

## Prison Rape Elimination Act (PREA) Audit Report Juvenile Facilities

Interim       Final

Date of Report    September 25, 2017

### Auditor Information

Name: Matthew A. Burns	Email: preaauditor2015@gmail.com
Company Name: Matthew A. Burns Consulting, LLC	
Mailing Address: PO Box 164	City, State, Zip: Kulpmont, PA 17834
Telephone: 570-847-4109	Date of Facility Visit: August 28-29, 2017

### Agency Information

Name of Agency Office of Children and Family Services	Governing Authority or Parent Agency (If Applicable) New York State
Physical Address: 52 Washington Street, Room 130	City, State, Zip: Rensselaer, NY 12144
Mailing Address: 52 Washington Street, Room 130	City, State, Zip: Rensselaer, NY 12144
Telephone: 518-486-6766	Is Agency accredited by any organization? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
The Agency Is:	<input type="checkbox"/> Military <input type="checkbox"/> Private for Profit <input type="checkbox"/> Private not for Profit <input type="checkbox"/> Municipal <input type="checkbox"/> County <input checked="" type="checkbox"/> State <input type="checkbox"/> Federal
Agency mission: "The Office of Children & Family Services serves New York's public by promoting the safety, permanency and well-being of our children, families and communities. We will achieve results by setting and enforcing policies, building partnerships, and funding and providing quality services".	
Agency Website with PREA Information: <a href="http://ocfs.ny.gov/main/rehab/prea.asp">http://ocfs.ny.gov/main/rehab/prea.asp</a>	

### Agency Chief Executive Officer

Name: Ines Nieves	Title: Deputy Commissioner - DJJOY
Email: Ines.Nieves@ocfs.ny.gov	Telephone: 518-486-6766

### Agency-Wide PREA Coordinator

<b>Name:</b> Amanda Grimes	<b>Title:</b> PREA Coordinator
<b>Email:</b> Amanda.Grimes@ocfs.ny.gov	<b>Telephone:</b> 518-486-7175
<b>PREA Coordinator Reports to:</b> Deputy Commissioner	<b>Number of Compliance Managers who report to the PREA Coordinator</b> 12

### Facility Information

<b>Name of Facility:</b> Industry Residential Center			
<b>Physical Address:</b> 375 Rush-Scottsville Road, Rush, NY 14543			
<b>Mailing Address (if different than above):</b> <a href="#">Click or tap here to enter text.</a>			
<b>Telephone Number:</b> 585-533-2600			
<b>The Facility Is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
<b>Facility Type:</b>	<input type="checkbox"/> Detention	<input checked="" type="checkbox"/> Correction	<input type="checkbox"/> Intake <input type="checkbox"/> Other
<b>Facility Mission:</b> “We are driven to empower staff, promote positive relationships, and improve the quality of life through our Labor/Management partnership. We are committed to building a safer and sustainable future for members by being proactive in creating solutions and accepting collective ownership of our community”.			
<b>Facility Website with PREA Information:</b> <a href="https://ocfs.ny.gov/main/rehab/prea.asp">https://ocfs.ny.gov/main/rehab/prea.asp</a>			
<b>Is this facility accredited by any other organization?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			

### Facility Administrator/Superintendent

<b>Name:</b> Velma Harris	<b>Title:</b> Facility Director
<b>Email:</b> Velma.Harris@ocfs.ny.gov	<b>Telephone:</b> 585-533-2600

### Facility PREA Compliance Manager

<b>Name:</b> Jimmie Eddington	<b>Title:</b> Assistant Director
<b>Email:</b> Jimmie.Eddington@ocfs.ny.gov	<b>Telephone:</b> 585-533-2777

### Facility Health Service Administrator

<b>Name:</b> Robin Gardner	<b>Title:</b> Nurse Administrator
<b>Email:</b> Robin.Gardner@ocfs.ny.gov	<b>Telephone:</b> 585-533-2777

<b>Facility Characteristics</b>	
<b>Designated Facility Capacity:</b> 50	<b>Current Population of Facility:</b> 42
<b>Number of residents admitted to facility during the past 12 months</b>	75
<b>Number of residents admitted to facility during the past 12 months whose length of stay in the facility was for 10 days or more:</b>	75
<b>Number of residents admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:</b>	75
<b>Number of residents on date of audit who were admitted to facility prior to August 20, 2012:</b>	0
<b>Age Range of Population:</b>	13-20
<b>Average length of stay or time under supervision:</b>	8 Months
<b>Facility Security Level:</b>	Secure
<b>Resident Custody Levels:</b>	JDIII
<b>Number of staff currently employed by the facility who may have contact with residents:</b>	123
<b>Number of staff hired by the facility during the past 12 months who may have contact with residents:</b>	130
<b>Number of contracts in the past 12 months for services with contractors who may have contact with residents:</b>	12
<b>Physical Plant</b>	
<b>Number of Buildings:</b> 32	<b>Number of Single Cell Housing Units:</b> 3
<b>Number of Multiple Occupancy Cell Housing Units:</b>	0
<b>Number of Open Bay/Dorm Housing Units:</b>	0
<b>Number of Segregation Cells (Administrative and Disciplinary):</b>	0
<b>Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.):</b>	
258 indoor video surveillance cameras and 97 outdoor video surveillance cameras (355 total video surveillance cameras). There are 8 monitors located in a Control Room that is staffed 24 hours a day. Video recordings from these devices remain on a secure server for approximately 14-21 days.	
<b>Medical</b>	
<b>Type of Medical Facility:</b>	Clinic
<b>Forensic sexual assault medical exams are conducted at:</b>	Rochester General Hospital
<b>Other</b>	

<b>Number of volunteers and individual contractors, who may have contact with residents, currently authorized to enter the facility:</b>	17
<b>Number of investigators the agency currently employs to investigate allegations of sexual abuse:</b>	0

# Audit Findings

## Audit Narrative

*The auditor's description of the audit methodology should include a detailed description of the following processes during the pre-onsite audit, onsite audit, and post-audit phases: documents and files reviewed, discussions and types of interviews conducted, number of days spent on-site, observations made during the site-review, and a detailed description of any follow-up work conducted during the post-audit phase. The narrative should describe the techniques the auditor used to sample documentation and select interviewees, and the auditor's process for the site review.*

The on-site portion of the PREA audit at Industry Residential Center took place on August 28 and August 29, 2017, and covered the audit period of August 28, 2016 to August 28, 2017. Prior to the on-site facility visit, the auditor reviewed a flash drive containing the pre-audit questionnaire and the facility's documentation relating to the compliance of each of the 41 PREA Juvenile Standards. The flash drive was very effective enabling the auditor to easily review the information contained on it. Each standard file was set up with "hyperlinks" to include supporting information and "protocols" which included OCFS policies. After the pre-audit review of the flash drive, the auditor sent questions generated from the initial review of documents to the agency PREA Coordinator. These questions were answered to the satisfaction of the auditor. The PREA Coordinator was always courteous and provided additional information in an expeditious manner. The notifications of the on-site audit were posted throughout the facility accessible to staff, residents, and visitors prior to the on-site audit. Photographs were taken of the various sites where the notices had been posted and the photographs were electronically sent to the auditor, noting their locations. Telephone conversations were held with the PREA Coordinator to review the PREA audit processes prior to the on-site audit. The facility was initially audited for PREA compliance in 2014. This is the second PREA compliance audit.

The agency has developed a very thorough and detailed plan that addresses all the PREA standards related to Prevention Planning, Responsive Planning, Training and Education, Screening for the Risk of Sexual Victimization and Abusiveness, Official Response Following a Juvenile Report, Investigations, Discipline, Medical and Mental Health Care, and Data Collection. The depth and scope of the policies indicates the seriousness with which OCFS takes regarding sexual safety and the commitment to the PREA standards.

The auditor arrived at the facility at 12:00pm on August 28, 2017. At that time, a brief meeting with the Agency PREA Coordinator (Amanda Grimes), Facility Director (Velma Harris), Facility PREA Compliance Manager/Assistant Director (Jimmie Eddington), and Assistant Director (Rahsaan DeLain) took place. This meeting was followed by a detailed tour of the facility which took approximately 2 hours. During the tour, the auditor noticed numerous PREA audit notices, an ample amount of video surveillance cameras (both inside and outside of facility), and a wide variety of attractive zero tolerance posters posted throughout the facility, including in the living units, programing areas, front lobby, and visitation area. The zero-tolerance posters were printed in both English and Spanish.

Following the tour, the auditor met with the management team to discuss the audit schedule and review the resident and staff rosters as well as the video surveillance system at the facility. The auditor interviewed Velma Harris as she serves as the Facility Director and monitors retaliation, and Jimmie Eddington as he services as the Facility Assistant Director and PREA Compliance Manager. Following these interviews, the auditor was able to interview 2 Assistant Director's as they complete unannounced rounds at the facility. After interviews were completed, the auditor reviewed 5 staff files for training records and completion of background checks. In addition, 5 resident files were reviewed for documentation verifying the PREA education and risk assessments. Prior to the on-site portion of the audit, training records were forwarded to the auditor and it was confirmed all staff members had successfully completed PREA Trainings. It also should be noted; all mental health and medical staff members completed an on-line specialty training specific to Mental Health and Medical Health in a

Confinement Setting. These training were offered by the National Institute of Corrections (NIC).

The second day of on-site portion of the audit included interviewing residents and staff members at the facility.

10 randomly selected residents were selected from the resident roster and interviewed in a private and confidential area of the facility (23% of the resident population was interviewed). Residents from all 3 living units were interviewed. There were 2 residents who identified as LGBTI, 1 resident who made allegations of sexual abuse/sexual harassment during the past 12 months, and 2 residents who disclosed prior sexual victimization during the risk screening who were interviewed. 1 resident who made allegations of sexual abuse/sexual harassment refused to be interviewed. There were no residents who needed translation services or presented any physical disabilities to interview. Ages of the residents interviewed ranged from 14 years old to 18 years old. All the residents interviewed were familiar with PREA, understood how to report an incident of sexual abuse, sexual assault, or sexual harassment, and understood the services which were available to them at the facility (including outside resources). All the residents interviewed stated they feel safe at the facility and that they feel staff do a good job of keeping them safe and meeting their treatment needs. The residents also stated they felt PREA was taken seriously at the facility and that they have been educated on a regular basis (including during intake) about PREA.

No residents had requested to speak with the auditor nor had the auditor received any written or email correspondence from any resident or staff member.

A total of 24 staff interviews took place (14 of the staff interviewed were Specialized Staff). These interviews included the following:

- ❖ PREA Compliance Manager
- ❖ Facility Director/Superintendent
- ❖ 2 Mental Health/Medical Staff
- ❖ 2 Staff who conduct Risk Assessments
- ❖ 2 First Responder Staff
- ❖ 2 Intake Staff
- ❖ 2 Staff who conduct Unannounced Rounds
- ❖ 1 Person who Monitors Retaliation
- ❖ 1 Member of the Incident Review Team
- ❖ 10 Randomly selected staff members representing all shifts

Randomly selected staff members interviewed years of experience ranged from 6 months to 31 years. 8 of the staff members interviewed were Youth Division Aides (YDA's) while the other 2 staff were Youth Counselors (YC). All the staff members were very knowledgeable of PREA, Zero Tolerance Policy, and reporting and responding to incidents and allegations of sexual abuse, assault, and harassment. The Agency Head, Agency PREA Coordinator, and a representative from the Justice Center of New York were not interviewed because they were interviewed during a previous PREA audit during the second cycle by this auditor. There were no volunteers interviewed as there were none at the facility to interview.

Interviews indicated that staff have been educated on PREA and were especially knowledgeable of the agency's Zero Tolerance for any form of sexual activity, responding to allegations, suspicions, and knowledge of sexual abuse, assault, or harassment, protecting evidence, and responding. All staff members are provided "PREA cards" which outlines procedures and proper protocol for protecting residents from imminent sexual abuse. Staff were professional and enthusiastic about their work and their PREA knowledge. Staff related they have been trained to take all suspicions, knowledge, or reports of sexual abuse seriously regardless of how the information was received. Staff were all aware of their roles as mandated reporters. Interviewed residents were also extremely knowledgeable about PREA and could articulate multiple ways to report sexual abuse and sexual harassment, the grievance process, calling or writing an outside support organization, third party reporting, and anonymous reporting. All residents interviewed stated they thought staff would take all allegations and reports of sexual abuse and sexual harassment seriously and that staff would protect them and take care of them.

Unannounced Rounds are completed on a regular basis by upper level management staff (Assistant Director's) at the facility. Logs of these Unannounced Rounds were reviewed by the auditor and met the standard. Shower and restroom areas provided privacy during showers and when residents used the restrooms. One resident is permitted to use the restroom or shower at a time. Female staff do not conduct showers and male staff position themselves to observe and ensure residents do not leave the shower area without approval. Residents go to the showers clothed and return clothed. During interviews with residents and staff, it was noted that female staff members announce their presence upon entering the living units and place a note in the Log Book. This was observed by the auditor during the tour of the facility.

The PREA education program for residents and screening for risk are conducted by a Youth Counselor and Mental Health/Medical staff on the date of admission, documented on a Facility Classification Form and stored in a database that is available to all members of the resident's treatment team and allows for a high level of fidelity regarding treatment plans and service needs during the resident's continuum of care. A higher percentage of residents in the Sexually Harmful Behavior Unit report prior sexual victimization during the screening process. Upon admission, residents also receive the OCFS Admission Handout "What you should know about Sexual Abuse/Harassment" and the Resident Handbook "Your Safety at OCFS DJJOY". These documents describe PREA in depth, including definitions of sexual abuse and sexual harassment, ways to report sexual abuse and sexual harassment and agencies that are available to victims of sexual abuse and sexual harassment.

Investigations regarding allegations of sexual abuse and sexual harassment are conducted by the Justice Center of New York. In the prior 12 months, there has been 6 allegations of sexual abuse, assault, or harassment at the facility (4 sexual harassment and 2 sexual abuse allegations – noted below). All allegations were reported to the Justice Center of New York and investigated by that agency. During each investigation, communication was maintained between the facility (Director and Assistant Director's) and the Justice Center of New York.

The 6 allegations reported during the past 12 months are as follows:

The first incident occurred on December 18, 2016. A resident alleged a staff member made an inappropriate sexual comment towards him. This incident was investigated by the Justice Center of New York and deemed Unfounded.

The second incident occurred on February 5, 2017. 4 residents alleged another resident touched them on their buttocks while they were getting into and out of a van while be transported. The incident was investigated by the Justice Center of New York and 3 of the allegations were deemed Substantiated while the other allegation was deemed Unsubstantiated.

The third incident occurred between the dates of January 30, 2017 and February 6, 2017. A resident alleged another resident was making unwanted sexual comments towards him during programming hours. The incident was investigated by the Justice Center of New York and the allegation was deemed Substantiated.

The fourth incident occurred on March 30, 2017. A resident told a staff member that another resident made allegations that he was having sex with a female staff member. This incident was investigated by the Justice Center of New York and was deemed Unsubstantiated.

The fifth incident occurred on June 23, 2017. A resident brushed against a medical staff's breasts while she was checking his vital signs. This incident is being investigated by the Justice Center of New York and is currently open.

The sixth incident occurred on June 23, 2017. A resident alleged another resident was making inappropriate and unwanted sexual comments to him through the vents in the wall while they were secured in their bedrooms at night. This incident is being investigated by the Justice Center of New York and is currently open.

All the incidents were taken seriously and Safety Plans were implemented by administrative staff and each allegation was immediately called into the Justice Center of New York. The Safety Plans made sure the alleged victim felt safe and included heightened supervision, living unit relocation, bedroom relocation, referral to a mental

health staff for evaluation, and/or education/treatment that was available for anyone involved (residents or staff). The auditor reviewed all Safety Plans and follow up actions which were taken by the facility (including Incident Review documentation).

The Auditor conducted an exit meeting with the management team at the Industry Residential Center following the on-site portion of the audit on August 29, 2017. The Auditor shared the findings of the audit and thanked the management team at the Industry Residential Center for their hard work and commitment to the full implementation of PREA in their facility. This auditor wishes to extend his appreciation to Ms. Grimes, Ms. Harris, Mr. Eddington, Mr. DeLain and all the employees at the Industry Residential Center for their professionalism, hospitality, and kindness that was displayed during the entire duration of the on-site portion of the audit as well as the pre and post audit phases.

## Facility Characteristics

*The auditor's description of the audited facility should include details about the facility type, demographics and size of the inmate, resident or detainee population, numbers and type of staff positions, configuration and layout of the facility, numbers of housing units, description of housing units including any special housing units, a description of programs and services, including food service and recreation. The auditor should describe how these details are relevant to PREA implementation and compliance.*

The Industry Residential Center is located 16 miles south of Rochester, New York. The physical address of the facility is 375 Rush Scottsville Road, Rush, New York, 14543. The Industry Residential Center is a secure male facility budgeted to house 50 residents. It is a New York State agency facility under the authority of the Office of Children and Family Services (OCFS). There are 3 operational living units on campus (Ahwaga Unit, Wyoming Unit, and Seneca Unit). Ahwaga Unit (Mental Health Unit) houses a maximum of 10 youth and Wyoming Unit (Sexually Harmful Behavior Unit) and Seneca Unit (Generic Unit) houses a maximum of 20 youth each. These living units are single, brick and stone masonry buildings and include a day room and supervisor's and therapist's offices. All resident bedrooms are single living units and "dry rooms" (no toilets or sinks).

On August 28, 2017, the resident population was 42 boys (6 residents in the Ahwaga Unit, 18 residents in the Wyoming Unit, and 18 residents in the Seneca Unit). The age range of the resident population ranged from age 13 to age 18. In the previous 12 months, a total of 75 residents had been admitted into the facility. The average length of stay was 8 months. Many of the residents placed at Industry Residential Center are from western New York.

The youth served are juvenile offenders/youth offenders and juvenile delinquents III's who, while under the age of 16, committed certain designated felonies and were convicted and sentenced in adult criminal court. Juvenile delinquents III is a legal designation which means the youth was adjudicated in family court and placed in OCFS care at a limited secure/non-secure facility. Depending upon the youth's sentence, these youths may remain in OCFS placement up to 21 years of age. Juvenile delinquents may remain in OCFS custody up to the age of 18 depending on their placement order. Youth adjudicated or restricted juvenile delinquents generally range in age from 13 to 21.

The facility is the site of one of the oldest "training schools" still in operation in the United States, having opened over 114 years ago. The 347 acre campus is comprised of several buildings including the administration building, a control center and medical services building, a church/religious services building, auditorium, 4 residential living units (3 operational units noted above and 1 is not operational), a school building, gymnasium, weight room, vocational buildings which include a greenhouse, wood working building, and an aquaponics building where catfish, perch, and tilapia are raised, and smaller buildings where pigs and chickens are raised. During the tour, it was noted the administrative building and school buildings were undergoing renovations. These renovations are expected to be completed in the near future. As a result, the administrative staff were being housed in the control

center and medical services building until the renovations were completed. The residents were attending school in their living units.

The perimeter of the facility is enclosed by a single fence with razor ribbon attached to the top. Entry and exit of the facility is controlled through one primary point, a sally port that is designed for pedestrian traffic, operated by staff in the facility Control Center. A second secure entrance for is used for service delivery vehicles, which is also managed from the Control Center. Entry is limited to authorized persons. Each visitor is required to present identification, sign in, and pass through a metal detector upon entrance into the facility. Any keys or personal items a visitor or staff member may have on them entering the facility, are given to the Central Control Center officer. The visitor or staff member is then given a chit. Upon exiting the facility and presenting the chit to the Central Control Center officer, the keys and/or personal items are returned to the visitor or staff member.

The Industry Residential Center is equipped with 258 indoor video surveillance cameras and 97 outdoor video surveillance cameras (355 total video surveillance cameras). The video surveillance cameras can be monitored at different limited access locations. Video recordings from these devices remain on a secure server for approximately 14-21 days depending on the type of purpose the camera serves. There is a total of 8 monitors in the Control Center.

The Industry Residential Center 2017 Staffing Plan noted the facility is budgeted for 158 direct care staff. 123 of those positions are currently filled and 35 of those positions are currently vacant. There are a total of 17 volunteers and contractors currently authorized to enter the facility.

The following services are offered to all residents placed at Industry Residential Center:

**Counseling:** The facility utilizes the New York Model and practices principles with “TEAM” Concepts and small group settings. There are 2 Youth Counselors for each residential living unit. There is daily group counseling following the Aggression Replacement Training (ART) model along with Victim Awareness, Innervations, Dialectal Behavior Therapy (DBT) as well as HIV/AIDS prevention. Each resident receives weekly individual counselor with his Youth Counselor and Social Worker/Psychologist.

**Education:** Academic curriculum provides academic instruction throughout the year, including summer school. Programs are provided for sixth graders and below. Required courses for grades seven through eleven include English, global studies, math and science. Speech therapy is also provided.

**Vocational Opportunities:** Vocational courses include carpentry, career awareness, food service, building and grounds maintenance, introduction to computers, retail property management, horticulture, aquaculture and landscaping.

**Health Services:** Medical services is provided 7 days a week by a staff of health practitioners. On-grounds dental services are offered by dentist and dental hygienist.

**Mental Health Services:** A combination of psychologists, psychiatric nurse practitioners, psychiatrists, social workers and mental health clinicians provided by the Office of Mental Health deliver mental health services, such as individual psychotherapy, staff consultation, staff training and referrals for community follow-up care.

**Recreational:** The campus includes a full-sized gymnasium including a 300-seat auditorium with a full staff, outdoor football and soccer fields, and a “confidence course” complete with a climbing tower. Outside each living unit, there is an athletic field for softball, football, soccer, volleyball, and a blacktop basketball court. Residents can participate in the satellite Rochester Boys and Girls Club on grounds and community partners also provide recreational opportunities.

**Religious Services:** The facility Chaplain offers religious services for all faiths and local community volunteers provide mentoring and special events for residents. Pastoral counseling is provided as needed.

**Visitation:** Family may visit at any time with special arrangements, but are encouraged to visit on weekends

between 12:30pm and 2:30pm.

**Special Programs:** The facility has 3 special programs for residents, including a Sexually Harmful Behavior Unit with capacity for residents.

The Aquaponics Program was started at Industry Residential Center in 2012 and has been expanding ever since. The residents have been instrumental in the success and growth by assisting in the construction and maintenance of the program from the very beginning. Currently, there are 2 warehouses, 2 outside gardens, and a greenhouse. Throughout the program, 800 fish have been acquired. There are catfish, perch, and tilapia. Tilapia are bred in the program as well as red claws (a crustacean). The program also grows flowering and fruiting vegetables that can't be grown aquaponically. Produce that is grown in the program is distributed in various ways within and outside of the facility. On average, the program produces approximately 30 pounds of lettuce weekly, of which 20 pounds is donated to the kitchen and Dugout Café for resident and staff meals. The principle goal of the Aquaponics Program consists of teaching residents fundamental work skills through hands-on tasks and activities.

The Industry Residential Center has a signed Memorandum of Agreement (MOA) in place with Rochester General Hospital (Rochester, New York). It is noted in this MOA that Rochester General Hospital will provide a forensic examination conducted by a Sexual Assault Nurse Examiner (SANE), collect and maintain the integrity of evidence collected during the examination for law enforcement, and contact the RESTORE Center of Planned Parenthood for Central and Western New York (Rochester, New York) to send an advocate to the hospital to provide rape crisis counseling and advocacy services in the event of a sexual assault.

The Industry Residential Center mission statement reads "We are driven to empower staff, promote positive relationships, and improve the quality of life through our Labor/Management partnership. We are committed to building a safer and sustainable future for members by being proactive in creating solutions and accepting collective ownership of our community."

## Summary of Audit Findings

*The summary should include the number of standards exceeded, number of standards met, and number of standards not met, **along with a list of each of the standards in each category.** If relevant, provide a summarized description of the corrective action plan, including deficiencies observed, recommendations made, actions taken by the agency, relevant timelines, and methods used by the auditor to reassess compliance.*

**Auditor Note:** No standard should be found to be "Not Applicable" or "NA". A compliance determination must be made for each standard.

**Number of Standards Exceeded: 3**

115.313, 115.331, & 115.333

**Number of Standards Met: 38**

115.311, 115.312, 115.315, 115.316, 115.317, 115.318, 115.321, 115.322, 115.332, 115.334, 115.335, 115.341, 115.342, 115.351, 115.352, 115.353, 115.354, 115.361, 115.362, 115.363, 115.364, 115.365, 115.366, 115.367, 115.368, 115.371, 115.372, 115.373, 115.376, 115.377, 115.378, 115.381, 115.382, 115.383, 115.386, 115.387, 115.388, & 115.389

Number of Standards Not Met: 0

Summary of Corrective Action (if any) None

## PREVENTION PLANNING

### Standard 115.311: Zero tolerance of sexual abuse and sexual harassment; PREA coordinator

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

#### 115.311 (a)

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

#### 115.311 (b)

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

#### 115.311 (c)

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

#### Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

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

### **Instructions for Overall Compliance Determination Narrative**

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

OCFS has implemented a zero-tolerance policy (OCFS Policy 324.01 – Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment) which comprehensively addresses the agency's approach to preventing, detecting, and responding to all forms of sexual abuse and sexual harassment. The contains necessary definitions, sanctions, and descriptions of the agency strategies and responses to sexual abuse and sexual harassment. This policy forms the foundation for the agency's training efforts with residents, staff, volunteers, and contractors.

The agency has designated a PREA Coordinator (Amanda Grimes) who reports directly to the Agency Head (Ines Nieves - Deputy Commissioner). Ms. Grimes was extremely knowledgeable of the PREA standards and it was evident that she was committed to PREA and in implementing PREA in all OCFS facilities. She also reported that she has the support needed and sufficient time to develop, implement, and oversee the agency's efforts towards PREA compliance and to fulfill her PREA responsibilities. Ms. Grimes was interviewed by the auditor during a previous PREA audit during the 2<sup>nd</sup> cycle.

The facility has a designated PREA Compliance Manager (Jimmie Eddington). His official title is Facility Assistant Director and PREA Compliance Manager. Mr. Eddington reports directly to the Facility Director. Mr. Eddington was knowledgeable of the PREA standards and their role in the facility. He stated she has sufficient time and authority to develop, implement, and oversee the Industry Residential Center's efforts to comply with the PREA standards.

The agency provided an Organizational Chart (revised in February 2017) that confirms the PREA Coordinator reports directly to the Deputy Commissioner and a Facility Organizational Chart (revised in April 2017) that confirms the PREA Compliance Manager reports directly to the Facility Director. Two separate memos from the Deputy Commissioner note the role of the PREA Coordinator and PREA Compliance Manager at each OCFS facility.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Administrative Coverage in OCFS Facilities Policy (PPM 3247.40)
- ❖ Agency Organizational Chart (Revised 2/2017)
- ❖ Facility Organizational Chart (Revised 4/2017)
- ❖ Industry Residential Center PREA Pre-Audit Questionnaire
- ❖ OCFS – 4902 Youth Admission Handout "What you should know about Sexual Abuse/Harassment"
- ❖ Agency Memo Identifying PREA Coordinator
- ❖ Agency Memo Identifying Facility Compliance Manager
- ❖ Interview with Facility PREA Compliance Manager

- ❖ Interview with Agency PREA Coordinator
- ❖ Interview with Agency Head

## Standard 115.312: Contracting with other entities for the confinement of residents

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

### 115.312 (a)

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

### 115.312 (b)

- Does any new contract or contract renewal signed on or after August 20, 2012 provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards? (N/A if the agency does not contract with private agencies or other entities for the confinement of residents OR the response to 115.312(a)-1 is "NO".)  Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

The Industry Residential Center does not contract for the confinement of its residents with other private agencies/entities.

Reviewed documentation to determine compliance:

- ❖ Interview with Agency Head

## Standard 115.313: Supervision and monitoring

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

#### 115.313 (a)

- Does the agency ensure that each facility has developed a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect residents against sexual abuse?  Yes  No
- Does the agency ensure that each facility has implemented a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect residents against sexual abuse?  Yes  No
- Does the agency ensure that each facility has documented a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect residents against sexual abuse?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: The prevalence of substantiated and unsubstantiated incidents of sexual abuse?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: Generally accepted juvenile detention and correctional/secure residential practices?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: Any judicial findings of inadequacy?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: Any findings of inadequacy from Federal investigative agencies?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: Any findings of inadequacy from internal or external oversight bodies?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: All components of the facility's physical plant (including "blind-spots" or areas where staff or residents may be isolated)?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: The composition of the resident population?  Yes  No

- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: The number and placement of supervisory staff?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: Institution programs occurring on a particular shift?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: Any applicable State or local laws, regulations, or standards?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: Any other relevant factors?  Yes  No

#### 115.313 (b)

- Does the agency comply with the staffing plan except during limited and discrete exigent circumstances?  Yes  No
- In circumstances where the staffing plan is not complied with, does the facility document all deviations from the plan? (N/A if no deviations from staffing plan.)  Yes  No  NA

#### 115.313 (c)

- Does the facility maintain staff ratios of a minimum of 1:8 during resident waking hours, except during limited and discrete exigent circumstances? (N/A only until October 1, 2017.)  Yes  No  NA
- Does the facility maintain staff ratios of a minimum of 1:16 during resident sleeping hours, except during limited and discrete exigent circumstances? (N/A only until October 1, 2017.)  Yes  No  NA
- Does the facility fully document any limited and discrete exigent circumstances during which the facility did not maintain staff ratios? (N/A only until October 1, 2017.)  Yes  No  NA
- Does the facility ensure only security staff are included when calculating these ratios? (N/A only until October 1, 2017.)  Yes  No  NA
- Is the facility obligated by law, regulation, or judicial consent decree to maintain the staffing ratios set forth in this paragraph?  Yes  No

#### 115.313 (d)

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

### 115.313 (e)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

The Annual Video Surveillance and Staffing Plan at the Industry Residential Center addresses the facility staffing plan and requirements. This plan noted the facility is currently budgeted for 158 direct care staff; 123 of those

positions are currently filled. The plan states the facility runs at a minimum 1:5 staff/resident ratio during Tour 2 and Tour 3 (waking hours) and a minimum 1:10 staff/resident ratio during Tour 1 (sleeping hours). However, it was evident after reviewing population reports for the past 12 months, staff schedules, and observations made during the tour of the facility, that the facility far exceeds these minimum ratios on a daily basis (regularly 1:3 staff resident ratio during Tour 2 and Tour 3 and 1:8 staff resident ratio during Tour 1).

Policy 3247.01 – Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment provides that documentation is required when deviations from the staffing plan occur. The facility reports that there have been no deviations from the staffing plan and review of the staffing plan and work schedules show the staff assignments. In the case staffing ratios cannot be maintained, staff would be held over and paid overtime. Interviews with the Facility Director and Facility PREA Compliance Manager revealed that staffing is monitored daily (shift by shift) and that adjustments are made as needed.

OCFS Policies 3247.01 and 3247.40 – Administrative Coverage in OCFS Facilities note that Unannounced Rounds are to be completed by intermediate/higher level staff to cover all Tours. These policies also state that staff members are not permitted to alert other staff members when Unannounced Rounds are being completed. A review of documentation and the staff interviews confirmed that Unannounced Rounds occur as required in the PREA standards.

The facility is equipped with 355 video surveillance cameras (258 indoor cameras and 97 outdoor cameras). Recordings from these devices remain on a secure server for approximately 14 days. There is a total of 8 monitors in the Central Control Center.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Administrative Coverage in OCFS Facilities Policy (PPM 3247.40)
- ❖ Industry Residential Center Staffing Schedule
- ❖ 2017 Industry Residential Center Video Surveillance and Staffing Plan
- ❖ Agency Employee Manual – Prohibiting staff from alerting other staff of Unannounced Rounds
- ❖ Unannounced Rounds Logs
- ❖ Locations of Video Surveillance Cameras (inside and outside of facility)
- ❖ Interview with Facility Director
- ❖ Interview with Facility Compliance Manager
- ❖ Random Staff Interviews

## Standard 115.315: Limits to cross-gender viewing and searches

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

### 115.315 (a)

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

### 115.315 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches in non-exigent circumstances?  Yes  No  NA

### 115.315 (c)

- Does the facility document and justify all cross-gender strip searches and cross-gender visual body cavity searches?  Yes  No
- Does the facility document all cross-gender pat-down searches?  Yes  No

### 115.315 (d)

- Does the facility implement policies and procedures that enable residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks?  Yes  No
- Does the facility require staff of the opposite gender to announce their presence when entering a resident housing unit?  Yes  No
- In facilities (such as group homes) that do not contain discrete housing units, does the facility require staff of the opposite gender to announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing? (N/A for facilities with discrete housing units)  Yes  No  NA

### 115.315 (e)

- Does the facility always refrain from searching or physically examining transgender or intersex residents for the sole purpose of determining the resident's genital status?  Yes  No
- If a resident's genital status is unknown, does the facility determine genital status during conversations with the resident, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner?  Yes  No

### 115.315 (f)

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

### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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OCFS Policy 3247.18 – Contraband, Inspections, and Searches prohibits staff from conducting cross-gender strip searches or cross-gender pat searches except for thoroughly documented exigent circumstances. Staff and resident interviews supported that cross-gender strip searches and cross-gender pat searches are prohibited and do not occur at the facility. During interviews, staff could describe what an exigent circumstance would be. Staff training includes the searching of residents. According to the Pre-Audit Questionnaire, there were no cross-gender strip searches or cross-gender pat searches during the audit period. The facility prohibits staff from searching or physically examining a transgender or intersex resident for the sole purpose of determining the resident's genital status. The facility has not admitted a transgender or intersex resident; however, the staff members interviewed understand that they are prohibited from searching or physically examining a transgender or intersex resident for the sole purpose of determining the resident's genital status.

OCFS Policy 3247.01 – Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment also requires the facility to implement procedures that enable residents to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia. All residents and staff members interviewed confirmed this policy was followed 100% of the time as only male staff members are permitted to supervise showers/bathroom call. Female staff members announce their presence in each living unit upon entering by stating "female on the unit" and noting their entrance into the living unit in the Log Book. Log entries in the Log Book and female staff members announcing their presence in the living units were observed by this auditor during the tour of the facility. Signs are posted in each living unit informing female staff members to announce their presence and the practice was also observed during the tour of the facility. Interviews with staff and residents confirmed that female staff members announce their presence upon entering a living unit as required.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Contraband, Inspections, and Searches Policy (PPM 3247.18)
- ❖ Conducting Comprehensive Searches Training Curriculum/Training Logs
- ❖ Random Resident Interviews
- ❖ Random Staff Interviews

## Standard 115.316: Residents with disabilities and residents who are limited English proficient

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

### 115.316 (a)

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

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

### 115.316 (b)

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

### 115.316 (c)

- Does the agency always refrain from relying on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-response duties under §115.364, or the investigation of the resident's allegations?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

OCFS Policy 3247.01 – Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment notes “OCFS is committed to the equal opportunity to participate in and benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse, assault, and harassment”. In addition, this policy states “all education and information shall be made available in formats accessible to all youth (Limited English, deaf, visually impaired or otherwise disabled as well as limited reading skills)”. Limited English Proficient (LEP) interpreters are also available through the Office of Communications. An LEP liaison can be reached at (518) 402-3130. This auditor was provided a comprehensive list of LEP Liaisons that are available to residents at the Industry Residential Center.

The agency PREA Youth Brochure is available to residents in both English and Spanish. Both versions of this

brochure were reviewed by the auditor prior to the on-site audit.

The Industry Residential Center's Pre-Audit Questionnaire indicated that the use of resident interpreters, resident readers, or other types of resident assistants is prohibited except in the event of exigent circumstances where a delay could result in the resident's safety being put into jeopardy. Random staff interviews confirmed that residents are not used as interpreters.

There were no residents who needed translation services or presented any physical disabilities to interview.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Secure Facilities Admission and Orientation Policy (PPM 3402.01)
- ❖ Language Assistance Resources
- ❖ Agency PREA Youth Brochure (English)
- ❖ Agency PREA Youth Brochure (Spanish)
- ❖ Random Staff Interviews

## Standard 115.317: Hiring and promotion decisions

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

### 115.317 (a)

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

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

#### 115.317 (b)

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

#### 115.317 (c)

- Before hiring new employees, who may have contact with residents, does the agency: Perform a criminal background records check?  Yes  No
- Before hiring new employees, who may have contact with residents, does the agency: Consult any child abuse registry maintained by the State or locality in which the employee would work?  Yes  No
- Before hiring new employees, who may have contact with residents, does the agency: Consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse?  Yes  No

#### 115.317 (d)

- Does the agency perform a criminal background records check before enlisting the services of any contractor who may have contact with residents?  Yes  No
- Does the agency consult applicable child abuse registries before enlisting the services of any contractor who may have contact with residents?  Yes  No

#### 115.17 (e)

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

#### 115.317 (f)

- Does the agency ask all applicants and employees who may have contact with residents directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions?  Yes  No

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

### 115.317 (g)

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

### 115.317 (h)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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OCFS Policy 2026.03 – Criminal History Screening – Employees/Candidates and OCFS Policy 2021.04 – Employee Screening for Child Abuse and Maltreatment provides guidelines for background checks and hiring and promotion practices. A review of documentation and an interview with the PREA Coordinator revealed that applicants, employees, and contractors are asked about previous sexual misconduct and background checks are completed. The Justice Center of New York is the lead agency in conducting background checks. The Justice Center maintains a Staff Exclusion List (SEL) that logs all individuals in the state of New York who have been found responsible for serious or repeated acts of abuse or neglect. If a prospective employee is listed on the SEL, he or she is no longer given further consideration for employment. If a person is not on the SEL, OCFS requests a criminal background check and a check of the statewide Central Register of Child Abuse and Maltreatment. The Justice Center will then notify the agency if the person has successfully completed the background check. Previous employment references are then contacted. Applicants are also required to report on their application for employment any arrests that may impact their ability to work with youth. When a person is hired in OCFS, their

name is registered in a national database that tracks any contacts with law enforcement agencies. If an OCFS employee is arrested anywhere in the United States, a notification is immediately sent to the Justice Center of New York. The Justice Center of New York then sends a notification to the facility. This system captures arrest records for all employees. As a result, criminal background checks are not completed every 5 years. OCFS checks the statewide Central Register of Child Abuse and Maltreatment every 2 years for current employees and any employee eligible for a promotion. All randomly selected staff member's files contained the above-mentioned background information. This was also confirmed with an email to the Human Resources Department.

In addition, the PREA Coordinator was able to describe the agency's hiring and promotion process in detail to the auditor.

Reviewed documentation to determine compliance:

- ❖ Justice Center's Frequently Asked Questions – Criminal Background Checks
- ❖ Justice Center's Staff Exclusion List Checks for Prospective Staff Hired
- ❖ Employee Screening for Child Abuse and Maltreatment Policy (PPM 2021.04)
- ❖ Criminal History Screening – Employees/Candidates Policy (PPM 2026.03)
- ❖ Interview with Agency PREA Coordinator

## Standard 115.318: Upgrades to facilities and technologies

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

### 115.318 (a)

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

### 115.318 (b)

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

### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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The Industry Residential Center develops a Video Surveillance and Staff Plan on an annual basis. This plan was reviewed by the auditor prior to the on-site audit and was confirmed during interviews with the agency PREA Coordinator and the Facility Director. There have been no renovations to the facility during this review period. Through interviews, it was confirmed that if there are any additional plans for expansion or modifications, the agency will take into consideration the possible need to increase video monitoring and to further review monitoring technology. It should be noted; the video surveillance system was last updated in 2014.

Reviewed documentation to determine compliance:

- ❖ 2017 Industry Residential Center Video Surveillance and Staffing Plan
- ❖ Interview with Agency Head
- ❖ Interview with Facility Director
- ❖ Interview with PREA Compliance Manager
- ❖ Interview with Agency PREA Coordinator

## RESPONSIVE PLANNING

### Standard 115.321: Evidence protocol and forensic medical examinations

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

#### 115.321 (a)

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

#### 115.321 (b)

- Is this protocol developmentally appropriate for youth where applicable? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)  Yes  No  NA
- Is this protocol, as appropriate, adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National

Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,” or similarly comprehensive and authoritative protocols developed after 2011? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)  Yes  No  NA

#### 115.321 (c)

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

#### 115.321 (d)

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

#### 115.321 (e)

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

#### 115.321 (f)

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

### 115.321 (g)

- Auditor is not required to audit this provision.

### 115.321 (h)

- If the agency uses a qualified agency staff member or a qualified community-based staff member for the purposes of this section, has the individual been screened for appropriateness to serve in this role and received education concerning sexual assault and forensic examination issues in general? (Check N/A if agency attempts to make a victim advocate from a rape crisis center available to victims per 115.321(d) above.)  Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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OCFS Policy 3243.16 – Payment for Health Services addresses the availability of victim advocacy services to residents and that services will be provided to the residents at no cost. A review of documentation shows that the facility has a signed Memorandum of Agreement (MOA) with Rochester General Hospital. The MOA clearly states Rochester General Hospital will provide a forensic examination conducted by a Sexual Assault Nurse Examiner (SANE) or other similarly credentialed forensic examiner, collect and maintain the integrity of evidence collected during the examination for law enforcement, and contact the RESTORE Center of Planned Parenthood for Central and Western New York who will send an advocate to the medical center to provide rape crisis counseling and advocacy services.

The Justice Center of New York conducts sexual abuse and sexual harassment administrative and criminal investigations. All alleged incidents of sexual abuse and sexual harassment which may be criminal in nature are also reported to other appropriate authorities as required. The OCFS Deputy Commissioner formally asked the Justice Center Executive Director to comply with all PREA investigative standards in a letter dated June 2, 2014. The agency PREA Coordinator stated that all investigators at the Justice Center of New York who conduct investigations at OCFS facilities have been trained in a uniform evidence protocol by the National Institute of Corrections (NIC). A representative from the Justice Center was contacted and stated they complete all criminal and sexual abuse/PREA investigations for allegations at all New York OCFS facilities (including Industry Residential Center).

All staff are trained to preserve incident scenes and measures to prevent evidence from being destroyed. This was confirmed during interviews with randomly selected staff at the facility. The residents at the facility involved in the incidents of sexual assault (a resident touching other residents on the buttocks through their clothing) were

interviewed and stated that were aware of the resources from outside agencies available them and refused these resources.

Reviewed documentation to determine compliance:

- ❖ Payment for Health Services Policy (PPM 3243.16)
- ❖ Formal Letter to NYS Justice Center Executive Director requesting investigations be conducted in compliance within PREA Standards (June 2, 2014)
- ❖ MOU with Rochester General Hospital
- ❖ Interview with Agency PREA Coordinator
- ❖ Interview with Representative from Justice Center of New York

## Standard 115.322: Policies to ensure referrals of allegations for investigations

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

### 115.322 (a)

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

### 115.322 (b)

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

### 115.322 (c)

- If a separate entity is responsible for conducting criminal investigations, does such publication describe the responsibilities of both the agency and the investigating entity? [N/A if the agency/facility is responsible for criminal investigations. See 115.321(a).]  
 Yes  No  NA

### 115.22 (d)

- Auditor is not required to audit this provision.

### 115.22 (e)

- Auditor is not required to audit this provision.

### **Auditor Overall Compliance Determination**

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

### **Instructions for Overall Compliance Determination Narrative**

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

OCFS Policy 3247.01 – Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment requires that allegations of sexual abuse or sexual harassment are referred for investigation. All allegations of sexual abuse are reported to the Justice Center of New York within 24 hours. The OCFS Deputy Commissioner has formally asked the Justice Center Executive Director to comply with PREA investigative standards. This was requested in a formal letter to the NYS Justice Center Executive Director requesting investigations be conducted in compliance within PREA Standards. The letter was dated June 2, 2014, and a copy was provided to the auditor.

Information regarding the referral of allegations of sexual abuse or sexual harassment for investigation and other related PREA information is posted on the OCFS website. PREA related information is also posted in the facility in every living unit and common area.

In the prior 12 months, there has been 6 allegations of sexual abuse, assault, or harassment at the Industry Residential Center (6 incidents total). All allegations were reported to the Justice Center of New York and investigated by that agency. During an open investigation, communication is maintained between the facility and the Justice Center of New York through telephone calls, emails, and on-site visits. The Justice Center of New York conducted thorough investigations and sent a detailed report to the facility noting their findings. Following the facility receiving the final report from the Justice Center of New York regarding the Substantiated allegation of sexual abuse, a PREA Sexual Abuse Incident Review was conducted by the facility PREA Compliance Manager and documented.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Formal Letter to NYS Justice Center Executive Director requesting investigations be conducted in compliance within PREA Standards (June 2, 2014)
- ❖ Review of Facility Reportable Incident Forms from 2016-2017
- ❖ Review of Justice Center's Notification to the Facility Director
- ❖ Review of PREA Sexual Abuse Incident Review Form (July 11, 2017)
- ❖ Interview with Facility Director
- ❖ Interview with Facility PREA Compliance Manager
- ❖ Interview with Agency PREA Coordinator

## TRAINING AND EDUCATION

### Standard 115.331: Employee training

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

#### 115.331 (a)

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

- Does the agency train all employees who may have contact with residents on: Relevant laws regarding the applicable age of consent?  Yes  No

#### 115.331 (b)

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

#### 115.331 (c)

- Have all current employees who may have contact with residents received such training?  Yes  No
- Does the agency provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures?  Yes  No
- In years in which an employee does not receive refresher training, does the agency provide refresher information on current sexual abuse and sexual harassment policies?  Yes  No

#### 115.331 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

OCFS Policy 3247.01 – Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment provides information regarding staff training. This policy notes all employees shall receive training that is specific to juveniles and the gender of the population they are working with. Employees sign an acknowledgement form verifying they understand the training they receive. Staff must be retrained when they transfer to a different gender population. All employees receive an initial training created by the National Institute of Corrections (PREA: Your Role in Responding to Sexual Abuse). Current employees who completed this training, receive refresher training annually (OCFS – PREA Policy Review). The trainings include 11 different topics required by the PREA standards:

- ❖ Agency Zero Tolerance Policy
- ❖ Fulfilling their responsibilities under agency sexual abuse and sexual harassment prevention, detecting, reporting, and response policies and procedures.
- ❖ Resident's right to be free from sexual abuse, assault, and harassment.
- ❖ Right of residents and employees to be free from retaliation.
- ❖ Dynamics of sexual abuse and sexual harassment in juvenile facilities.
- ❖ Common reactions of juvenile victims of sexual abuse and harassment.
- ❖ How to detect and respond to signs of threatened and actual sexual abuse and how to distinguish between consensual and sexual abuse between residents.
- ❖ How to avoid inappropriate relationships with residents.
- ❖ Effective and professional communication with residents including those who identify as lesbian, gay, transgender, and questions (LGBTQ) or gender non-conforming.
- ❖ Compliance with relevant laws related to mandatory reporting of sexual abuse.
- ❖ Laws governing consent for OCFS youth.

In addition to above-mentioned PREA trainings, OCFS Policy 3442.00 – Lesbian, Gay, Bisexual, Transgender, and Questioning Youth states all OCFS staff members are required to attend LGBT Training on an annual basis. This training raises awareness and capacity for staff members to respond to gender identity, sexual orientation, and gender expression issues in residential settings.

During the on-site visit, it was noted that posters are posted throughout the facility to educate both staff and residents on facility PREA policies. Brochures noting PREA requirements are given to all residents, staff, volunteers, and contractors. The agency also has PREA information for both youth and the public posted on its website.

The Pre Audit Questionnaire documented that all staff members currently employed at the Industry Residential Center were trained or retrained on the PREA requirements during the past year. The facility provided documentation that indicated staff were and are trained as stated and required. This included training logs for all employees at the facility. These training records were reviewed by the auditor.

Randomly selected staff, as well as specialized staff, were knowledgeable of PREA. All specialized staff could articulate their understanding of PREA and the topics that they were trained in. Staff demonstrated their knowledge of PREA, the Zero Tolerance Policy, and residents and staff's right to be free from retaliation for reporting. In addition, staff members are provided "PREA cards" which outlines procedures and proper protocol for protecting residents from imminent sexual abuse. All the staff interviewed were carrying their "PREA card" and displayed it to the Auditor when requested.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Lesbian, Gay, Bisexual, Transgender, and Questioning Youth (PPM 3442.00)
- ❖ PREA Training Curriculums/Training Logs
- ❖ Conducting Comprehensive Searches Training Curriculum
- ❖ Training Logs
- ❖ Sexual Misconduct Brochure
- ❖ Random Staff Interviews

- ❖ Agency website

## Standard 115.332: Volunteer and contractor training

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

#### 115.332 (a)

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

#### 115.332 (b)

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

#### 115.332 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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OCFS Policy 3247.01 – Prevention, Detection, and Response to Sexual Abuse, Assault, and Harassment addresses this standard and requires the facility to ensure that all volunteers and contractors who may have contact with residents have been trained on their responsibilities, the facility's zero tolerance policy regarding sexual abuse and sexual harassment, and how to report such allegations. The level and type of training is based on the services they provide and the level of contact they have with the residents. Prior to entering the facility, all volunteers and contractors are given a Sexual Misconduct Brochure and a Volunteer/Contractor Training and

Acknowledgement Form to review and sign off on. This brochure and form was reviewed by the Auditor and clearly outlines the zero-tolerance policy, lists PREA definitions, and notes reporting requirements and prohibitions.

During the past 12 months, 17 volunteers and contractors have been trained on the agency's policies and procedures regarding how to report incidents or suspicions of sexual abuse, assault, or harassment. All volunteer/contractor training records were reviewed by the auditor. There were no volunteers or contractors at the facility to interview during the on-site audit.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Employee/Volunteer/Contractor Training and Acknowledgement
- ❖ Sexual Misconduct Brochure

## Standard 115.333: Resident education

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

### 115.333 (a)

- During intake, do residents receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment?  Yes  No
- During intake, do residents receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment?  Yes  No
- Is this information presented in an age-appropriate fashion?  Yes  No

### 115.333 (b)

- Within 10 days of intake, does the agency provide age-appropriate comprehensive education to residents either in person or through video regarding: Their rights to be free from sexual abuse and sexual harassment?  Yes  No
- Within 10 days of intake, does the agency provide age-appropriate comprehensive education to residents either in person or through video regarding: Their rights to be free from retaliation for reporting such incidents?  Yes  No
- Within 10 days of intake, does the agency provide age-appropriate comprehensive education to residents either in person or through video regarding: Agency policies and procedures for responding to such incidents?  Yes  No

### 115.333 (c)

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

### 115.333 (d)

- Does the agency provide resident education in formats accessible to all residents including those who: Are limited English proficient?  Yes  No
- Does the agency provide resident education in formats accessible to all residents including those who: Are deaf?  Yes  No
- Does the agency provide resident education in formats accessible to all residents including those who: Are visually impaired?  Yes  No
- Does the agency provide resident education in formats accessible to all residents including those who: Are otherwise disabled?  Yes  No
- Does the agency provide resident education in formats accessible to all residents including those who: Have limited reading skills?  Yes  No

### 115.333 (e)

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

### 115.33 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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OCFS Policy 3247.01 – Prevention, Detection, and Response to Sexual Abuse, Assault, and Harassment requires that upon admission, and no later than 72 hours, all residents receive age appropriate training about PREA and

how to report incidents or suspicions of sexual abuse and sexual harassment, the facility response, and non-retaliation for reporting. The above information is communicated orally and in writing, in a language clearly understood by the resident, during the intake process. Language assistance resources are available through the OCFS Public Information Office. The facility also ensures that key information about PREA is continuously and readily available or visible through posters, the Resident Handbook, and PREA pamphlets.

All the residents interviewed were knowledgeable about PREA; including the zero-tolerance policy, their rights to be free from sexual abuse and harassment, their right to be free from retaliation for reporting, and multiple ways to report (both internally and externally). It was obvious during the tour of the facility and during interviews with residents that the facility takes the education of residents seriously regarding PREA.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Limited Secure and Non-Secure Facilities Admission and Orientation Policy (PPM 3402.00)
- ❖ OCFS – 4902 Youth Admission Handout “What you should know about Sexual Abuse/Harassment”
- ❖ Industry Residential Center - Resident Zero Tolerance Acknowledgement
- ❖ PREA Posters
- ❖ Random Resident Interviews

## Standard 115.334: Specialized training: Investigations

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

### 115.334 (a)

- In addition to the general training provided to all employees pursuant to §115.331, does the agency ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.321(a).]  Yes  No  NA

### 115.334 (b)

- Does this specialized training include: Techniques for interviewing juvenile sexual abuse victims? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.321(a).]  Yes  No  NA
- Does this specialized training include: Proper use of Miranda and Garrity warnings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.321(a).]  Yes  No  NA
- Does this specialized training include: Sexual abuse evidence collection in confinement settings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.321(a).]  Yes  No  NA
- Does this specialized training include: The criteria and evidence required to substantiate a case for administrative action or prosecution referral? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.321(a).]  Yes  No  NA

### 115.334 (c)

- Does the agency maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.321(a).]  
 Yes  No  NA

### 115.334 (d)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

According to OCFS Policy 3247.01 – Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment, the facility staff members do not conduct investigations. The Justice Center of New York is the state entity outside of the agency responsible for the investigation of all allegations of sexual abuse and sexual harassment in OCFS facilities. The OCFS Deputy Commissioner has formally asked the Justice Center Executive Director to comply with PREA investigative standards. This was requested in a formal letter to the NYS Justice Center Executive Director requesting investigations be conducted in compliance within PREA Standards. The letter was dated June 2, 2014, and a copy was provided to the auditor.

A representative from the Justice Center of New York was interviewed by this auditor and confirmed the above-mentioned process regarding investigations. In addition, the Agency Head, Agency PREA Coordinator, Facility Director, and Facility PREA Compliance Manager were able to describe the investigative process from start to finish to the auditor during interviews.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Formal Letter to NYS Justice Center Executive Director requesting investigations be conducted in compliance within PREA Standards (June 2, 2014)
- ❖ Random Staff Interviews
- ❖ Interview with Justice Center of New York Representative
- ❖ Interview with Agency Head
- ❖ Interview with Facility Director

- ❖ Interview with PREA Compliance Manager
- ❖ Interview with Agency PREA Coordinator

## Standard 115.335: Specialized training: Medical and mental health care

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

### 115.335 (a)

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

### 115.335 (b)

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

### 115.335 (c)

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

### 115.335 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.331?  Yes  No
- Do medical and mental health care practitioners contracted by and volunteering for the agency also receive training mandated for contractors and volunteers by §115.332?  Yes  No

### Auditor Overall Compliance Determination

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

**Instructions for Overall Compliance Determination Narrative**

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OCFS Policy 3247.01 – Prevention, Detection, and Response to Sexual Abuse, Assault and Harassment requires medical and mental health staff shall receive specialized training (in addition to the training provided to all employees) in the following:

- ❖ Detecting and assessing signs of sexual abuse, assault, and harassment.
- ❖ Preserving physical evidence of sexual abuse and assault.
- ❖ Responding efficiently and professionally to victims of sexual abuse, assault, and harassment.
- ❖ How and whom to report allegations or suspicions of sexual abuse and assault.

A review of training records and interviews with medical and mental health staff confirmed all staff had received the specialized training offered by the National Institute of Corrections (Medical Health Care Providers in Confinement Settings and Mental Health Care Providers in Confinement Settings) required by the PREA standards. Medical staff at the Industry Residential Center do not conduct forensic examinations. In addition to the specialized training, medical and mental health staff also receive the PREA training that all staff at the facility are mandated to completed. All medical and mental health staff interviewed were extremely knowledgeable about PREA and the role PREA plays in the facility regarding sexual abuse and sexual harassment.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Training Curriculum/Training Records
- ❖ Interviews with Medical and Mental Health Staff

**SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS**

**Standard 115.341: Screening for risk of victimization and abusiveness**

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

**115.341 (a)**

- Within 72 hours of the resident's arrival at the facility, does the agency obtain and use information about each resident's personal history and behavior to reduce risk of sexual abuse by or upon a resident?  Yes  No
- Does the agency also obtain this information periodically throughout a resident's confinement?  Yes  No

#### 115.341 (b)

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

#### 115.341 (c)

- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Prior sexual victimization or abusiveness?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may therefore be vulnerable to sexual abuse?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Current charges and offense history?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Age?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Level of emotional and cognitive development?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Physical size and stature?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Mental illness or mental disabilities?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Intellectual or developmental disabilities?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Physical disabilities?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: The resident's own perception of vulnerability?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Any other specific information about individual residents that may

indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents?  Yes  No

#### 115.341 (d)

- Is this information ascertained: Through conversations with the resident during the intake process and medical mental health screenings?  Yes  No
- Is this information ascertained: During classification assessments?  Yes  No
- Is this information ascertained: By reviewing court records, case files, facility behavioral records, and other relevant documentation from the resident's files?  Yes  No

#### 115.341 (e)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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OCFS Policy 3247.01 – Prevention, Detection, and Response to Sexual Abuse, Assault and Harassment addresses the use of the Facility Classification Form. It is administered to determine the resident's risk of victimization and abusiveness and other related information. The instrument is completed by a Youth Counselor on each resident upon intake whether the resident is a new admission or transfer. The Facility Classification Form is used to obtain information required by this standard, including but not limited to prior sexual victimization or abusiveness, current charges and offense history, mental health and/or developmental status, and placement history. Living units and room assignments are made accordingly. Reassessments are completed every 30 days by a Therapist and more often as indicated. There have been 75 residents admitted to the facility during the past 12 months and all youth received a screening as noted in the agency policy.

Interviews with residents confirmed the screening assessment has been completed as noted in the above-mentioned policy. 5 resident files were reviewed for documentation verifying the risk assessments were being

completed as per the above-mentioned policy. All the files reviewed had the above-mentioned screening completed.

Interviews with the intake staff and staff responsible for performing the screening for risk of victimization and abusiveness indicated staff are complying with OCFS policy and that they were aware of the importance of securing vital information during this process to ensure the resident's safety. Staff reported the risk assessment takes place at intake or within 72 hours of intake.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Limited Secure and Non-Secure Facilities Admission and Orientation Policy (PPM 3402.00)
- ❖ Industry Residential Center Classification Form (OCFS – 4928)
- ❖ Interview with Agency PREA Coordinator
- ❖ Interview with Facility Director
- ❖ Interview with Facility PREA Compliance Manager
- ❖ Interviews with Intake Staff
- ❖ Interviews with Staff Responsible for Risk Screening
- ❖ Interviews with Residents

## Standard 115.342: Use of screening information

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

### 115.342 (a)

- Does the agency use all of the information obtained pursuant to § 115.341 and subsequently, with the goal of keeping all residents safe and free from sexual abuse, to make: Housing Assignments?  Yes  No
- Does the agency use all of the information obtained pursuant to § 115.341 and subsequently, with the goal of keeping all residents safe and free from sexual abuse, to make: Bed assignments?  Yes  No
- Does the agency use all of the information obtained pursuant to § 115.341 and subsequently, with the goal of keeping all residents safe and free from sexual abuse, to make: Work Assignments?  Yes  No
- Does the agency use all of the information obtained pursuant to § 115.341 and subsequently, with the goal of keeping all residents safe and free from sexual abuse, to make: Education Assignments?  Yes  No
- Does the agency use all of the information obtained pursuant to § 115.341 and subsequently, with the goal of keeping all residents safe and free from sexual abuse, to make: Program Assignments?  Yes  No

### 115.342 (b)

- Are residents isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other residents safe, and then only until an alternative means of keeping all residents safe can be arranged?  Yes  No
- During any period of isolation, does the agency always refrain from denying residents daily large-muscle exercise?  Yes  No
- During any period of isolation, does the agency always refrain from denying residents any legally required educational programming or special education services?  Yes  No
- Do residents in isolation receive daily visits from a medical or mental health care clinician?  Yes  No
- Do residents also have access to other programs and work opportunities to the extent possible?  Yes  No

#### 115.342 (c)

- Does the agency always refrain from placing: Lesbian, gay, and bisexual residents in particular housing, bed, or other assignments solely on the basis of such identification or status?  Yes  No
- Does the agency always refrain from placing: Transgender residents in particular housing, bed, or other assignments solely on the basis of such identification or status?  Yes  No
- Does the agency always refrain from placing: Intersex residents in particular housing, bed, or other assignments solely on the basis of such identification or status?  Yes  No
- Does the agency always refrain from considering lesbian, gay, bisexual, transgender, or intersex identification or status as an indicator or likelihood of being sexually abusive?  Yes  No

#### 115.342 (d)

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

#### 115.342 (e)

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

#### 115.342 (f)

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

#### 115.342 (g)

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

#### 115.342 (h)

- If a resident is isolated pursuant to paragraph (b) of this section, does the facility clearly document: The basis for the facility's concern for the resident's safety? (N/A for h and i if facility doesn't use isolation?)  Yes  No  NA
- If a resident is isolated pursuant to paragraph (b) of this section, does the facility clearly document: The reason why no alternative means of separation can be arranged? (N/A for h and i if facility doesn't use isolation?)  Yes  No  NA

#### 115.342 (i)

- In the case of each resident who is isolated as a last resort when less restrictive measures are inadequate to keep them and other residents safe, does the facility afford a review to determine whether there is a continuing need for separation from the general population EVERY 30 DAYS?  Yes  No

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does*

*not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

According to OCFS Policy 3247.01 – Prevention, Detection, and Response to Sexual Abuse, Assault and Harassment, the information obtained from the Facility Classification Form is used to assist in determining the resident’s housing assignment. Random staff interviews and a review of the Facility Classification Form supported this policy. Residents confirmed through interviews that screenings are being administered per policy. Isolation is not used at the Industry Residential Center or any OCFS facility.

OCFS Policy 3247.15 – Room Confinement prohibits placing lesbian, gay, bisexual, transgender, or intersex residents in particular housing, bed, or other assignments solely based on such identification or status. Placement and programming for transgender and intersex residents shall be reassessed at least twice a year to review any threat to safety experienced by the resident.

Interviews with intake staff, Facility Director, and Facility PREA Compliance Manager confirmed the facility has not used isolation to protect any residents at risk for sexual victimization during the past 12 months. They also stated identification or status is not considered as an indicator of the likelihood that the resident will be sexually abusive.

There were 2 LBGTI residents and 2 residents who reported prior sexual victimization during the screening residing at the facility who were interviewed during the on-site portion of the audit. Interviews with these residents confirmed the above-mentioned policy and practices were being followed as stated.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Room Confinement Policy (PPM 3247.15)
- ❖ Interview with Facility Director
- ❖ Interview with Facility PREA Compliance Manager
- ❖ Interviews with Staff Responsible for Risk Screening

## REPORTING

### Standard 115.351: Resident reporting

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

#### 115.351 (a)

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

#### 115.351 (b)

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

### 115.351 (c)

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

### 115.351 (d)

- Does the facility provide residents with access to tools necessary to make a written report?  Yes  No
- Does the agency provide a method for staff to privately report sexual abuse and sexual harassment of residents?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

The Industry Residential Center has established procedures allowing for multiple internal ways for residents to

report privately to officials regarding sexual abuse and sexual harassment, retaliation by other residents and/or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to an incident. The documentation showed several ways for residents to report sexual abuse and sexual harassment or retaliation. These are:

- ❖ Staff
- ❖ Unit Manager
- ❖ Counselor
- ❖ Mental Health Clinician
- ❖ Medical Personnel
- ❖ Any Facility Administrator
- ❖ Grievance Process
- ❖ OCFS Ombudsman's Office

Resident reports of sexual abuse or sexual harassment may be made verbally or in writing. Residents have the option of reporting allegations to the Special Investigations Unit (SIU) via toll free numbers posted in each living unit. Additionally, residents, their families, and the public have the ability to report allegations outside of OCFS via the toll-free number for Vulnerable Persons Central Register Hotline (VPCR), which is part of the New York Justice Center.

Facility staff must accept reports, including reports made regarding other OCFS or non-OCFS facilities that are made verbally, in writing, anonymously, and from third parties. Verbal reports must be immediately documented. In addition, staff are permitted to privately report sexual abuse or sexual harassment of residents to the Justice Center. It is noted in OCFS Policy 3247.01 – Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment, that all staff must immediately report any knowledge of alleged sexual abuse or sexual harassment to their immediate supervisor or any on-duty employee above them in the chain of command, the on-call administrator, or the Facility Director.

Reporting information is delivered to residents through the intake process, the education process, in the Resident Handbook, pamphlets, and posters. Numerous posters were observed throughout the facility during the tour. These posters highlighted the various ways youth and staff can report incidents.

All the residents interviewed confirmed they have received information through several venues instructing them how to report any allegations of sexual abuse, sexual harassment, or retaliation. Additionally, they understood the grievance process.

Staff interviewed were also very knowledgeable of the various ways residents and staff can report incidents of sexual abuse, sexual harassment, and retaliation.

There are no residents placed at the facility (or any OCFS facility) solely for civil immigration purposes. However, during interviews with agency management, it was determined they would provide these residents information on how to contact consular officials and relevant officials at the Department of Homeland Security to report sexual abuse and sexual harassment.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Child Abuse and Neglect Reporting in OCFS Programs Operating Pursuant to Article 19G of the Executive Law Policy (PPM 3456.00)
- ❖ Formal Letter to NYS Justice Center Executive Director requesting investigations be conducted in compliance within PREA Standards (June 2, 2014)
- ❖ OCFS Employee Manual
- ❖ OCFS – 4902 Youth Admission Handout “What you should know about Sexual Abuse/Harassment”
- ❖ Resident Handbook – “Checking in for: YOUR SAFETY AT OCFS DJJOY”
- ❖ Posters in Living Units

- ❖ Interview with Facility Director
- ❖ Interview with Facility PREA Compliance Manager
- ❖ Interviews with Randomly Selected Staff
- ❖ Interviews with Randomly Selected Residents

## Standard 115.352: Exhaustion of administrative remedies

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

#### 115.352 (a)

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

#### 115.352 (b)

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

#### 115.352 (c)

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

#### 115.352 (d)

- Does the agency issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance? (Computation of the 90-day time period does not include time consumed by residents in preparing any administrative appeal.) (N/A if agency is exempt from this standard.)  Yes  No  NA
- If the agency determines that the 90-day timeframe is insufficient to make an appropriate decision and claims an extension of time [the maximum allowable extension of time to respond

is 70 days per 115.352(d)(3)], does the agency notify the resident in writing of any such extension and provide a date by which a decision will be made? (N/A if agency is exempt from this standard.)  Yes  No  NA

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

#### 115.352 (e)

- Are third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, permitted to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Are those third parties also permitted to file such requests on behalf of residents? (If a third party, other than a parent or legal guardian, files such a request on behalf of a resident, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.) (N/A if agency is exempt from this standard.)  Yes  No  NA
- If the resident declines to have the request processed on his or her behalf, does the agency document the resident's decision? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Is a parent or legal guardian of a juvenile allowed to file a grievance regarding allegations of sexual abuse, including appeals, on behalf of such juvenile? (N/A if agency is exempt from this standard.)  Yes  No  NA
- If a parent or legal guardian of a juvenile files a grievance (or an appeal) on behalf of a juvenile regarding allegations of sexual abuse, is it the case that those grievances are not conditioned upon the juvenile agreeing to have the request filed on his or her behalf? (N/A if agency is exempt from this standard.)  Yes  No  NA

#### 115.352 (f)

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

- After receiving an emergency grievance described above, does the agency provide an initial response within 48 hours? (N/A if agency is exempt from this standard.)  Yes  No  NA
- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the initial response and final agency decision document the agency's determination whether the resident is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes  No  NA

### 115.352 (g)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

The agency does not consider the grievance process as a formal mechanism to report sexual abuse. However, if the agency would receive a grievance alleging sexual abuse, it would be treated as a written submission. A review of grievance records and an interview with the Facility PREA Compliance Manager confirmed there were no grievances filed related to sexual abuse or sexual harassment during the past 12 months. All residents interviewed were aware of the grievance procedures. In addition, all staff interviewed could describe the steps they would take to protect a resident from threatened abuse.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Child Abuse and Neglect Reporting in OCFS Programs Operating Pursuant to Article 19G of the Executive Law Policy (PPM 3456.00)
- ❖ OCFS – 4902 Youth Admission Handout “What you should know about Sexual Abuse/Harassment”
- ❖ Resident Handbook – “Checking in for: YOUR SAFETY AT OCFS DJJOY”
- ❖ Interview with Facility PREA Compliance Manager
- ❖ Interviews with Randomly Selected Staff
- ❖ Interviews with Randomly Selected Residents

## **Standard 115.353: Resident access to outside confidential support services and legal representation**

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

### **115.353 (a)**

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

### **115.353 (b)**

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

### **115.353 (c)**

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

### **115.353 (d)**

- Does the facility provide residents with reasonable and confidential access to their attorneys or other legal representation?  Yes  No
- Does the facility provide residents with reasonable access to parents or legal guardians?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

OCFS Policy 3247.01 – Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment notes the facility is to provide residents with access to outside victim advocates for emotional support services related to sexual abuse. The Industry Residential Center also provides residents with reasonable and confidential access to their attorneys and/or legal representation; as well as parents or legal guardians. The facility has provided this information to all youth through Resident Handbooks, intake process, brochures, and posters placed throughout the facility.

Interviewed residents were aware of how to access outside agencies through the hotlines and all of them stated they would have access to a telephone if they needed to report anything. All staff interviewed were also aware of how residents can access outside agencies through the hotlines.

A Memorandum of Agreement (MOA) is in place between the Industry Residential Center and Rochester General Hospital (Rochester, New York) in accordance with this standard. This MOA was reviewed by the Auditor during the pre-audit phase. This MOA confirms each party's responsibility regarding this standard. Regarding the allegations of sexual abuse at the facility, neither required a forensic exam.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Resident Mail Policy (PPM 3422.00)
- ❖ Visits to Youth at DJJOY Facilities (PPM 3455.00)
- ❖ OCFS – 4902 Youth Admission Handout "What you should know about Sexual Abuse/Harassment"
- ❖ Resident Handbook – "Checking in for: YOUR SAFETY AT OCFS DJJOY"
- ❖ MOA with Rochester General Hospital
- ❖ PREA Posters
- ❖ Interview with Agency PREA Coordinator
- ❖ Interview with Facility Director
- ❖ Interview with Facility PREA Compliance Manager

- ❖ Interviews with Randomly Selected Staff
- ❖ Interviews with Randomly Selected Residents

## Standard 115.354: Third-party reporting

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

#### 115.354 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

OCFS Policy 3247.01 - Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment describes multiple methods used to receive third party reports of sexual abuse or sexual harassment and is posted on the agency's website in order to inform the public about reporting resident sexual abuse or sexual harassment on behalf of residents. Third party reports can also be made to the Facility Director, the OCFS Ombudsman's Office, law enforcement, or the Department of Social Services.

Interviews with residents confirmed that they were aware of who third parties are. They were also aware that these individuals can report allegations or incidents of sexual abuse or sexual harassment on behalf of the resident.

There were no incidents of third party reporting during the past 12 months. The agency website notes various ways sexual abuse and sexual harassment of a resident can be reported. All staff members interviewed acknowledged that they would accept a third-party report of abuse and respond in the same manner as if they had witnessed the abuse themselves.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)

- ❖ Agency Public Website
- ❖ PREA Posters
- ❖ Interviews with Randomly Selected Residents
- ❖ Interviews with Randomly Selected Staff

## OFFICIAL RESPONSE FOLLOWING A RESIDENT REPORT

### Standard 115.361: Staff and agency reporting duties

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

#### 115.361 (a)

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

#### 115.361 (b)

- Does the agency require all staff to comply with any applicable mandatory child abuse reporting laws?  Yes  No

#### 115.361 (c)

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

#### 115.361 (d)

- Are medical and mental health practitioners required to report sexual abuse to designated supervisors and officials pursuant to paragraph (a) of this section as well as to the designated State or local services agency where required by mandatory reporting laws?  Yes  No
- Are medical and mental health practitioners required to inform residents of their duty to report, and the limitations of confidentiality, at the initiation of services?  Yes  No

### 115.361 (e)

- Upon receiving any allegation of sexual abuse, does the facility head or his or her designee promptly report the allegation to the appropriate office?  Yes  No
- Upon receiving any allegation of sexual abuse, does the facility head or his or her designee promptly report the allegation to the alleged victim's parents or legal guardians unless the facility has official documentation showing the parents or legal guardians should not be notified?  Yes  No
- If the alleged victim is under the guardianship of the child welfare system, does the facility head or his or her designee promptly report the allegation to the alleged victim's caseworker instead of the parents or legal guardians? (N/A if the alleged victim is not under the guardianship of the child welfare system.)  Yes  No  NA
- If a juvenile court retains jurisdiction over the alleged victim, does the facility head or designee also report the allegation to the juvenile's attorney or other legal representative of record within 14 days of receiving the allegation?  Yes  No

### 115.361 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

OCFS Policy 3456.00 – Child Abuse and Neglect Reporting in OCFS Programs Operating Pursuant to Article 19G of the Executive Law states all OCFS employees and volunteers providing services to youth are mandated reporters. These persons are required to report to the Justice Center of New York whenever they have cause to suspect child abuse or maltreatment of a youth in residential facility. The mandated reporter hotline is 1-800-635-1522. This policy also notes individuals making a report do not need to be certain a resident has been abused or maltreated, only as a “reasonable cause to suspect” abuse or maltreatment is necessary. When in doubt as to

whether an incident could constitute child abuse or maltreatment, an employee must contact the Justice Center of New York. The Justice Center of New York will determine if the information meets the requirements to register a report for investigation.

It is noted in OCFS Policy 3247.01 – Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment, that all staff must immediately report any knowledge of alleged sexual abuse or sexual harassment to their immediate supervisor or any on-duty employee above them in the chain of command, the on-call administrator, or the Facility Director.

All staff interviewed were able to describe the reporting process. The staff stated they would take all allegations seriously regardless of how they received the report. All staff were aware of their status as mandated reporters. Staff stated they would immediately make a verbal report to the Administrator on Duty (AOD), complete a written report immediately (but no later than prior to the end of their shift), and contact the Justice Center of New York.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Child Abuse and Neglect Reporting in OCFS Programs Operating Pursuant to Article 19G of the Executive Law Policy (PPM 3456.00)
- ❖ Interview with Facility Director
- ❖ Interview with Facility PREA Compliance Manager
- ❖ Interviews with Medical/Mental Health Staff
- ❖ Interviews with Randomly Selected Staff

## Standard 115.362: Agency protection duties

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

#### 115.362 (a)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

OCFS Policy 3247.01 - Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment requires that when staff learn that a resident is subject to a substantial risk of imminent sexual abuse, they take immediate action to protect the resident. The Pre-Audit Questionnaire indicated there were no residents that the facility determined was subject to substantial risk of imminent sexual abuse during the past 12 months.

Interviews with the Agency PREA Coordinator, Facility Director, Facility PREA Compliance Manager, and randomly selected staff indicated that the report or allegation would be taken seriously. They also stated the Administrator on Duty (AOD) would be called immediately and the resident and the alleged perpetrator would be separated until the report could be investigated. If the perpetrator was a staff, interviews confirmed that the staff would be placed on Administrative Leave until an investigation is completed by the Justice Center of New York. It was also noted; if the allegation was substantiated the presumptive action would be termination.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Justice Center's Code of Conduct Form for Custodians of People with Special Needs (Revised January 21, 2016)
- ❖ Interview with Facility Director
- ❖ Interview with Facility PREA Compliance Manager
- ❖ Interviews with Randomly Selected Staff

## Standard 115.363: Reporting to other confinement facilities

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

### 115.363 (a)

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

### 115.363 (b)

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

### 115.363 (c)

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

### 115.363 (d)

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

### Auditor Overall Compliance Determination

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

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

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

OCFS Policy 3247.01 - Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment requires that upon receiving an allegation that a resident was sexually abused while confined at another facility, the Facility Director of the facility that received the allegation shall notify the Facility Director of the other facility or appropriate office of the agency (if not an OCFS operated facility) where the alleged abuse occurred and shall also notify the appropriate investigative agency. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. The notification shall also be documented.

If the notified facility is an OCFS operated facility, the Facility Director that receives such notification shall ensure that the allegation is investigated in accordance with these standards.

An interview with the Facility Director confirmed this process and that there has not been a report in the last 12 months of any allegations of sexual abuse or sexual harassment occurring to a resident while in another facility.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Interview with Facility Director

## Standard 115.364: Staff first responder duties

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

### 115.364 (a)

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

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

### 115.364 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

OCFS Policy 3247.01 - Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment states upon learning of an allegation a resident was sexually abused, the first staff member to respond to the report shall be required to:

- ✓ Separate the victim and alleged abuser.
- ✓ Preserve and protect the scene until appropriate steps can be taken to collect any evidence.
- ✓ Request that the alleged victim not take any actions that could destroy physical evidence, including as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, swimming, drinking, or eating.
- ✓ Take steps to prevent the alleged abuser from destroying evidence, such as washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

First responder duties for non-security staff are the same as security staff. Staff have been trained appropriately in the above-mentioned duties as a first responder. All staff members are provided "PREA cards" which outlines procedures and proper protocol for protecting residents from imminent sexual abuse.

All the staff interviewed could articulate the steps they would take as first responders. There responses were consistent with OCFS policy. In addition, all the staff interviewed were carrying their "PREA card".

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Interviews with Randomly Selected Staff
- ❖ Interviews with First Responders

## Standard 115.365: Coordinated response

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

### 115.365 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

OCFS has developed documents to communicate the roles of responders, including direct care staff, medical staff, mental health practitioners, and administrators. These roles are addressed in the Industry Residential Center's Local Operating Practice. Additionally, all staff members are provided "PREA cards" which outlines procedures and proper protocol for protecting residents from imminent sexual abuse.

Interviews with direct care staff, medical staff, mental health practitioners, and administrators indicated that each is knowledgeable of his/her responsibilities in responding to an incident or allegation of sexual assault. This auditor

was able to review the Industry Residential Center's Local Operating Practice and it is aligned with OCFS Policy 3247.01 – Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy and all mandated reporting requirements.

Reviewed documentation to determine compliance:

- ❖ Industry Residential Center Local Operating Practice - Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Interview with Facility Director
- ❖ Interview with Facility PREA Compliance Manager
- ❖ Interviews with Randomly Selected Staff
- ❖ Interviews with Medical and Mental Health Staff

## Standard 115.366: Preservation of ability to protect residents from contact with abusers

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

### 115.366 (a)

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

### 115.366 (b)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

There have been no new or renewed collective bargaining agreements in the past year; however, any contracts developed or renewed will not limit alleged staff sexual abusers to be removed from contact with residents pending

the outcome of an investigation and a determination of discipline. Interviews with the Agency Head and Agency PREA Coordinator confirmed this.

Reviewed documentation to determine compliance:

- ❖ Interview with Agency Head
- ❖ Interview with Agency PREA Coordinator

## Standard 115.367: Agency protection against retaliation

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

### 115.367 (a)

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

### 115.367 (b)

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

### 115.367 (c)

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

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

#### 115.367 (d)

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

#### 115.367 (e)

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

#### 115.367 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does*

not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

OCFS Policy 3247.01 - Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment states any employee or resident is prohibited from retaliating against other employees or resident for reporting allegations of sexual abuse or sexual harassment. Employees or residents who are found to have violated this prohibition shall be subject to disciplinary action. OCFS facilities are required to act promptly to remedy any form of retaliation.

The Facility Director is the person charged with monitoring retaliation. The facility employs multiple protection measures, such as housing unit changes or transfers for resident victims or abusers, removal of alleged staff or resident abusers from contact with victims, and emotional support services for residents or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. Monitoring at the facility will continue for at least 90 days following a report of sexual abuse. Items that will be monitored include any resident disciplinary reports, housing, or program changes, negative performance reviews, and reassignments of staff. The OCFS Home Office must conduct periodic status checks on the resident. It is also noted, the agency's obligation to monitor must terminate should the Justice Center deem the allegation "unfounded".

The Pre-Audit Questionnaire indicated that there were zero incidents of retaliation, known or suspected, that occurred during the past 12 months.

An interview with the Facility Director indicated she serves as the facility retaliation monitor. She was very educated on the signs of retaliation and the policy. She stated the agency would expect that actions would be taken immediately to ensure the resident was safe. It is the expectation of the agency that the resident would be monitored for at least 90 days or until the resident's release.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Interview with Facility Director
- ❖ Interview with Facility PREA Compliance Manager

## Standard 115.368: Post-allegation protective custody

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

### 115.368 (a)

- Is any and all use of segregated housing to protect a resident who is alleged to have suffered sexual abuse subject to the requirements of § 115.342?  Yes  No

### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

Segregated housing of residents as a means to keep them safe from sexual misconduct is not used. Interviews confirmed the prohibition of segregated housing for this purpose. This facility also does not use isolation.

Reviewed documentation to determine compliance:

- ❖ Use of Room Confinement Policy (PPM 3447.15)
- ❖ Interview with Facility Director
- ❖ Interview with Facility PREA Compliance Manager

# INVESTIGATIONS

## Standard 115.371: Criminal and administrative agency investigations

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

### 115.371 (a)

- When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, does it do so promptly, thoroughly, and objectively? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.321(a).]  Yes  No  NA
- Does the agency conduct such investigations for all allegations, including third party and anonymous reports? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.321(a).]  Yes  No  NA

### 115.371 (b)

- Where sexual abuse is alleged, does the agency use investigators who have received specialized training in sexual abuse investigations involving juvenile victims as required by 115.334?  Yes  No

### 115.371 (c)

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

- Do investigators interview alleged victims, suspected perpetrators, and witnesses?  
 Yes  No
- Do investigators review prior reports and complaints of sexual abuse involving the suspected perpetrator?  Yes  No

#### 115.371 (d)

- Does the agency always refrain from terminating an investigation solely because the source of the allegation recants the allegation?  Yes  No

#### 115.371 (e)

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

#### 115.371 (f)

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

#### 115.371 (g)

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

#### 115.371 (h)

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

#### 115.371 (i)

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

#### 115.371 (j)

- Does the agency retain all written reports referenced in 115.371(g) and (h) for as long as the alleged abuser is incarcerated or employed by the agency, plus five years unless the abuse was committed by a juvenile resident and applicable law requires a shorter period of retention?  
 Yes  No

#### 115.371 (k)

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

#### 115.371 (l)

- Auditor is not required to audit this provision.

#### 115.371 (m)

- When an outside entity investigates sexual abuse, does the facility cooperate with outside investigators and endeavor to remain informed about the progress of the investigation? (N/A if an outside agency does not conduct administrative or criminal sexual abuse investigations. See 115.321(a).)  Yes  No  NA

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

OCFS Policy 3247.01 – Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment describes, in detail, the processes for ensuring that all allegations of sexual abuse and sexual harassment are investigated. This policy states the Justice Center of New York has responsibility to investigate all PREA related allegations and incidents that is alleged in OCFS facilities. Local law enforcement authorities shall be contacted as necessary. Investigations are to use any physical evidence, including witness interviews and suspected sexual abuse perpetrators reports. Investigations are not terminated should the source of the allegations recant the allegation.

Administrative investigations will include efforts to determine whether staff actions/failures contributed to the abuse documented through written reports which will include physical/testimonial evidence, credibility reasoning

assessments, and investigative facts and findings. All written reports will be retained for 7 years from resident(s) discharge or until the age of majority is reached, whichever is longer. Investigations will not be terminated due to the departure of an alleged abuser or victim. The facility will cooperate with outside investigators and will remain informed of the investigation process.

The OCFS Deputy Commissioner has formally asked the Justice Center Executive Director to comply with PREA investigative standards. This was requested in a formal letter to the NYS Justice Center Executive Director requesting investigations be conducted in compliance within PREA Standards. The letter was dated June 2, 2014, and a copy was provided to the auditor.

There were 6 allegations of sexual abuse or sexual harassment reported in the past 12 months at the Industry Residential Center. All the allegations were investigated by the Justice Center of New York. Upon the completion of each investigation, the Justice Center of New York provided a detailed report to the facility which noted its findings.

Interviews with the Facility Director, Facility PREA Compliance Manager, Agency PREA Coordinator, Agency Head, and a representative from the New York Justice Center confirmed the protocols in place for criminal and administrative agency investigations.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Formal Letter to NYS Justice Center Executive Director requesting investigations be conducted in compliance within PREA Standards (June 2, 2014)
- ❖ Interview with Facility Director
- ❖ Interview with Facility PREA Compliance Manager
- ❖ Interview with Agency Head
- ❖ Interview with Agency PREA Coordinator
- ❖ Interview with Representative from New York Justice Center

## Standard 115.372: Evidentiary standard for administrative investigations

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

### 115.372 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

OCFS Policy 3247.01 – Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment states that the facility shall not impose a standard higher than a preponderance of the evidence for determining whether allegations of sexual abuse or sexual harassment are substantiated. The Justice Center of New York has been asked to use this standard for investigations at the facility.

Additionally, the OCFS Deputy Commissioner has formally asked the Justice Center Executive Director to comply with PREA investigative standards. This was requested in a formal letter to the NYS Justice Center Executive Director requesting investigations be conducted in compliance within PREA Standards. The letter was dated June 2, 2014.

An interview with the Agency Deputy Commissioner confirmed the Justice Center of New York uses no standard higher than the preponderance of evidence in making final determinations of sexual abuse and sexual harassment.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Formal Letter to NYS Justice Center Executive Director requesting investigations be conducted in compliance within PREA Standards (June 2, 2014)
- ❖ New York State Justice Center Law
- ❖ Interview with Agency Head
- ❖ Interview with Representative from New York Justice Center

## **Standard 115.373: Reporting to residents**

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

#### **115.373 (a)**

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

#### **115.373 (b)**

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

#### **115.373 (c)**

- Following a resident's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the

resident has been released from custody, does the agency subsequently inform the resident whenever: The staff member is no longer posted within the resident's unit?  Yes  No

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

#### 115.373 (d)

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

#### 115.373 (e)

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

#### 115.373 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

OCFS Policy 3247.01 – Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment requires that following an investigation into a resident's allegation of sexual abuse by a staff member, the agency will inform the resident as to whether the allegation has been determined to be Substantiated, Unsubstantiated, or Unfounded; whenever the staff is no longer assigned within the resident's living unit; no longer employed at the facility; or has been convicted on a charge of sexual abuse within the facility. Additionally, it requires that residents who have been the victim of sexual abuse and sexual harassment shall receive notification of determined outcomes using the "Determination of Notification to Youth" form. The Facility Director or Facility PREA Compliance Manager will share the outcome with the resident, obtaining the resident's signature as proof of receipt, before the form is placed in the resident's file as documentation of notification.

The facility had 6 allegations of sexual assault or sexual harassment during the past 12 months. An interview with the Facility Director and Facility PREA Compliance Manager indicated that residents are notified of the results of an investigation in writing. The process described was consistent with the agency policy. This auditor was able to review documentation that supports this process as each PREA Determination Notification to Youth Form was signed by the resident for all completed investigations by the Justice Center of New York as all of them forms were provided to the auditor.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Response to Facility Reportable Incident Form
- ❖ Signed PREA Determination Notification to Youth Form
- ❖ Interview with Facility Director
- ❖ Interview with Facility PREA Compliance Manager

## DISCIPLINE

### Standard 115.376: Disciplinary sanctions for staff

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

#### 115.376 (a)

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

#### 115.376 (b)

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

#### 115.376 (c)

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

#### 115.376 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

OCFS Policy 3247.01 – Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment states the following regarding staff disciplinary sanctions:

1. Staff must be subject to disciplinary sanctions as determined by OCFS and consistent with collective bargaining agreements up to and including termination for violating sexual abuse or sexual harassment policies.
2. Termination must be the presumptive disciplinary sanction for staff that has been substantiated for sexual abuse.
3. Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) must be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
4. All dismissals of violations of OCFS sexual abuse or sexual harassment policies, or resignations by staff

who would have been dismissed or subject to dismissal proceedings if not for their resignation, must be reported to law enforcement agencies, unless the activity was clearly not criminal, and reported to any relevant licensing bodies.

The Pre-Audit Questionnaire indicated that there were no staff that were terminated (or resigned prior to termination) for violating agency sexual abuse or sexual harassment policies during the past 12 months. Additionally, there were no staff disciplined for violations of the zero-tolerance policy. This was confirmed during interviews with the Facility Director and Facility PREA Compliance Manager.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Interview with Facility Director
- ❖ Interview with Facility PREA Compliance Manager

## Standard 115.377: Corrective action for contractors and volunteers

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

### 115.377 (a)

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

### 115.377 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

OCFS Policy 3247.01 – Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment require that any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with residents and reported to law enforcement (unless the activity was clearly not criminal) and to relevant licensing bodies. The Pre-Audit Questionnaire indicated that there were no contractors or volunteers reported to law enforcement for engaging in sexual abuse of residents during the past 12 months.

The Facility Director and Facility PREA Compliance Manager stated in an interview that the facility would immediately remove the contractor or volunteer from the facility and would not allow them to return until the completion of an investigation per OCFS Policy 3247.01. There were no reported instances of sexual abuse or sexual harassment by the approved contractors or volunteers during the past 12 months. Therefore, there was no documentation to review regarding this standard.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Interview with Facility Director
- ❖ Interview with Facility PREA Compliance Manager

## **Standard 115.378: Interventions and disciplinary sanctions for residents**

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

### **115.378 (a)**

- Following an administrative finding that a resident engaged in resident-on-resident sexual abuse, or following a criminal finding of guilt for resident-on-resident sexual abuse, may residents be subject to disciplinary sanctions only pursuant to a formal disciplinary process?  
 Yes  No

### **115.378 (b)**

- Are disciplinary sanctions commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories?  Yes  No
- In the event a disciplinary sanction results in the isolation of a resident, does the agency ensure the resident is not denied daily large-muscle exercise?  Yes  No
- In the event a disciplinary sanction results in the isolation of a resident, does the agency ensure the resident is not denied access to any legally required educational programming or special education services?  Yes  No
- In the event a disciplinary sanction results in the isolation of a resident, does the agency ensure the resident receives daily visits from a medical or mental health care clinician?  Yes  No

- In the event a disciplinary sanction results in the isolation of a resident, does the resident also have access to other programs and work opportunities to the extent possible?  Yes  No

#### 115.378 (c)

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

#### 115.78 (d)

- If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, does the facility consider whether to offer the offending resident participation in such interventions?  Yes  No
- If the agency requires participation in such interventions as a condition of access to any rewards-based behavior management system or other behavior-based incentives, does it always refrain from requiring such participation as a condition to accessing general programming or education?  Yes  No

#### 115.378 (e)

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

#### 115.378 (f)

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

#### 115.378 (g)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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OCFS Policy 3443.00 - Youth Rules states that residents are subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident on resident sexual abuse. Disciplinary action must be administered in a fair, impartial, and expeditious manner.

The disciplinary process must consider whether developmental disability or mental illness contributed to a resident's behavior when determining discipline. Consideration must also be given to providing the offending resident therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse.

In addition, the facility may only discipline a resident for sexual conduct with a staff upon a finding that the staff member did not consent to such conduct. Sexual activity between residents is also prohibited

During each Substantiated allegation of resident on resident sexual abuse or sexual harassment during the past 12 months, the perpetrator was sanctioned within the program rules (loss of privileges). All residents sanctioned were afforded daily recreation, therapy, counseling, or other interventions designed to address and correct underlying issues, and isolation was never used as a disciplinary sanction. OCFS facilities do not use isolation or segregation as a disciplinary measure for rule violations.

The Facility Director and Facility PREA Compliance Manager confirmed residents alleged to have violated any rules pertaining to sexual misconduct are sanctioned within the program rules and if the charges are criminal, the Justice Center would be responsible for filing charges. They also confirmed the facility does not use isolation.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Youth Rules Policy (PPM 3443.00)
- ❖ Interview with Facility Director
- ❖ Interview with Facility PREA Compliance Manager

## MEDICAL AND MENTAL CARE

### Standard 115.381: Medical and mental health screenings; history of sexual abuse

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

#### 115.381 (a)

- If the screening pursuant to § 115.341 indicates that a resident has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure

that the resident is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening?  Yes  No

#### 115.381 (b)

- If the screening pursuant to § 115.341 indicates that a resident has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, do staff ensure that the resident is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening?  Yes  No

#### 115.381 (c)

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

#### 115.381 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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OCFS Policy 3243.18 - Initial Mental Health and Health Screening Interview for Facility Youth requires that residents at the facility who have disclosed any prior sexual victimization during a screening are offered a follow up meeting with a medical or mental health staff. If the screening indicates that a resident has experienced prior sexual victimization, whether is occurred in an institutional setting or in the community, staff ensure that the resident is offered a follow up meeting with a medical or mental health staff within 14 days of the intake screening.

Any information from the Admission Screening Interview Form related to sexual abuse, sexual victimization or abusiveness that occurred is limited to medical and mental health practitioners and other staff, as necessary, to

inform treatment plans, security, and management decisions, including housing, bed, and program assignments. Reassessments are completed every 6 months and more often as indicated with the goal of keeping residents safe and free from sexual abuse and sexual harassment.

During interviews, medical and mental health staff indicated they were aware that residents reporting prior sexual victimization or prior sexual aggression are to be referred for a follow up meeting with them. They related that services that are offered include evaluations, developing a treatment plan, developing a new safety plan, and offering on-going services. They were also aware that the residents have the right to refuse a follow-up meeting. In addition, informed consent disclosures are provided by on site medical staff.

Resident files noted all residents at the facility who have disclosed prior victimization during screening were offered follow-up meetings with a mental health practitioner.

Reviewed documentation to determine compliance:

- ❖ Initial Mental Health and Health Screening Interview for Facility Youth Policy (PPM 3243.18)
- ❖ Admission Screening Interview Form
- ❖ Resident Files
- ❖ Interview with Facility Director
- ❖ Interview with Facility PREA Compliance Manager
- ❖ Interviews with Medical Staff
- ❖ Interviews with Mental Health Staff

## **Standard 115.382: Access to emergency medical and mental health services**

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

### **115.382 (a)**

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

### **115.382 (b)**

- If no qualified medical or mental health practitioners are on duty at the time a report of recent sexual abuse is made, do staff first responders take preliminary steps to protect the victim pursuant to § 115.362?  Yes  No
- Do staff first responders immediately notify the appropriate medical and mental health practitioners?  Yes  No

### **115.382 (c)**

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

## 115.382 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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OCFS Policy 3247.01 - Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment requires for all allegations of sexual abuse or assault the victim will be immediately referred to Rochester General Hospital for a clinical assessment and gathering of forensic evidence by a Sexual Assault Nurse Examiner (SANE). The SANE will make the final determination regarding evidence collection. Staff who can support the victim shall accompany the resident.

The Industry Residential Center has a Memorandum of Agreement (MOA) with Rochester General Hospital in Rochester, New York to provide medical/mental health services at no cost to the victim. Rochester General Hospital ensures victims receive rape crisis intervention services and advocates from the RESTORE Center of Planned Parenthood for Central and Western New York.

Interviews with administrative staff, medical staff, and mental health staff confirmed that resident victims of sexual abuse are provided timely and unimpeded access to emergency services. This was confirmed by the auditor by reviewing the MOA and correspondence with Rochester General Hospital.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Interview with Facility Director
- ❖ Interview with Facility PREA Compliance Manager
- ❖ Interviews with Medical Staff
- ❖ Interviews with Mental Health Staff
- ❖ Interviews with First Responders
- ❖ Interviews with Randomly Selected Residents
- ❖ MOA with Rochester General Hospital (Rochester, New York)

## Standard 115.383: Ongoing medical and mental health care for sexual abuse victims and abusers

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

### 115.383 (a)

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

### 115.383 (b)

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

### 115.383 (c)

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

### 115.383 (d)

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

### 115.383 (e)

- If pregnancy results from the conduct described in paragraph § 115.383(d), do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services? (N/A if all-male facility.)  Yes  No  NA

### 115.83 (f)

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

### 115.83 (g)

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

### 115.83 (h)

- Does the facility attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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As noted in OCFS Policy 3243.33 – Behavioral Health Services, the Industry Residential Center offers medical and mental health evaluation within 1 week of being notified and, as appropriate, treatment to all residents who have been victims of sexual abuse. Victims of sexual abuse, while at the facility, are offered tests for sexually transmitted diseases as medically appropriate and pregnancy related services.

The Industry Residential Center is a facility that provides services to residents who have a history of sexually abusive and sexually aggressive behaviors. The facility conducts a mental health evaluation on all sexual abusers within 14 days of admission.

Interviews with medical staff and mental health staff confirmed the above-mentioned process occurs as detailed in this standard.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Behavioral Health Services Policy (PPM 3243.33)
- ❖ Principles of Health Services Policy (PPM 3243.01)
- ❖ Interviews with Mental Health Staff
- ❖ Interviews with Medical Staff

## DATA COLLECTION AND REVIEW

### Standard 115.386: Sexual abuse incident reviews

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

### 115.386 (a)

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

### 115.386 (b)

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

### 115.386 (c)

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

### 115.386 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse?  Yes  No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility?  Yes  No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse?  Yes  No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts?  Yes  No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff?  Yes  No
- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.386(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager?  Yes  No

### 115.386 (e)

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

### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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OCFS Policy 3247.01 - Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment states within 30 days of the conclusion/receipt of the investigation, the facility shall conduct a sexual abuse incident review of all allegations (substantiated or unsubstantiated), unless the allegation has been determined to be unfounded. Reviews must be completed by a team of staff, Grade 18 and above, and must include input from direct care staff, investigators, and medical and mental health practitioners. In addition, the Review Team must:

1. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse.
2. Consider whether the incident or allegation was motivated by perceived race, ethnicity, sex, gender identity, sexual orientation, status, gang affiliation, or motivated by other group dynamics at the facility.
3. Examine the area of the facility where the incident allegedly occurred to assess whether the physical layout may enable abuse.
4. Assess the adequacy of staffing levels in that area during different shifts.
5. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.
6. Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to this section, and any recommendations for improvement and submit such report to the Facility Director and Facility Compliance Manager.
7. The facility must implement the recommendations for improvement, or must document its reasons for not doing so.

All OCFS facilities document the incident reviews on "PREA Sexual Abuse Incident Review" forms. All requirements listed in standard 115.386 are reviewed and considered by the facility. There was 1 "PREA Sexual Abuse Incident Review" completed by the Facility PREA Compliance Manager on July 11, 2017, after the Justice Center of New York deemed a resident touching the buttocks of 3 other residents through their clothing getting into and out of van during a transport Substantiated. This document was reviewed by the auditor and it was comprehensive and complied with the requirements of this standard.

The Facility Director and Facility PREA Compliance Manager both stated the Incident Review teams consists of upper level management officials, the agency PREA Coordinator, medical staff, and mental health staff.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ PREA Sexual Abuse Incident Review Form
- ❖ Interview with Facility Director
- ❖ Interview with Facility PREA Compliance Manager
- ❖ Interview with Incident Review Team Member

## Standard 115.387: Data collection

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

#### 115.387 (a)

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

#### 115.387 (b)

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

#### 115.387 (c)

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

#### 115.387 (d)

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

#### 115.387 (e)

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

#### 115.387 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

OCFS Policy 3247.01 - Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment states the Industry Residential Center, and all state facilities, collects uniform data for all allegations of sexual abuse based on incident reports, reports, investigation files, and incident reviews. Aggregate annual data from all state facilities is available through the Statewide PREA Database. The 2016 PREA Annual Report is posted on the agency website. The agency also provides this information to the Department of Justice, upon request, in the form of the Survey of Sexual Victimization. The 2016 Survey of Sexual Victimization was completed and submitted to the Department of Justice. This survey is posted on the agency website and was reviewed by the auditor.

An interview with the Agency PREA Coordinator indicated that she keeps detailed records to generate her annual reports and/or data required by the US Department of Justice. She stated she keeps data from every allegation made throughout the agency. Names are redacted from the reports and data. The Facility PREA Compliance Manager stated that he also keeps data from every incident and every incident review at the Industry Residential Center.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ PREA Database Report
- ❖ 2016 Agency Annual PREA Report
- ❖ 2016 US Department of Justice Survey of Sexual Victimization
- ❖ Interview with Agency PREA Coordinator
- ❖ Interview with Facility PREA Compliance Manager

## **Standard 115.388: Data review for corrective action**

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

### **115.388 (a)**

- Does the agency review data collected and aggregated pursuant to § 115.387 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas?  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.387 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis?  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.387 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole?  Yes  No

### **115.388 (b)**

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

#### 115.388 (c)

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

#### 115.388 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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The Facility PREA Compliance Manager and Agency PREA Coordinator collect and review all data for every allegation of sexual abuse collected and aggregated pursuant to standard 115.387 to assess and improve the effectiveness of its sexual abuse prevention, detection, and response to policies, and training, including problem areas, taking corrective action, and preparing an annual statement of its findings from its data review. The annual reports are approved by the OCFS Deputy Commissioner and made available through the agency's website or through other means. Specific material is redacted from reports when publication would present a clear and specific threat to the safety and security of the program, but must indicate the nature of the material redacted. The most recent agency PREA Annual Report (most recent report from 2016) is posted on the agency website and was reviewed by the auditor.

Upon request, the agency provides all program specific data from the previous calendar year to the Department of Justice. This survey was completed by the agency PREA Coordinator and posted on the agency website (most recent survey from 2016).

Reviewed documentation to determine compliance:

- ❖ Agency's Website

- ❖ 2016 Agency Annual PREA Report
- ❖ 2016 US Department of Justice Survey of Sexual Victimization
- ❖ Interview with Agency PREA Coordinator
- ❖ Interview with Facility PREA Compliance Manager

## Standard 115.389: Data storage, publication, and destruction

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

#### 115.389 (a)

- Does the agency ensure that data collected pursuant to § 115.387 are securely retained?  
 Yes  No

#### 115.389 (b)

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

#### 115.389 (c)

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

#### 115.389 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.387 for at least 10 years after the date of the initial collection, unless Federal, State, or local law requires otherwise?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

OCFS Policy 3247.01 - Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment requires that aggregated sexual abuse data is made readily available to the public at least annually through the agency website. Data collected is retained via limited access through a secure server for at least 10 years after the initial collection, unless Federal, State, or local law requires otherwise.

The Agency's Annual PREA Report is reviewed and approved by the Deputy Commissioner and made available to the public through its website. The PREA Coordinator noted that no personally identifiable information is included in the report. The most recent annual report (2016) is posted on the agency website and was reviewed by the auditor.

Reviewed documentation to determine compliance:

- ❖ Prevention, Detection, and Response to Sexual Abuse, Assault, or Harassment Policy (PPM 3247.01)
- ❖ Telecommunications and Computer Use Policy (PPM 1900.00)
- ❖ Agency Website
- ❖ 2016 Agency Annual PREA Report
- ❖ Interview with Agency Head
- ❖ Interview with Agency PREA Coordinator

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

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

#### 115.401 (a)

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

#### 115.401 (b)

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

#### 115.401 (h)

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

#### 115.401 (i)

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

### 115.401 (m)

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

### 115.401 (n)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

The agency has met this standard by having each of its 12 facilities audited during the first 3-year cycle. One third of the facilities were audited during each one-year period of the first cycle. During the first year of the second 3-year cycle, the agency has had one third of its facilities audited. Each final audit report is posted on the agency's website.

This auditor was granted full access of the facility, access to all relevant documents, received copies of all relevant documents on a flash drive prior to the on-site audit, received copies of all requested relevant document during and after the on-site audit, and was provided a private and confidential area of the facility to complete interviews of residents and staff.

The PREA Audit Notice was posted 6 weeks prior to the audit in all areas of the facility which allowed to residents the opportunity to send confidential information or correspondence with the auditor.

Reviewed documentation to determine compliance:

- ❖ Pre-Audit Questionnaire
- ❖ Tour of the Facility
- ❖ Agency Website

### Standard 115.403: Audit contents and findings

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

### 115.403 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

Each final PREA audit report from the first and second audit cycle is posted on the agency's website. These final PREA audit reports were posted within 90 days of issuance by the auditor. This was confirmed by reviewing the agency's website and an interview with the Agency PREA Coordinator.

Reviewed documentation to determine compliance:

- ❖ Agency Website
- ❖ Interview with Agency PREA Coordinator

## AUDITOR CERTIFICATION

I certify that:

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

### Auditor Instructions:

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

*Matthew A. Burns*

September 25, 2017

**Auditor Signature**

**Date**

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

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