively and professionally respond to victims of sexual abuse and harassment and how to report allegations or suspicions of sexual abuse or harassment. Medical and mental health staff is required to be trained in the zero-tolerance policy as well as the PREA policies. The agency is required to maintain documentation of this training.

These requirements are covered by the following documentation: Directive \$4750- Volunteer Services Program – Division of Health Services acknowledgment form; the Training Manual subject – 7.100 – 40 hour Orientation Program for Non-security staff; the Training Manual subject - 6.600 – Mandatory Initial Training for Non-security staff; a Memo of Understanding (MOU) between the Department and the Office of Mental Health (OMH) and a Power Point presentation: PREA: Medical and Mental Health Care and PREA Standards.

Formal and informal interviews with medical staff and mental health staff verified they were trained in the requirements of this standard. A completed copy of Division of Health Services Acknowledgment form was reviewed.

The facility meets this standard.

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

- XX** 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)

#### **AUDIT FINDINGS:**

All inmates must be screened upon intake for their risk of being sexually abused by other inmates or sexually abusive toward other inmates. This screening must be done with 72 hours of admission. The screening must be done using an objective instrument.

The screening must assess the following risks for sexual victimization: Does the inmates have a mental, physical or developmental disability; the age of the inmate; the physical build of the inmate; has the inmate been previously incarcerated; is the inmate's criminal record exclusively nonviolent; does the inmate have prior convictions for sex crimes against an adult or child; is the inmate perceived to be LGBT; whether inmate has previously been a sexual victim; the inmate's perception of vulnerability; and whether the inmate is held for only civil immigration purposes.

Screening must consider acts of sexual abuse, convictions for violent offenses, history of institutional violence or sexual abuse. After the initial screening, the inmate must be reassessed inmates within 30 days or when additional relevant information is received. The risk level should also be reassessed on a referral, request incident of sexual abuse or receipt of additional relevant information.

Inmates cannot be disciplined for refusing to answer screening questions or not disclosing information. The facility must maintain control of the screening information so is not exploited a risk to the inmate.

Directive #4027A specifies an initial assessment must be made when an inmate enters a facility within 24 hours. A memo from two Deputy Commissioners to all Superintendents mandates a screening must take place at intake and informing additional questions were added to the screening form. The risk screening policy is detailed in FOM # 700 entitled PREA Risk Screening and mandates screening take place within 72 hours.

The auditors reviewed the screening instrument during the tour of the intake area and conducted informal interviews with intake staff that verified the screening was completed during the normal intake process. The intake process normally takes four to six hours. The screening instrument contained all the elements required by this standard.

Policy spells out the screening information is confidential. This information is placed in the inmates Guidance Folder in the medical section. The information contained in the screening is available only to persons authorized access such information. Confidentiality of this type of information is covered in the employee's manual.

Once the inmate is admitted to the facility, he is reassessed in after one week by mental health staff. Documentation of the reassessments was provided to the auditors. Additionally, inmates are reassessed quarterly for risk of sexual abuse by their counselors.

Due to the timeliness of the initial screening, the reassessment within a week by a mental health practitioner and the quarterly reassessments, the facility exceeds the standard requirements.

**Standard 115.42 Use of screening information**

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

**AUDIT FINDINGS:**

The facility is required to use the information from the risk screening in the assignment of housing and programs to keep vulnerable inmates separate from inmates at high risk to commit sexual abuse. The facility is required to make individual determinations on placement of transgender or intersex inmates, on a case-by-case basis. Assignments for transgender and intersex inmates must be reviewed every six months for threats to their safety.

Transgender and intersex inmates own view on their safety must be give consideration. These inmates must be given the opportunity to shower separately from other inmates. LGBT inmates cannot be placed in dedicated housing units solely on the basis of such identification unless to comply with a court decree.

Under Directive # 4027A and a memo from two Deputy Commissioners, facilities are required to use screening information to help determine appropriate housing and programming for inmates who are at a high risk of being sexually victimized and high risk for committing sexual assault.

These documents also address transgender and intersex inmates and their placement in housing and programming. These policies dictate that placement must be made on an individual, case-by-case basis. A memo from an Associate Commissioner confirms individual assessments must be made. This memo also requires a reassessment and evaluation must be made weekly on transgender and intersex inmates.

In the screening instrument transgender and intersex inmates are asked for information and input concerning their housing placement and programming opportunities. Transgender and intersex are allowed to shower separately, as mandated by Directive # 4009.

Interviews with the PREA Compliance Manager, the Associate Commissioner and staff responsible for screening verified these procedures are in place and used by the facility. The facility did not have any inmates who identified as transgender or intersex so no interviews were possible. The facility does not have separate housing or programs for transgender or intersex inmates.

The facility meets this standard.

**Standard 115.43 Protective custody**

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

**AUDIT FINDINGS:**

Inmates at high risk for sexual victimization cannot be placed in involuntary segregation unless an assessment has been made that there no alternative means to keep the inmate separate from likely abusers. Inmates segregated due to vulnerability must have access to programs, privileges, education and work opportunities. The facility must document any limitations to these activities.

Assignment to segregated housing may be done only until an alternative means of separation from likely abusers can be arranged. Involuntary segregation must be documented as t the basis of concern for the inmate’s safety and why no alternative means can be arranged. Segregation must be reviewed every 30 days.

Directive # 4948 entitled Protective Custody Status addressed all the elements of this standard, along with forms 2168A, 2170A and 4948A. Interviews with Special Housing Unit staff verified that policy is in place and understood. During the past 12 months Sing Sing has not placed a high risk for victimization inmate in involuntary segregation.

The facility meets this standard.

**Standard 115.51 Inmate reporting**

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

**AUDIT FINDINGS:**

The agency must provide multiple internal ways for inmates to privately report sexual misconduct, retaliation for reporting and staff violation of responsibilities that may have contributed to such incident. It must also provide a way to report sexual misconduct to an entity that is not part of the agency; that can forward the report immediately for investigation and will allow the inmate to remain anonymous.

Facility staff must accept reports made verbally; in writing, anonymously, from third parties and will document verbal reports. Staff must be allowed to privately report sexual abuse or harassment of inmates.

Directive #4027A specifies a report can be made to any employee and staff has a duty to receive such a report and forward to be investigated. Directive #4028A deals with staff on inmate assaults and reporting conditions and requirements. The Employee Manual spells out in detail the duty of employees to report any sexual abuse and harassment as well as any suspected incidents.

The Department has a letter of understanding with the Chairman of the New York State Commission of Correction (SCOC) in which the Commission will receive reports of PREA violations and forward those reports to the Office of the

Inspector General. The commission is a separate entity, which covers ability of a reporter to remain anonymous and provides an avenue for reporting that is not a part of the agency.

A training lesson plan for “Sexual Abuse Prevention and Response” was reviewed. This training defines methods of reporting and how an employee can do so anonymously. The auditors reviewed a brochure available to inmates entitled *The Prevention of Sexual Abuse in Prison: What Inmates Need to Know*. This brochure is printed in English and Spanish and provides the inmates with all the ways available for reporting sexual abuse and how they may remain anonymous.

Lastly, the auditors reviewed a redacted letter written by an attorney for the Legal Aid Society. The letter alerted facility officials an inmate might be in danger of sexual abuse.

The facility does not hold inmates solely civil immigration purposes.

Documentation review and interviews verify the facility meets the requirements of the standard.

### **Standard 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)

This standard is non-applicable due to Directive #4040. By Directive, inmates do not have to file a grievance regarding sexual abuse.

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

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

### **AUDIT FINDINGS:**

The facility is required to provide inmate victim of sexual abuse and harassment access to outside victim advocates. The facility must also allow reasonable and confidential communications between victim inmates and these organizations. Victim inmates must be informed the extent communications are monitored and the extent that reports will be forwarded according to mandatory reporting requirements.

The agency shall maintain memorandum of understanding with community service providers to provide confidential emotional support services for sexual abuse. Copies of these agreements must be maintained.

Directive # 4404 was reviewed. This allows advocacy organizations visitation with an inmate the same private status as a legal visit. This places the visit on a confidential level much higher than normal. The facility has designated areas for these types of visits to ensure the confidentiality of the communications.

Directive #4421 addresses correspondence with support organizations and classified such correspondence as privileged. This correspondence is allowed to be sealed and may be opened at the direction of the superintendent. Additionally, the inmate is allowed free postage for five letters each week.

Directive # 4423 addresses telephone communications between inmates and support organizations. Subsequent memos and documentation from the Associate Commissioner outlines the #77 telephone Hotline available to victim inmates. This service provided by contract and provides Rape Crisis Advocates. The #77 Hotline allows inmate access nearly 24 hours a day and is available to any inmate without cost and does not require the use of the inmate's call list.

The Association Commissioner is exploring expanding the use of this line as another avenue for reporting any PREA situation. The auditors reviewed a copy of the contract.

The facility meets the requirements of this standard.

### **Standard 115.54 Third-party reporting**

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

### **AUDIT FINDINGS:**

The agency must establish a method to receive third party reports of sexual abuse and sexual harassment. The agency must also make this information available to the public.

The Department of Corrections and Community Supervision maintains a website that is available to the public. This site is found a [www.doccs.ny.gov](http://www.doccs.ny.gov). The web page includes comprehensive information on PREA and how a third party can report an incident.

The facility meets the standard requirements.

### **Standard 115.61 Staff and agency reporting duties**

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

### **AUDIT FINDINGS:**

The staff must be required to immediately report any knowledge, suspicion or information regarding an incident of sexual abuse or harassment, in any facility. Staff is also required to report any retaliation against an inmate or staff, for

reporting such an incident, and to report any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

Staff is required not to reveal any information related to sexual misconduct to anyone other than a person initiating or involved the investigation.

Medical and mental health staff is required to report incidents of sexual abuse. They must also inform the inmate of their duty to report and the limitation of confidentiality.

The facility is required to report all allegations of sexual abuse and harassment to the designated investigators. Pursuant to the requirements of this standard the auditors reviewed the following documentation:

The Employee Manual spells out that the employee is required to report any sort of sexual misconduct, whether inmate-on-inmate or staff-on-inmate.

Directives 4027A and 4028A both go into detail on PREA reporting requirements. The employee is required to immediately report any sexual misconduct to his or her supervisor. The supervisor is required immediately to report the incident to the watch commander. These directives mandate there be no reprisals for any good faith report and details the requirements of staff members reporting obligations.

The auditors reviewed a memo from a Deputy Commissioner and an Associate Commissioner regarding an updated "Sexual Abuse Response and Containment Checklist." The checklist lists out tasks to be completed in response to a sexual assault and reporting requirements.

A Memorandum of Understanding (MOU) between the Department of Corrections and Community Supervision and the Office of Mental Health was reviewed. The MOU outlines the obligations under PREA of mental health staff and their duty to report. The MOU also says that staff must inform the inmate of their duty to report and the limitations on confidentiality. Lastly, the MOU notes there is not a requirement of inmate consent to report an incident.

{It should be noted, facility medical staff are employees of the Department of Corrections and Community Supervision while mental health staff are employees of the New York Office of Mental Health}

A redacted report of a PREA incident filed by a mental health staff member was also reviewed.

Formal and informal interviews with staff members revealed they were very aware of reporting requirements. All the staff interviewed knew they were required to immediately report any incident of sexual misconduct to their supervisor. Staff also knew that any information on sexual misconduct was confidential.

Interviews with medical staff and mental health staff verified they were aware of their duty to report any incident of sexual abuse or harassment. Medical and mental health staff knew they needed to inform the inmate of their duty to report and limit on confidentiality, and the inmate do not have to consent for them to make a report.

The interview with the Superintendent verified that all allegations are forwarded to the facility's sex crime investigators.

The facility is in compliance with this standard.

### **Standard 115.62 Agency protection duties**

- Exceeds Standard (substantially exceeds requirement of standard)

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

**AUDIT FINDINGS:**

This standard requires when an agency learns that an inmate is at substantial risk of sexual abuse, it must take immediate action to protect the inmate.

Directive # 4040 was reviewed for this standard. This standard requires staff to take immediate action to protect an inmate when there is knowledge; suspicion or information the inmate's health, safety or welfare is in serious threat or danger.

Directive # 4948 details how to handle a situation where an inmate is a high risk for sexual victimization. It requires an assessment of all available alternatives for safe housing for the inmate before using involuntary protective custody.

Also reviewed was Form 2168A which provides an assessment of alternative housing arrangement prior to using involuntary protective custody.

Interviews included the Commissioner, the Superintendent and random staff. All the interviews indicated that immediate action is required, and taken, whenever it is learned an inmate is at high risk of sexual abuse.

The facility meets the requirement of this standard.

**Standard 115.63 Reporting to other confinement facilities**

- XX** 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)

**AUDIT FINDINGS:**

When the facility receives an allegation an inmate was sexually abused at another facility, the head of the facility must notify the head of the facility where the abuse occurred. This notification will be made as soon as possible, but no later than 72 hours after it is received. Such notification shall be documented. If such a notification is received, the facility head must ensure the allegation is investigated according to PREA standards.

A memo dated August 24, 2015 from the Associate Commissioner to all Superintendents was reviewed. This memo outlined in detail the procedures to be followed when an allegation is received of a sexual abuse in another facility. The memo requires notification to the other facility within 72 hours and that the notification is to be done via email on Form 115.63.

This memo addresses incidents within the agency's jurisdiction, the City of New York and any other jurisdiction. It provides guidelines if there is difficulty in making contact with another jurisdiction and mandates a follow up phone call if the incident occurred within the past three years. The memo specifies that the incident must be logged and copies of the report must be maintained. Contact information is provided for lock up facilities in New York.

A redacted Form # 115.63 was reviewed as well as the email notification of the incident.

Also reviewed was a redacted referral form sent from the Pennsylvania Department of Corrections.

Interviews with the Commissioner and the Superintendent verified the facility is in compliance with the standard. The Superintendent's interview noted he had dealt with this nature of issue, notifying and receiving information.

Due the specific requirements of the agency on the notification process and required follow up of a notification, the facility exceeds the standard requirements.

### **Standard 115.64 Staff first responder duties**

- XX** 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)

### **AUDIT FINDINGS:**

This standard requires the first security staff member who learns of a sexual abuse incident to take specific actions. The victim must be separated from the abuser; preserve and protect the crime scene; if the abuse occurred recently, request the victim not take action that might destroy physical evidence and if the incident was recent ensure the abuser does not take any action to destroy evidence.

It is required that any non-security staff member who is a first responder request the victim not take any action that could destroy evidence.

Directives # 4027B and #4028B outline the procedures to be followed once an incident of sexual abuse has been reported. The Sexual Abuse and Response and Containment Checklist was reviewed. This checklist specified that if penetration occurred within 120 hours the victim needed be examined at the established hospital for sexual examinations.

A memo from the Deputy Commissioner and the Associate Commissioner to all Superintendents specified procedures when two inmates are engaged in sex with particular attention to any instance of force, threats, intimidation or coercion. An additional memo outlines the steps for a first responder.

A staff training lesson plan for the *Sexual Abuse Prevention and Response* was reviewed. The class was designed to instruction employees on the proper response to a sex abuse incident and how to appropriately deal with the victim. Staff members at this facility are issued cards that detail the expected response to a sexual abuse incident. The cards cover the all requirements of this standard. The auditors verified this information during the tour doing informal staff interviews and also verified the information during the formal staff interviews.

The one inmate who reported a PREA violation was interviewed. His situation involved harassment so it did not require a formal first response.

Due to the fact the facility requires staff members carry card that details the response steps, they have exceeded the requirements of the standard.

### **Standard 115.65 Coordinated response**

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

#### **AUDIT FINDINGS:**

In accordance with this standard, the facility is required to have a written policy to coordinate the actions in response to a sexual abuse incident among first responders, medical and mental health staff, investigators and facility leadership.

The facility has specific plan in place and the auditors reviewed it. The plan details how the requirements of the first responder who is to also notify his/her supervisor, who required, in turn, to notify the watch commander. The watch commander is the person responsible for the coordinated response.

The watch commander coordinates the required medical treatment with in-house staff, according the immediate needs of the victim. He/she sets up transportation, if needed, to the designated medical facility for SAFE/SANE examination. The watch commander makes arrangements for a victim advocate. The watch commander is responsible of maintaining a secure crime scene and notifying investigators as well as senior command staff of the facility.

This coordinated response plan was verified by the Superintendent during an interview.

The facility meets the requirements of the standard.

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

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

#### **AUDIT FINDINGS:**

The agency cannot enter into a collective bargaining agreement that precludes removing alleged staff sexual abusers from inmate contact pending an outcome of an investigation. When a no contact assignment is imposed, the documentation is retained in the personnel file if the allegation is substantiated or expunged if the allegation is not substantiated.

Directive # 2110 was reviewed. This directive includes a section that specifically deals with allegations of sexual abuse and allows the agency to remove the employee from inmate contact until the outcome of the investigation. Directive # 2114 details the functions of Bureau of Labor Relations and tells of status options for employees under investigation.

The interview with the Superintendent clarified that there are no restrictions from removing an employee from inmate contact during an investigation. He also verified the documentation would be retained if the allegation were substantiated and removed from the personnel file if not substantiated.

The facility meets the standard requirements.

### **Standard 115.67 Agency protection against retaliation**

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

### **AUDIT FINDINGS:**

The agency must have a policy to protect inmates and staff who report sexual abuse or harassment from retaliation by other inmates or staff and designate staff to monitor retaliation. The agency must use multiple measures to protect inmate victims and staff who report sexual abuse or harassment.

Inmates and staff who report sexual abuse must be monitored for at least 90 days for any possible retaliation. The agency must extend the monitoring if it is required. Inmates who are monitored must have periodic status checks. An individual who cooperates with a sexual abuse investigation shall be protected against retaliation. The obligation to monitor is terminated if the allegation is unfounded.

Section 2.19 of the Employee Manual points out the employees' obligation as it relates to retaliation of any inmate or staff member involved in the investigation of a sexual abuse or sexual harassment and results of such retaliation. A memorandum from the Associate Commissioner dated August 20, 2015 lists how a facility is to monitor any retaliation. It lists multiple protective measures to be used. It spells out the 90 day monitoring period required, as well as, 30-day status checks for an inmate. Any individual who cooperates with an investigation is to be protected from retaliation.

The memo designates the Assistant Deputy Superintendent (ADS)/ PREA Compliance Manager as person responsible for monitoring retaliation. The ADS is responsible for the status checks, which must be done face-to-face and documented on Form #115.67. The ADS also has the Form 115.67A to track cases being monitored. Lastly, the memo directs that monitoring will terminate if a case is determined to be unfounded. Copies of Form # 115.67 and Form # 115.67A were reviewed.

Auditors interviewed the agency head, the Superintendent and the Assistant Deputy Superintendent. All confirmed the facility's compliance with the monitoring requirements. The Superintendent verified if an allegation were substantiated against an employee, that information would be maintained in the personnel file.

The facility did not have any inmates in Segregated Housing for victimization and the facility did not have any monitoring cases at the time of the audit.

The facility meets the requirements of this standard.

**Standard 115.68 Post-allegation protective custody**

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

**AUDIT FINDINGS:**

If the facility uses segregated housing for an inmate who is a sexual abuse victim, that placement can only be made an assessment has been made that there are no alternative means to house the inmate. An inmate segregated as a sexual abuse victim must have access to programs, privileges, education and work opportunities. The facility must document any limitations to these activities.

The auditors reviewed Directive # 4948 and Form # 2168A, both of which complied with standard 115.43. Policy prohibits placing inmate victims of sexual abuse in segregated housing until there is an assessment made of all available alternatives. If segregated housing were required for an inmate victim, the facility would consider a transfer to another facility.

Sing Sing has not used involuntary segregated housing for the purpose of protecting an inmate who has been the victim of sexual abuse.

The facility meets the requirements of this standard.

**Standard 115.71 Criminal and administrative agency investigations**

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

**AUDIT FINDINGS:**

The agency must conduct investigations into sexual abuse and harassment promptly, thoroughly and objectively; including third party and anonymous reports. Investigators must have been trained in sexual abuse investigations. Investigator must preserve all evidence; interview all parties of the crime and review prior complaints involving the perpetrator.

Cases that appear to support criminal prosecution require consultation with prosecutors before conducting interviews. Credibility of all parties must be assessed on an individual basis. Victim cannot be required to take any sort of truth telling device as a condition for the investigation.

Administrative investigations must make an effort to determine if staff actions or failures to act contributed to the abuse and include documentation of physical evidence, as well as statements to show credibility of the findings.

Criminal investigations require thorough documentation of all evidence and statements. Substantiated criminal investigation must be referred for prosecution. The fact the victim or abuser has left the facility cannot be basis for ending an investigation.

Directive # 0700 outlines the organization of the Office of Special Investigations (OSI), of which, the Sex Crimes Unit is charged with investigating all sex crimes under the jurisdiction of the Department of Corrections and Community Supervision. This unit is also charged with preparing case for criminal prosecution.

OSI Policy and Procedure entitled “Training Requirements of Sex Crime Investigators” outlines the training provided to Sex Crime investigators.

OSI Sex Crimes Division provides investigator with “Dispatch and Operational Guidelines” for sex abuse cases. This document provides specific guidelines and steps to be followed during an investigation. Deviations from the guide require approval from a supervisor. The auditors found the document detailed and all encompassing.

A letter of understanding between the Department of Corrections and the State Police was reviewed. That letter details that the State Police will investigate in conjunction with the Department’s OSI.

Auditors conducted interviews with the Superintendent, the Associate Commissioner, the Assistant Deputy Superintendent and OSI Sex Crime Unit Investigators.

Document reviews and the interviews confirmed the facility is in compliance with all elements of this standard.

### **Standard 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)

### **AUDIT FINDINGS:**

For administrative hearings a preponderance of the evidence must be used to determine whether an allegation of sexual abuse or harassment is substantiated.

A memo dated July 29, 2015 from the Deputy Chief of Investigations to all Sex Crimes Division Investigators spells out that a substantiated allegation shall be made on the preponderance of evidence. This is further defined by, “the weight of the evidence indicates the allegation is more likely to be true than not true.”

The interviews with the Sex Crime Unit Investigators verified they used the weight of the evidence in substantiating cases of administrative investigations.

The facility is in compliance with this standard.

### **Standard 115.73 Reporting to inmates**

- Exceeds Standard (substantially exceeds requirement of standard)

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

**AUDIT FINDINGS:**

When an inmate makes an allegation of sexual abuse the agency must inform the inmate as to the disposition of the investigation. On a substantiated allegation against a staff member the agency must inform the inmate whenever 1) the staff member is no longer assigned to the inmate’s housing unit; 2) the staff member is no longer employed at the facility; 3) the staff member has been indicted on a sexual abuse charge related to the facility; or 4) the staff member has been convicted of a sexual abuse charge related to the facility.

On a substantiated allegation again another inmate, the agency will inform the victim whenever 1) the abuser has been indicted on a charge of sexual abuse related to the facility; or 2) the abuser has been convicted on a charge of sexual abuse related to the facility. All notifications must be documented. The agency’s obligation to notify is terminated if the inmate is released from custody.

A memo from the Chief, Office of Special Investigations to all Superintendents, dated September 14, 2015 was reviewed. The memo stated that OSI would notify reporting inmates the case outcome. The outcomes include: Substantiated allegation, unsubstantiated allegation and unfounded allegation. The memo also says the notifications would be documented and if the inmate were no longer in custody the notification obligation was terminated. A notification form was also reviewed.

A memo from the Deputy Chief of Investigations to All Sex Crime Division Staff dated July 29, 2015 was also reviewed. The memo outlined close out procedures, which included the necessary inmate notifications regarding inmate-on-inmate abuse and staff-on-inmate abuse. It mandates that notifications must be documented. A completed, redacted notification form was reviewed.

Interviews were conducted with the Superintendent and OSI Sex Crimes investigators. These interviews verified the facility followed the documented procedures.

The facility meets the requirements of this standard.

**Standard 115.76 Disciplinary sanctions for staff**

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

**AUDIT FINDINGS:**

Staff member shall be subject to disciplinary action, up to including termination for violations of sexual abuse and harassment policies. Termination is the presumptive sanction for staff that engages in sexual abuse. Violations of sexual abuse and harassment policies (other than engaging in sexual abuse) by staff will result sanctions commensurate with actual violation with consideration of the employee’s disciplinary history and sanctions imposed for comparable offenses by other staff.

Termination of staff for sexual abuse or sexual harassment violations or resignations that would have been terminated will be reported to law enforcement agencies unless it was clearly not a criminal matter. Such a separation will be reported to appropriate licensing bodies.

Directive # 4028B states that discipline and/or prosecution will be initiated for employees who engage in any sexual misconduct. Sexual abuse by a staff member will be prosecuted to the fullest extent of the law.

Directive # 2111 deals with the Report of Employee Misconduct.

The auditors also reviewed a redacted letter of resignation where the employee was under investigation for sexual misconduct.

Document reviews and interviews with the Superintendent, OSI investigators and Personnel staff verified the facility follows the standard.

The facility meets the requirements of the standard.

#### **Standard 115.77 Corrective action for contractors and volunteers**

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

Any contractor or volunteer who has engaged in sexual abuse is prohibited contact with inmates and will be reported to law enforcement unless it was not criminal activity. Such incidents are reported to licensing bodies. The facility takes remedial action and considers whether to prohibit contact with inmates for any violation of sexual abuse or harassment policies by a contractor or volunteer.

Directive #4750 outlines the Volunteer Services Program and specifically prohibits any volunteer have any sexual contact with an inmate. Volunteers are required to read the most updated of the Policy on the Prevention of Sexual Abuse of Offenders and must sign an acknowledgment.

Auditors reviewed a memorandum from the Commissioner dated September 4, 2013. The memo addressed all employees, contractors, volunteers and interns in regard to the Policy on the Prevention of Sexual Abuse of Offenders. In the memo the Commissioner emphasized the department's zero tolerance for sexual abuse and sexual harassment and compliance with the Prison Rape Elimination Act. The memo also highlighted the duty to report any sexual misconduct.

The auditors reviewed a completed "Acknowledgment of Orientation" that shows the volunteer received the Policy on Prevention of Sexual Abuse of Offenders.

The auditors interviewed a contractor who acknowledged he had received the information on zero tolerance of sexual abuse and sexual harassment, even though he had no contact with inmates.

An interview with the Superintendent revealed there would very little flexibility on dealing with a volunteer or contractor who had any type of policy violation of sexual abuse or sexual harassment.

The facility meets the requirements of the standard.

### **Standard 115.78 Disciplinary sanctions for inmates**

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

### **AUDIT FINDINGS:**

Inmates who engage in inmate-to-inmate sexual abuse will be subject to disciplinary sanctions following an administrative or criminal finding of guilt. The sanctions must be commensurate with act committed, disciplinary history and sanction imposed on other inmates for similar offenses. The disciplinary process must consider whether mental disability or mental illness contributed to the behavior. The facility is to consider therapy, counseling or other interventions to address underlying reasons or motivations for the abuse.

An inmate can only be disciplined for sexual with a staff member if the staff member did not consent to the contact. A good faith report of sexual abuse will not constitute a false report or lying even if the allegation cannot be substantiated. The agency may prohibit all sexual activity between inmates.

Directives #4027A and # 4028A were reviewed. Both directives pointed out the zero tolerance policy and good faith reports could not result in disciplinary action.

Directive # 4932, entitled Standards Behaviors and Allowances was reviewed. This directive detailed disciplinary procedures for inmate misconduct. In it, the policy says that considerations must be given to the particular circumstances involved; overall behavior patterns of the inmate and problems in the present atmosphere of the facility. The policy also directs the hearing officer to consider the inmate's mental condition and intellectual capacity.

A memorandum dated July 22, 2014 by a Deputy Commissioner addressed Disciplinary Disposition Guidelines. It emphasized being impartial and list a number of factors that should be considered in the process. It also mandated that superintendents be active in overseeing the process. This memo also listed specific sanction guidelines for sexual offenses.

Auditors also reviewed a document entitled Sex Offender Counseling and Treatment Program Guidelines. This guideline gives direction as to what inmates should be provided counseling. One section notes any inmate who is found guilty of the Standards of Inmate Behavior of a sex offense.

The Standards of Inmates Behavior was reviewed and it clearly detailed sexual offenses are prohibited. A redacted Disciplinary summary was also reviewed.

An interview with a mental health staff member verified that counseling was available for sexual offenders.

The Superintendent confirmed that sanctions are based on a number of considerations and one of the considerations is the inmate's mental condition.

The facility meets the requirements of this standard.

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

- XX** 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)

**AUDIT FINDINGS:**

If an intake screening indicates the inmate has experienced sexual victimization, the inmate is offered a follow up meeting with a medical staff or mental health staff within 14 days. An inmate who has perpetrated a sexual assault is also offered a follow up meeting within 14 days.

Information about sexual victimization that occurred in an institution is strictly limited to medical and mental health staff as necessary to inform treatment plans, security and housing decisions. Medical and mental health staff must obtain consent before reporting prior sexual victimization that did not occur in an institution.

Directive # 4301 deals with Mental Health Services. This directive requires that referrals must be seen within 14 days. A memo from the agency’s Chief Medical Officer outlines how screenings are to take place and provides a sample screening forms used.

A Memorandum of Understanding between the department and the Office of Mental Health specifies treatment and evaluation of all mental health referrals and shall include appropriate follow up services, treatment plans and further referrals as needed.

Screening staff verified that referrals were made as needed during the intake process. The facility provided documentation of three referrals made at the intake process. Mental health staff followed up these referrals in less than a week of each.

Due to the timeliness of the follow up process, the facility exceeds the requirements of this standard.

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

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

Victims of sexual abuse shall have timely, unimpeded access to emergency medical services and crisis intervention. If there are no qualified medical or mental health staff on duty, security first responders will take steps to protect the victim and notify appropriate medical and mental health staff.

Inmate victims are offered timely information and access to emergency contraception and sexually transmitted infection prophylaxis, where medically appropriate. Treatment services are provided at no cost to the inmate.

Department of Corrections and Community Supervision Health Services Policy Number 1.60 covers all aspects of this standard. Medical and mental treatment is mandated to be timely and unimpeded, as determined by the nature and scope of the practitioners' professional judgment. This treatment is provided without cost to the victim. Appropriate prophylactic treatment is to be offered.

Sexual abuse medical examinations are done at Westchester area hospitals where SAFE/SANE examiners are available. Auditors also reviewed a redacted referral form for an inmate who claimed to be a sexual abuse victim.

Interviews with medical staff and mental health staff verified the facility complies with the policies in place.

The facility meets the requirements of this standard.

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

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

### **AUDIT FINDINGS:**

Victims of abuse must be offered medical and mental health evaluations, as appropriate. Evaluations and treatment to victims must include follow-up services, treatment plans and referral for continued care after transfer or release.

Victims must be provided with medical and mental health services consistent with the community level of care. Victims shall be offered test for sexually transmitted infections. All treatment must be provided without cost to the victim. Mental health evaluations should be attempted on all known abusers with 60 days of learning of the abuse.

Department of Corrections and Community Supervision Health Services Policy Number 1.12B and Number 1.60 covers all aspects of this standard. Medical and mental treatment is offered to all victims. This treatment includes follow-up services, treatment plans and referrals, as needed. Victims are offered tests for sexually transmitted infections. All treatment protocols are provided to the victim without cost.

Interviews with medical and mental health staff confirmed these policies are in place and followed. Interviews also revealed the victim inmates received the same level of treatment as they would receive in the community. Interviews with mental health staff verified that offenders are referred and offered counseling.

The facility complies with this standard.

### **Standard 115.86 Sexual abuse incident reviews**

- Exceeds Standard (substantially exceeds requirement of standard)

- XX** 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 is required to conduct a review at the conclusion of all sexual abuse investigations, unless the allegation is unfounded. The review should occur within 30 days. The review team must include upper management official with input from line supervisors, investigators and medical or mental health staff.

The review team shall: 1) consider policy changes that would better prevent, detect or respond to sexual abuse; 2) consider whether the incident was motivated by race, ethnicity, gender identity, lesbian, gay, bisexual, transgender, intersex identity, gang affiliation or other group dynamics of the facility; 3) examine the area where the incident occurred to assess physical barriers enable abuse 4) assess the adequacy of staffing in the area; 5) assess monitoring technology to see it should supplement staff supervision; 6) prepare a report of finding to include any recommendation. The facility shall implement recommendations or document the reasons for not doing so.

A memo dated May 9, 2014 from a Deputy Commissioner and an Associate Commissioner directs all Superintendents to develop a Sexual Abuse Review Team. The memo specifies which staff should be a part of the team. The team is required to look at gaps there may be to policy, whether the physical plant and staffing are appropriate, whether group dynamics were a factor, as well as other factors. The review is to be completed within 30 days of the conclusion of the investigation and is to be documented to include any recommendations. The report is forwarded to the superintendent and the PREA Compliance Manager.

The facility presented the auditors a copy of the Sexual Abuse Incident Review Checklist. This checklist covers all elements of this standard, in detail. A redacted completed checklist was also provided for review.

Interviews with the Superintendent and the PREA Compliance Manager (ADS) confirmed the policy is in place and is practiced. The completed checklist verified the interview information.

The facility meets the requirements of this standard.

### **Standard 115.87 Data collection**

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

### **AUDIT FINDINGS:**

The agency shall collect uniform data for every allegation of sexual abuse at its facilities using a standardized instrument. That data shall include data necessary to answer the questions for the most recent Survey of Sexual Violence by the Department of Justice. The data shall be compiled at least annually.

Data must be collected and maintained from all available documents, reports, investigative files and sexual abuse incident reviews. The agency shall provide all such data to the Department of Justice, upon request.

Directive # 4027B and #4028B lists what standard information is to be collected and the formats to collect that information. This information is collected on a monthly basis.

The Office of Program Planning Research and Evaluation; PREA Data Collection, Review, Retention and Publication Manual details the data collection process as well as the review and analysis of that data. Data is collected in coordination with Sexual Abuse Prevention & Education Office and the Office of Special Investigations Sex Crimes Division. An annual report is prepared which identifies problem areas and corrective actions. The report compares current data with the previous years data. The department maintains 10 years of records.

Compliance with this standard was verified through interviews with the Associate Deputy Commissioner and the PREA Compliance Manager (ADS) along with review of Forms 2130SAll and 2103SASI.

The agency has provided the Department of Justice the data requested.

The facility is in compliance with this standard.

#### **Standard 115.88 Data review for corrective action**

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

#### **AUDIT FINDINGS:**

The agency is required to review data collected to assess and improve the effectiveness of its sexual abuse prevention, detection and response policies and training to identify problem areas; take corrective action and preparing an annual report of findings and corrective actions.

The annual report must include a comparison of the current data and corrective actions with previous years data to provide an assessment of the agency's progress in addressing sexual abuse. The report shall be approved by the agency head and made public. Information may be redacted if it would have an adverse impact to the safety and security of the facility.

The agency's PREA Data Collection, Review, Retention and Publication Manual was reviewed and found to have all the elements required in the standard. The auditors found the annual report available on the Department's website. The auditors were provided a copy of the Annual Report on Sexual Victimization 2013 – 2014.

The interviews with the Commissioner verified that he approves the annual report. The Associate Commissioner (AC) reported the material in the Annual report is not redacted. He said the report does not provide case specific information and aggregated data is presented to avoid identifying any individual or confidential information.

The AC also he reviews both regular and ad hoc reports produced for him. In addition, the Office of Special Investigations works closely with his office to establish an Analysis Unit, which is an additional tool. Prevention strategies are adjusted based on the analysis of the data.

The facility meets the requirements of this standard.

**Standard 115.89 Data storage, publication, and destruction**

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

**AUDIT FINDINGS:**

The agency shall ensure data collected are securely contained. It must make all aggregated sexual abuse data from its facilities available annually to the public through its website. All personal identifiers must be removed before publication. Sexual abuse data collected must be maintained for 10 years.

The PREA Data Collection, Review, Retention and Publication Manual covered all the elements of this standard.

The interview with the Associate Commissioner (AC) reported he has a Research Specialist dedicated to PREA matters. All raw data files and final reports are stored in restricted drives set up by the State Office of Information Technology Services. Paper records are stored in locked file cabinets. The AC stores his final reports and other ad hoc reports in locked file cabinets.

The facility meets the requirements of this standard.

**AUDITOR CERTIFICATION**

I certify that:

- XX** The contents of this report are accurate to the best of my knowledge.
- XX** No conflict of interest exists with respect to my ability to conduct an audit of the agency under review, and
- XX** 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.

*Randy Cross*

April 18, 2016.