

## Prison Rape Elimination Act (PREA) Audit Report Community Confinement Facilities

Interim       Final

Date of Report    June 30, 2018

### Auditor Information

Name: Barbara King	Email: Barbannkam@aol.com
Company Name: Click or tap here to enter text.	
Mailing Address: 1145 Eastland Ave	City, State, Zip: Akron, Ohio 44305
Telephone: 330-618-7456	Date of Facility Visit: May 23-24, 2018

### Agency Information

Name of Agency: Volunteers of American Western New York, Inc.		Governing Authority or Parent Agency (If Applicable): Click or tap here to enter text.	
Physical Address: 214 Lake Ave		City, State, Zip: Rochester, New York 14608	
Mailing Address: Click or tap here to enter text.		City, State, Zip: Click or tap here to enter text.	
Telephone: 585-647-1150		Is Agency accredited by any organization? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
The Agency Is:		<input checked="" type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input type="checkbox"/> State	<input type="checkbox"/> Federal
Agency mission: Empowering people in our community to rise out of poverty and move towards self-reliance.			
Agency Website with PREA Information: <a href="https://www.voaupny.org">https://www.voaupny.org</a>			

### Agency Chief Executive Officer

Name: Kim Brumber	Title: President & CEO
Email: kbrumber@voaupny.org	Telephone: 585-402-7203

### Agency-Wide PREA Coordinator

<b>Name:</b> Pat Drake	<b>Title:</b> Senior Vice President of Agency Advancement
<b>Email:</b> pdrake@voaupny.org	<b>Telephone:</b> 585-402-7211
<b>PREA Coordinator Reports to:</b> President & CEO	<b>Number of Compliance Managers who report to the PREA Coordinator</b> 1

### Facility Information

<b>Name of Facility:</b> Binghamton Men's Facility			
<b>Physical Address:</b> 320 Chenango Street Binghamton, New York 13901			
<b>Mailing Address (if different than above):</b> Click or tap here to enter text.			
<b>Telephone Number:</b> 607-772-1156			
<b>The Facility Is:</b>		<input type="checkbox"/> Military	<input checked="" type="checkbox"/> Private for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input type="checkbox"/> State	<input type="checkbox"/> Private not for Profit
<b>Facility Type:</b>	<input type="checkbox"/> Community treatment center		<input type="checkbox"/> Halfway house
	<input type="checkbox"/> Mental health facility		<input type="checkbox"/> Restitution center
	<input checked="" type="checkbox"/> Alcohol or drug rehabilitation center		
<input checked="" type="checkbox"/> Other community correctional facility			

**Facility Mission:** Empowering people in our community to rise out of poverty and move towards self-reliance.

**Facility Website with PREA Information:** <https://www.voaupny.org>

**Have there been any internal or external audits of and/or accreditations by any other organization?**  Yes  No

### Director

<b>Name:</b> Danielle Garrick	<b>Title:</b> Program Manager
<b>Email:</b> dgarrick@voupny.org	<b>Telephone:</b> 607-772-7756 ext 100

### Facility PREA Compliance Manager

<b>Name:</b> Angie Harbin	<b>Title:</b> Vice President of Housing
<b>Email:</b> aharbin@voaupny.org	<b>Telephone:</b> 585-402-7411

### Facility Health Service Administrator

<b>Name:</b> N/A	<b>Title:</b> Click or tap here to enter text.
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<b>Email:</b> Click or tap here to enter text.	<b>Telephone:</b> Click or tap here to enter text.
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<b>Facility Characteristics</b>
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<b>Designated Facility Capacity:</b> 29 (15 parolees under confinement)	<b>Current Population of Facility:</b> 29 (15 parolees under confinement)		
<b>Number of residents admitted to facility during the past 12 months</b>	115		
<b>Number of residents admitted to facility during the past 12 months who were transferred from a different community confinement facility:</b>	0		
<b>Number of residents admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:</b>	69		
<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>	106		
<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>	<input checked="" type="checkbox"/> Adults 18-85	<input type="checkbox"/> Juveniles Adult facility only	<input type="checkbox"/> Youthful residents Adult facility only
<b>Average length of stay or time under supervision:</b>	40 days		
<b>Facility Security Level:</b>	N/A		
<b>Resident Custody Levels:</b>	N/A		
<b>Number of staff currently employed by the facility who may have contact with residents:</b>	20		
<b>Number of staff hired by the facility during the past 12 months who may have contact with residents:</b>	34		
<b>Number of contracts in the past 12 months for services with contractors who may have contact with residents:</b>	6		

<b>Physical Plant</b>
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<b>Number of Buildings:</b> 1	<b>Number of Single Cell Housing Units:</b> 4 single rooms
<b>Number of Multiple Occupancy Cell Housing Units:</b>	8 double occupancy rooms
<b>Number of Open Bay/Dorm Housing Units:</b>	1

**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.):**

The facility has thirteen (13) internal cameras and eighteen (18) exterior cameras. The interior camera coverage in this facility covers all areas of the hallways and lobby/dayroom. The exterior covers the parking lots and the exterior surroundings of the building. A camera project upgrade is planned to add a few additional cameras, playback capabilities, and recording storage for six weeks.

<b>Medical</b>
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<b>Type of Medical Facility:</b>	N/A. The facility utilizes local hospitals and community facilities/services for medical and mental health services.
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Forensic sexual assault medical exams are conducted at:	Local hospital: Lourdes Hospital
<b>Other</b>	
Number of volunteers and individual contractors, who may have contact with residents, currently authorized to enter the facility:	5
Number of investigators the agency currently employs to investigate allegations of sexual abuse:	0

# Audit Findings

## Audit Narrative

The Prison Rape Elimination Act (PREA) Audit of the Binghamton Men's Facility in Binghamton, New York, a facility under the operation of the Volunteers of American Western New York Inc. was conducted on May 23-24, 2018 by PREA Auditor Barbara King. The audit process began with communication between the PREA Compliance Manager/Vice President of Housing and the auditor in March 2018. The auditor explained the audit process detailing that compliance is assessed through written policies and procedures, observed practices, and interviews with residents and staff. The PREA Compliance Manager indicated this was the facility's first PREA audit.

The Audit Posting was sent to the facility by the by the auditor on April 14, 2018. The facility acknowledged receiving the audit posting and the postings were placed throughout the facility. The PREA Compliance Manager emailed photos of the postings for verification on April 16, 2018.

On April 16, 2018, the auditor received the PREA Pre-Audit Questionnaire and supporting documents on a thumb drive provided by the agency. The thumb drive contained two parts: a master folder of supporting documentation the PREA standards and the Pre-Audit Questionnaire. The master folder contained relevant policies and procedures and supporting documentation to demonstrate compliance. After the review of the Pre-Audit Questionnaire and documentation, on May 4, 2018 the auditor emailed the agency and facility requesting further documentation for clarification and review on various standards. Some of this information was provided electronically prior to the audit and the remaining documentation was provided during the audit visit. The auditor reviewed the 2015-2016 and 2016-2017 PREA Annual Reports and the PREA information on the Volunteers of American Upstate New York website (<https://www.voaupny.org>) prior to the audit. Prior to the on-site visit, contact was made with the PREA Compliance Manager to discuss the audit process and set a tentative time schedule for the on-site audit.

Also on May 4, 2018, the auditor requested the following information be provided the first day of the audit: daily population report (use May 21), staff roster to include all departments (include title, shift, and good days), resident roster by housing unit and alpha listing, list of staff who perform risk assessments, list of contractors and volunteers (include times available during audit), list of residents with a PREA classification, list of LGBTI residents, list of PREA allegations in the past 12 months (type of case, victim name, investigation outcome), list of residents that reported sexual abuse, list of disabled and limited English proficient residents, list of the first responders from the reported allegations, and list of how the allegations were reported (i.e. verbal to staff, hotline, grievance...). This information will be utilized to establish interviews schedules. The facility provided the requested information the night prior to the on-site audit beginning. This information was utilized for the random selection of residents and staff

to be interviewed (random and specific category) including an alpha and housing listing of all residents housed at the facility, lists of staff by duty position and shifts, lists of residents for specific categories to be interviewed, list of staff who perform risk assessments, and a list of volunteers on site during the audit. Additional information in the packet included the daily population reports.

Before the start of the audit, the auditor met with the Program Manager, PREA Compliance Manager/Vice President of Housing, New York State Department of Corrections and Community Supervision (NYDOCCS) Reentry Operations Manager, NYDOCCS ReEntry Manager Hudson Valley Region, and NYDOCCS Assistant ReEntry Manager Hudson Valley. A detailed schedule for the audit was discussed including the facility tour, interviews schedules, review of audit documentation. It was established that the auditor would meet with the PREA Compliance Manager and any identified staff at the close of each day to review the day's activities and prepare for the next audit day. The facility was informed no correspondence was received from an resident or staff member prior to the audit. Key facility staff during the audit included the Program Manager, PREA Compliance Manager/Vice President of Housing and NYDOCCS Reentry Operations Manager.

The auditor utilized the Auditor Compliance Tool, Instructions for the PREA Audit Tour, the Interview Protocols, Process Map, Auditors Summary Report, and the PREA Auditor Handbook for guidance during the audit process. These documents were available through the National PREA Resource Center.

A facility tour was completed after the opening meeting with the key staff. The housing areas, program area, and service areas, were toured by the auditor. During the tour, the auditor made visual observations of the program, service, and housing areas including bathrooms, staff sight lines, and camera locations. The auditor spoke to random staff and residents regarding PREA education and facility practices.

During the tour, the auditor identified sight line concerns in the facility. Areas that need to be addressed are the parking lot stairway to the basement/kitchen area, under the steps in the front desk stairway to the basement/kitchen area, upper hallway by the back bathroom, dining room area including the entry to the basement bathroom, and the kitchen entry.

All required facility staff and resident interviews were conducted on-site during the two (2) day audit. The auditor began the interview process with resident interviews at the facility. The formal resident interviews were held in a private room located off the lobby that afforded privacy for the interviews. The PREA Auditor Handbook table for resident interviews indicated for resident population size of 0-50 residents; a requirement of 10 resident interviews with at least 5 from the target groups and 5 random interviews. All fifteen (15) parole residents under the confinement contract were interviewed, (100% of the 15 residents under confinement) with the random resident interview questions. There were no residents that identified for any targeted interviews. The residents interviewed acknowledged they had been screened during the intake process, education was provided which began at intake, and they knew how to report. Residents also indicated they felt safe at the facility, acknowledged the zero tolerance of sexual abuse and sexual harassment, and their right to be free from retaliation for reporting.

A total of twenty-two (22) formal staff interviews was conducted and an additional seven (7) informal staff interviews were also conducted during the facility tour. All the facility staff were interviewed on all shifts that worked during the on-site audit. The interviews were held in a private room located off the lobby that afforded privacy for the interviews. All staff was randomly selected from each of the three (3) shift rosters and different departments within the facility (7). Additionally, specialized staff were interviewed including the Agency Head (1), Facility Director (1), PREA Coordinator (1), Agency Contract Administrator (1), Human Resources (1), SAFE/SANE (1), Volunteer (1), Investigator (1), Staff Who Perform Risk Screening (2), Incident Review Team (2), Staff Who Monitor for Retaliation (1), and Intake staff (2). There were no first responders. The staff interviewed acknowledged they have received training and understood the PREA policies and procedures. They acknowledged their responsibilities to prevent, detect, report, and response to sexual abuse and sexual harassment. They understood their roles in reporting and responded to all allegations. The auditor also interviewed representatives of community agencies including the Crime Victims, the agency that provides emotional support and the Lourdes Hospital where medical care and SANE exams would be provided.

There was one (1) allegation reported during the audit period. The allegation was staff on resident sexual abuse, inappropriate relationship. This allegation was reported by a staff member through the hotline. When the facility received the information, the employee had been already terminated on other causes and the resident was no longer at the facility. The investigation is still open by the New York State Department of Corrections and Community Supervision (NYDOCCS) investigator, the investigation unit for the facility.

An exit meeting was conducted by the auditor at the completion of the on-site audit. While the auditor could not give the facility a final finding, the auditor did provide a preliminary status of the findings and request for further documentation needed to demonstrate compliance on three (3) standards. Standards 115.213, 115.217, and 115.265 could not be cleared at the end of the on-site audit process. All the standards required additional policy documentation for compliance. Standard 115.213, addressing the blind spots in the facility. Standard 115.217, documentation and practice of the staff continuing affirmative action duty to disclose misconduct. Standard 115.265, documentation of the coordinated response plan.

The auditor shared with the PREA Coordinator and the Program Manager feedback from the resident population; the residents stated they felt safe at the facility and felt staff would be responsive if an allegation was made. The auditor also shared the that staff was professional and well trained in their PREA knowledge and responsibilities. The auditor thanked the staff of the Volunteers of American Western New York, the Binghamton's Men's Facility, and New York State Department of Corrections and Community Supervision for their hard work and commitment to the Prison Rape Elimination Act.

Policies and directives were forwarded to the auditor by the PREA Coordinator that documented compliance with the outstanding standards 115.217 and 115.265 on June 6, 2018. Photographs documenting the installation of mirrors to eliminate the blind spots was provided on June 7, 2018. No further action was necessary.

The auditor based the decision of standard compliance on: data gathering; review of documentation; observations during the tour of the facility; sampling techniques for interviews with staff, residents, and files; interviews; and the facility's policy and practices.

## Facility Characteristics

The Binghamton Men's Facility is a male residential facility operated by the Volunteers of America of Upstate New York. The facility is located within the city of Binghamton, New York. The facility is a two-story old church that has been converted to a community residential facility. Three residential community service programs operate within the facility. One program is a fifteen (15) bed transitional housing for homeless men paroled through the New York State Department of Corrections and Community Supervision (NYDOCCS). These are the only residents that are under confinement within the facility and the focus of this report. The residents are released from prison to the resident facility. The program is for one hundred twenty (120) days while the resident obtains employment and a housing placement. The program is funded through a contract with the New York State Department of Corrections and Community Supervision (NYDOCCS). Another program within the facility is four (4) transitional housing beds for homeless veterans funded by the Department of Veteran's Affairs. The veterans may be in the program up to two years. The other program is ten (10) emergency housing beds (up to 30 days) for homeless men funded by the Broome County Department of Social Services.

The building is a three-story brick building that was a church. It has housing capacity for twenty-nine (29) beds. The first floor (basement) of the building has the kitchen, dining room, administrative office for maintenance, and a resident bathroom. The main floor is where the main entrance to the facility is located. It also has the control center, administrative offices, a lobby/dayroom for residents, laundry room, bathroom, and five (5) housing rooms. The five (5) housing rooms on this floor consist of four (4) single rooms for the veteran program and one (1) double occupancy room for the parole transitional program. The second floor consists of a bathroom and eight (8) housing rooms; seven (7) are double occupancy and one (1) dorm. The television/program area is one the main floor as part of the lobby.

Each resident receives three (3) meals a day, all necessary household and hygiene supplies, intensive case management services, connections to community services, income attainment assistance including employment or SSI/SSDI as applicable, and help securing permanent housing.

The facility has thirteen (13) internal cameras and eighteen (18) exterior cameras. The interior camera coverage in this facility covers all areas of the hallways and lobby/dayroom. The exterior covers the parking lots and the exterior surroundings of the building. A camera project upgrade is planned to add a few additional cameras, playback capabilities, and recording storage for six weeks.



The facility is managed by a Program Manager and oversight by the Vice President of Housing. The New York State Department of Corrections and Community Supervision (NYDOCCS) Reentry Operations Manager conducts monitoring visits.

## Summary of Audit Findings

The PREA Audit of the Binghamton Men’s Facility found forty-one (41) standards in compliance with three (3) of those standards exceeding the requirement of the standard. These standards are: 115.211 Zero Tolerance of Sexual Abuse and Sexual Harassment; PREA Coordinator; 115.231 Employee Training, and 115.233 Resident Education. An explanation of the findings related to each standard showing policies, practice, observations, and interviews are provided under each standard in this report.

**Number of Standards Exceeded:** 3

115.211, 115.231, 115.233

**Number of Standards Met:** 38

115.212, 115.213, 115.215, 115.216, 115.217, 115.218, 115.221, 115.222, 115.232, 115.234, 115.235, 115.241, 115.242, 115.251, 115.252, 115.253, 115.254, 115.261, 115.262, 115.263, 115.264, 115.265, 115.266, 115.267, 115.271, 115.272, 115.273, 115.276, 115.277, 115.278, 115.282, 115.283, 115.286, 115.287, 115.288, 115.289, 115.401, 115.403

**Number of Standards Not Met:** 0

## Summary of Corrective Action (if any)

During the tour, the auditor identified sight line concerns in the facility. Areas that need to be addressed are parking lot stairway to the basement/kitchen area, under the steps in the front desk stairway to the basement/kitchen area, upper hallway by the back bathroom, dining room area including the entry to the basement bathroom and the kitchen entry. Policies and directives were forwarded to the auditor by the PREA Coordinator that documented compliance with the outstanding standards 115.217 and 115.265 on June 6, 2018. Photographs documenting the installation of mirrors to eliminate the blind spots was provided on June 7, 2018. No further action was necessary.

## PREVENTION PLANNING

### Standard 115.211: Zero tolerance of sexual abuse and sexual harassment; PREA coordinator

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

#### 115.211 (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

#### 115.211 (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

#### Auditor Overall Compliance Determination

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

The Volunteers of American Western New York Inc Binghamton's Men's Facility has a written policy, Staff and Resident Sexual Abuse and Sexual Harassment (PREA) Section 115.211, that mandates zero tolerance towards all forms of sexual abuse and sexual harassment. The policy also states, PREA mandates the elimination, reduction, and prevention of sexual assault and rape in prisons, jails, and, community confinement facilities (half-way houses) housing adult male and female residents such as the Residential Parole Program and Residential Reentry Center operated by Volunteers of America of Upstate NY.

This policy also outlines the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment. The policy also has attachments of PREA for People with Disabilities and First Responder- Reports of Sexual Abuse or Sexual Harassment.

Through observation of bulletin boards, posters, review of resident and staff handouts, and interviews with staff and residents it was apparent the agency and facility are committed to zero tolerance of sexual abuse and sexual harassment. An informational poster is posted in each housing room that indicated the Volunteers of America has zero tolerance of sexual abuse and sexual harassment. As well as, providing the methods to report.

The Senior Vice President of Agency Advancement is the agency's PREA Coordinator. This position reports directly to the President & CEO and acknowledged having direct access to the President. She indicated in the interview, the position has enough time and authority to manage the agency's PREA Program. The position ensures understanding and implementing the standards to keep residents and staff safe. This is completed through operational procedures, investigations, incident reviews, and monitoring retaliation, if necessary. Training is provided to all agency staff through handbooks, formal training class, and staff meetings. The leadership has monthly meetings to review PREA issues. And a self-audit is completed at least once a year.

The agency also utilizes the Vice President of Housing as a PREA Compliance Manager. This position makes routine visits to the facility to ensure compliance. If a compliance issue is identified, a corrective action plan is developed, and this position would oversee the process to achieve compliance. This may include policy and procedure updates and staff training.

The partnership with the New York State Department of Corrections and Community Supervision (NYDOCCS) for the compliance with PREA was apparent throughout the audit. The Reentry Operations Manager was at the facility through the on-site audit. This position also conducts monthly monitoring visits which includes a PREA Checklist. The checklist includes are PREA posters adequately posted; are PREA pamphlets disseminated and continuously available; does residents know how to report; does staff/volunteers/contractors know how to report; are background checks completed and documented for all staff members; documentation of staffing plan and coverage for a post; residents provided information in a language they understand; is the PREA acknowledgment with the resident signature in the file; PREA screening within 72 hours and again within 30 days; facility tour for concerns; staff making announcements; are LGBTQ residents monitored for safety; first responder protocol; retaliation protocol; how are rounds conducted; and incident review process and documentation. NYDOCCS also provides the facility with PREA posters, handouts, and brochures. The reporting hotline is through NYDOCCS investigation unit.

The agency/facility exceeds the standard through the structure created to manage the PREA responsibilities of the agency and facility through the PREA Coordinator and the Compliance Manager/Vice President of Housing. The partnership and monitoring with NYDOCCS enhances the agency/facility approach to preventing, detecting, and responding to PREA.

## Standard 115.212: Contracting with other entities for the confinement of residents

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

#### 115.212 (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

#### 115.212 (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 115.212(a)-1 is "NO".)  Yes  No  NA

#### 115.212 (c)

- If the agency has entered into a contract with an entity that fails to comply with the PREA standards, did the agency do so only in emergency circumstances after making all reasonable attempts to find a PREA compliant private agency or other entity to confine residents? (N/A if the agency has not entered into a contract with an entity that fails to comply with the PREA standards.)  Yes  No  NA
- In such a case, does the agency document its unsuccessful attempts to find an entity in compliance with the standards? (N/A if the agency has not entered into a contract with an entity that fails to comply with the PREA standards.)  Yes  No  NA

### Auditor Overall Compliance Determination

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

The agency/facility does not contract for the confinement of its residents with private agencies or other entities, including other government agencies. This was confirmed through interviews with the Agency Head and the PREA Manager/Vice President of Housing.

## Standard 115.213: Supervision and monitoring

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

#### 115.213 (a)

- Does the agency develop for each facility 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 document for each facility 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 physical layout of each facility in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the composition of the resident population in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the prevalence of substantiated and unsubstantiated incidents of sexual abuse in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No

#### 115.213 (b)

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

#### 115.213 (c)

- In the past 12 months, has the facility 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 assessed, determined, and documented whether adjustments are needed to prevailing staffing patterns?  Yes  No

- In the past 12 months, has the facility 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 assessed, determined, and documented whether adjustments are needed to the resources the facility has available to commit to ensure adequate staffing levels?  Yes  No

### Auditor Overall Compliance Determination

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

The facility has developed a staffing plan that is based on the four criteria of this standard to include the physical layout of each facility, the composition of resident population; the prevalence of substantiated and unsubstantiated incidents of sexual abuse; and any other relevant factors. The design facility capacity is twenty-nine (29) residents and the staffing plan is based on twenty-nine (29) residents. The population during the audit was twenty-nine (29); fifteen (15) being from the parole transition program. Staffing plan is annually reviewed in April as part of the budgeting process. The Vice President of Housing meets with the Program Manager to evaluate the four criteria of the standard which includes staffing levels, safety concerns, and requests for staffing changes. From this meeting a recommended staffing model is developed and submitted to the PREA Coordinator to review. The PREA Coordinator stated she reviews the PREA allegations, PREA concerns over the last 12 months, camera placements, staff obligations, changes to programs or operations, resident composition, and other relevant factors to determine whether the recommended model is appropriate. The last staffing plan, and the initial one for the facility's first audit was conducted on April 9, 2018 and approved by the PREA Coordinator on April 10, 2018. It was determined that the staffing plan was sufficient. It was noted that when there was higher than anticipated activity within the facility, especially from 5-8:00 pm, additional staff were scheduled. The staffing plan continues to have two (2) resident assistants per shift. The PREA Manager/Vice President of Housing recommended additional cameras be installed and the system be updated to include immediate playback and remote viewing. The camera upgrade would be included in the FY19 budget.

Based on the review of the staffing plan and interviews with the PREA Coordinator and the Program Manager, the staffing plan was developed by the leadership of the facility with input from the PREA Coordinator. The written staffing plan is maintained at the facility and the agency headquarters. The facility makes its best efforts to comply with the plan. If there are deviations, documentation is provided through email to the PREA Manager/Vice President of Housing. The deviations must be approved by the Vice President of Housing. All deviations would be covered through overtime. Staff are available through call in.

The Program Manager indicated during her interview that the staffing reports are reviewed daily. The Program Manager indicated that non-compliance with the staffing plan is rare and would be covered by overtime. To ensure coverage is adequate, schedules are created in advance and reviewed. All vacations must be pre-approved and there are overlapping of staff schedules.

## Standard 115.215: Limits to cross-gender viewing and searches

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

#### 115.215 (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

#### 115.215 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female residents, except in exigent circumstances? (N/A if less than 50 residents)   
Yes  No  NA
- Does the facility always refrain from restricting female residents' access to regularly available programming or other outside opportunities in order to comply with this provision? (N/A if less than 50 residents)  Yes  No  NA

#### 115.215 (c)

- Does the facility document all cross-gender strip searches and cross-gender visual body cavity searches?  Yes  No  NA
- Does the facility document all cross-gender pat-down searches of female residents?  
 Yes  No  NA

#### 115.215 (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 an area where residents are likely to be showering, performing bodily functions, or changing clothing?  Yes  No

### 115.215 (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

### 115.215 (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*)

The facility is an adult male facility. The facility does not conduct physical searches of residents. The policy, Staff and Resident Sexual Abuse and Sexual Harassment section 115.215 states no physical searches of residents of any kind are allowed in the Binghamton parolee program. This was verified through the review of the agency's and facility's policy and procedures governing resident searches and cross gender searches and interviews with staff and residents. If a pat search or frisk searches would be conducted for safety concerns, it would be conducted by staff of the same gender. There were no cross-gender searches conducted or logged for exigent situations during this audit period. Strip searches would only be conducted by law enforcement or medical personnel. Body cavity searches are only completed by medically trained professionals. The policy also prohibits staff from searching or physically examining transgender and intersex residents for the purpose of determining genitalia status. Interviews with staff confirmed these practices, as well as the review of the policy and training lesson plans reinforcing these policies in the annual training.



The policy and practice allow all residents the opportunity to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing them. This was confirmed by interviews with residents and staff. Residents felt they received a sense of privacy for these functions. They indicated in their interviews that staff announce when arriving on the floor and again announce prior to opening a housing room door. Staff indicated they announce female on the floor and knock on a room door prior to entering. This was observed during the audit.

## **Standard 115.216: Residents with disabilities and residents who are limited English proficient**

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

#### **115.216 (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

#### 115.216 (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

#### 115.216 (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 §115.264, 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*)

The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment section 115.216, has established procedures to provide disabled residents equal opportunity to participate in and benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Facility staff, the Language Line Solutions, and sign language interpreter is available to the facility for interpretation services. VOA will provide a PREA-trained staff person fluent in the resident's native language or access Language Line Solutions. If the resident is deaf and able to read and write, staff will communicate through writing. If the resident needs further assistance, staff will contract a sign language interpreter. Residents that are visually impaired will have staff read the PREA information to the resident; and will consider other accommodation request from the resident. If the resident will benefit from enlarged text, VOA will provide reading materials in a large font. If a resident is cognitively or intellectually disabled, staff will verbally present PREA materials at a level the resident can understand. PREA reminders will be given more frequently. If a resident's mental health interferes with the ability to understand PREA materials, staff will consult with the resident's mental health provider to develop an appropriate plan to effectively convey information. Residents that are limited in their reading skills will have staff provide information verbally.

PREA brochures, posters, and resident handbook are available in English and Spanish. NYDOCCS has PREA information available to the facility in Italian, Simplified Chinese, Russian, Korean, Polish, and Haitian Creole. The PREA posters are posted in English and Spanish throughout the facility. There were no residents during the audit that had limited English, deaf or hearing impaired, blind or sight limited, low cognitive skills, or mental health needs.

The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment section 115.216, limits the use of resident interpreters or other types of resident assistants except in limited circumstances when there may be delay in obtaining an effective interpreter which could compromise the resident's safety. There were no instances where a resident interpreter was utilized during this audit timeframe.

## Standard 115.217: Hiring and promotion decisions

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

#### 115.217 (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

#### 115.217 (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

#### 115.217 (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: 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

#### 115.217 (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

#### 115.217 (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

### 115.217 (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

### 115.217 (g)

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

### 115.217 (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*)

The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment section 115.217, states VOA prohibits hiring or promoting anyone who has contact with residents, and prohibits enlisting the services of any contractor who has contact with residents, who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution; has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or has been civilly or administratively adjudicated to have engaged in the activity described in paragraph. The agency also considers 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. Employment candidates are asked these questions during the interview process.

The agency has established procedures for conducting criminal background checks for new employees who have contact with residents to ensure they do not hire or promote anyone who engaged in sexual abuse in a prison or other confinement setting; been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, coercion, or if the victim did not consent or was unable to consent to refuse; or had civilly or administratively adjudicated to have engaged in sexual activity in the community facilitated by force, coercion, or if the victim did not consent. The background check process is conducted by an outside company called Coeus Global. Per policy, background checks will be completed every five (5) years. Thirty-four (34) background checks were conducted this audit year. All employees have received a background check as verified through the employee personnel files reviewed. Prior to hiring, all background and application information are reviewed by NYDOCCS for final approval.

The agency also imposes upon employees a continuing affirmative duty to disclose any such misconduct and will annually require all existing staff to provide signed statements to this effect. Employees are required to answer questions of: have not engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution and have not been civilly or administratively adjudicated or convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to refuse.

Background checks on contractors are conducting by the contractor's company. Of the six (6) contractors, only one (1) had a background check. The background check is provided to the facility. If a contractor does not have a background check, they are always accompanied by staff while in the building. All contractors are service industry contractors and do not provide programming or services to the residents.

Six (6) personnel files were reviewed with the PREA Manager/Vice President of Housing. Also, through interviews with the Human Resource Manager, Superintendent, and PREA Coordinator it was determined that the agency policy and PREA standards were being followed concerning hiring, promotional decisions, and background checks.

The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment section 115.217, states the agency will 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. The interview with the Human Resources Manager indicated all information would be disclosed allowed by state regulations and state law.

## **Standard 115.218: Upgrades to facilities and technologies**

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

#### **115.218 (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

### 115.218 (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*)

The facility has not made a substantial expansion or modification to existing facilities. There has not been any upgraded or installed video monitoring, electronic surveillance system, or other monitoring technology. This was confirmed through the interviews with the Agency Head and Program Manager. The Program Manager indicated a camera upgrade is being planned. The camera project upgrade is planned to add a few additional cameras, playback capabilities, and recording storage for six weeks. The additional cameras would add cameras to the kitchen area, outside foyer, and alley. The estimated completion would be August 2018. The Agency Head stated the agency is always considering the sight lines for resident and staff safety. The camera upgrade would allow the Program Manager and PREA Manager/Vice President of Housing observe the cameras off site and mobile on their phones.

## RESPONSIVE PLANNING

### Standard 115.221: Evidence protocol and forensic medical examinations

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

### 115.221 (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

### 115.221 (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

### 115.221 (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

### 115.221 (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



### 115.221 (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

### 115.221 (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

### 115.221 (g)

- Auditor is not required to audit this provision.

### 115.221 (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 115.221(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*)

The facility does not conduct investigations. All investigations are conducted by NYDOCCS or local law enforcement. The State of New York Department of Corrections and Community Supervision (NYDOCCS) is responsible for criminal and administrative investigations for the parolees under confinement. The Office of Special Investigations (OSI) Sex Crimes Division (SCD) conducts the investigations. The Department has a working agreement with the New York State Police (NYSP) Bureau of Criminal Investigation (NYBCI) to work cooperatively in the investigations of reports of Staff-on-Resident and Resident-on-Resident sexual assault cases that may involve criminal conduct. NYDOCCS utilizes the New York Department of Health

Protocol for the Acute Care of the Adult Patient Reporting Sexual Abuse for evidence protocols and forensic medical examinations. Local law enforcement would be responsible for conducting investigations for residents in the other programs. The investigator interview was conducted with an investigator from NYDOCCS Office of Special Investigations. The investigator confirmed the practices for PREA investigations and was very knowledgeable of the investigation process and the uniformed evidence protocol.

Emergency medical healthcare along with forensic examinations by SANE/SAFE staff are provided at an outside facility with no cost to the resident. Lourdes Hospital is the local hospital that would be utilized for SANE exams. The interview with the SANE nurse from the local hospital indicated three (3) SANE/SAFE staff are on duty during normal working hours. After hours, staff are on call and report immediately as needed. An advocate will be provided to the resident upon request to provide emotional support through the forensic medical examination and investigation interviews. The facility does not have a formalized MOU with the hospital. The interview with agency staff and the SANE nurse indicated services are open to the general public and there is nothing specific to the program that warrants an MOU. There were no forensic medical exams during the last twelve months.

Crime Victims Assistance would provide the emotional support services to the resident. During the interview with Crime Victims Assistance, they indicated an advocate would report to the hospital and provide emotional support during the exam. Counseling would also be provided to the resident after through meetings at their office. The agency would also support and go to court with the resident if needed. Advocates are available twenty-four hours a day. Posters provide the residents with the toll-free number for the agency. Again, the agencies indicated a formal MOU was not needed, the services are available to the residents as like the general public.

## **Standard 115.222: Policies to ensure referrals of allegations for investigations**

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

#### **115.222 (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

#### **115.222 (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

#### 115.222 (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 conducting criminal investigations. See 115.221(a).]  Yes  No  NA

#### 115.222 (d)

- Auditor is not required to audit this provision.

#### 115.222 (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*)

The facility does not conduct investigations. The Agency Head stated all allegations are referred for investigation, the referral depends on the nature of the allegation. All investigations are conducted by State of New York Department of Corrections and Community Supervision (NYDOCCS) or local law enforcement. The facility would contact NYDOCCS who is responsible for administrative and criminal investigations on residents in the parole transition program (parolees under confinement). NYDOCCS would take the lead on the investigation and the facility would follow the directives from NYDOCCS. The Office of Special Investigations (OSI) Sex Crimes Division (SCD) conducts the investigations. The Department has a working agreement with the New York State Police (NYSP) Bureau of Criminal Investigation (NYBCI) to work cooperatively in the investigations of reports of Staff-on-Residents and Resident-on-Resident sexual assault cases that may involve criminal conduct. Local law enforcement would

be responsible for conducting investigations for residents in the other programs. The investigator interview was conducted with an investigator from NYDOCCS Office of Special Investigations. The investigator confirmed the practices for PREA investigations and was very knowledgeable of the investigation process.

When an allegation is reported, the site supervisor would contact the NYDOCCS if a parolee transition resident is involved. The facility then will follow the directives of the NYDOCCS investigator until the investigator is on site. Other allegations would be reported to the local law enforcement agency, City of Binghamton Police Department.

There was one (1) allegation reported during the audit period. The allegation was staff on resident sexual abuse, inappropriate relationship. This allegation was reported by a staff member through the hotline. When the facility received the information, the employee had been already terminated on other causes and the resident was no longer at the facility. The investigation is still open by the New York State Department of Corrections and Community Supervision (NYDOCCS) investigator, the investigation unit for the facility.

The agency's website, <https://www.voaupny.org>, provides the agency's policy Staff and Resident Sexual Abuse and Sexual Harassment. The policy outlines the investigation responsibilities and the referral and reporting process for allegations. This is also outlined in further detail in the attachment First Responder- Reports of Sexual Abuse or Sexual Harassment.

## TRAINING AND EDUCATION

### Standard 115.231: Employee training

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

#### 115.231 (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 confinement?  Yes  No
- Does the agency train all employees who may have contact with residents on: The common reactions of sexual abuse and sexual harassment victims?  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?  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

#### 115.231 (b)

- 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  N/A

#### 115.231 (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

#### 115.231 (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*)

The Volunteers of American Western New York Inc Binghamton's Men's Facility conducts PREA training as part of the initial new employee training, during annual in-service training, and provides refresher topics as needed. Training records, staff interviews, and review of curriculums indicated the training included the zero tolerance policy; the agency's policy and procedures for prevention; reporting and response to a sexual assault or sexual harassment incident; the dynamics of sexual abuse and harassment in a confinement setting; common reactions of sexual abuse and sexual harassment victims; how to detect and respond to signs of threatened and actual sexual abuse; how to avoid inappropriate relationships with residents; how to communicate effectively and professionally with residents; and how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities. The training also includes a PREA video which was developed by the New York DOCCS.

The staff receive training annually. Staff complete the NIC Your Role Responding to Sexual Abuse, a 3-hour course, annually in the fall. Staff also receive training through a powerpoint presentation titled PREA Compliance CBRP PREA Policy Overview developed by the NYDOCCS. Staff also view the PREA video. PREA updates and reminders are provide to staff monthly at staff meetings. The agency also sends quiz questions to staff through email and staff are also provided updates during their shifts. The training records indicated all staff at the facility had received the training. The agency's policy Staff and Resident Sexual Abuse and Sexual Harassment, states the agency shall provide these employees with refresher training every year to ensure that these employees know VOA's current sexual abuse and sexual harassment policies and procedures. The VOA shall document through testing or an employee signature that they understand the training they have received. The training files contained signed staff acknowledgements of attending and understanding the training. All staff had completed the annual training. The agency exceeds the requirement of the standard by conducting annual training instead of every two years, conducts refresher courses as needed or as policy changes occur, and refreshers at staff meeting and on-line.

Interviews of random staff and general questions asked of staff during the tour clearly indicate each staff member is knowledgeable on how to perform their responsibilities in detention, reporting, and responding to sexual abuse and sexual harassment.

## Standard 115.232: Volunteer and contractor training

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

### 115.232 (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

### 115.232 (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

### 115.232 (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*)

The Volunteers of American Western New York Inc Binghamton's Men's Facility conducts PREA training with all volunteers and contractors prior to entering the facility. The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment, states the VOA will ensure that all volunteers and contractors who have contact with PREA-protected residents have been trained on their responsibilities under the VOA's sexual abuse and sexual harassment prevention, detection and response policies and procedures. The level and type of training provided to the volunteers and contractors shall be based on the services they provide and level of contact with residents. At a minimum, all volunteers and contractors will be notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents. This information will be provided prior to entering the facility or having any contact with residents. The VOA shall maintain documentation confirming the volunteers and contractors understand the training they have received.

The volunteers and contractors review a PREA brochure The Prevention of Sexual Abuse which they must review and sign acknowledgement and understanding of the zero tolerance policy. They are also required to view the PREA video annually. The facility has six (6) contractors and five (5) volunteers. All have been trained on the zero tolerance policy and their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures. An interview was conducted with a volunteer. The volunteer acknowledged the training received including watching the PREA video. The volunteer stated the training consisted of signs to look for, be aware of situations, how to report, the zero tolerance policy, and reporting to the Program Manager immediately. Documentation is maintained of the training on the form PREA Visitor Training Acknowledgment.

## Standard 115.233: Resident education

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

#### 115.233 (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
- During intake, do residents receive information explaining: Their rights to be free from sexual abuse and sexual harassment?  Yes  No
- During intake, do residents receive information explaining: Their rights to be free from retaliation for reporting such incidents?  Yes  No
- During intake, do residents receive information regarding agency policies and procedures for responding to such incidents?  Yes  No

#### 115.233 (b)

- Does the agency provide refresher information whenever a resident is transferred to a different facility?  Yes  No

#### 115.233 (c)

- 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

#### 115.233 (d)

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

#### 115.233 (e)

- 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*)

At intake into the facility, residents are provided PREA information through a PREA brochure, The Prevention of Sexual Abuse Community Based Residential Program Information, that explains the agency's zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents. This information is also explained verbally by the intake staff. The resident must sign an acknowledgement form of receiving the brochure and understanding the information. All residents that are parole transition residents received in the facility are transferred from a state prison. The residents acknowledged receiving the PREA education at the prison and also at intake to the Binghamton's Men's Facility.

Facility staff, the Language Line Solutions, and sign language interpreter is available to the facility for interpretation services for residents in need of interpretation. VOA will provide a PREA-trained staff person fluent in the resident's native language or access Language Line Solutions. If the resident is deaf and able to read and write, staff will communicate through writing. If the resident needs further assistance, staff will contract a sign language interpreter. Residents that are visually impaired will have staff read the PREA information to the resident; and will consider

other accommodation request from the resident. If the resident will benefit from enlarged text, VOA will provide reading materials in a large font. If a resident is cognitively or intellectually disabled, staff will verbally present PREA materials at a level the resident can understand. PREA reminders will be given more frequently. If a resident's mental health interferes with the ability to understand PREA materials, staff will consult with the resident's mental health provider to develop an appropriate plan to effectively convey information. Residents that are limited in their reading skills will have staff provide information verbally.

The residents are also provided comprehensive education during their risk screening process. The case manager reviews the PREA brochure with the resident and the resident views the PREA Video. This education expands on the previous education received during the intake process. The resident then acknowledges receiving the information and viewing of the video by signing the PREA Intake Orientation Form. This education usually occurs on the same day as intake or the next business day if a late intake. The Pre-Audit Questionnaire indicated only 104 of the 115 residents received education. The difference are the residents that were received prior to the new contract that started in May 2017. All residents since the start of the contract have received education. All residents at the facility have received education.

PREA brochures, posters, and resident handbook are available in English and Spanish. The PREA posters are posted in English and Spanish throughout the facility. Each housing room has the information poster located on the room door.

Random residents interviewed and during discussion on the facility tour, residents acknowledged they have received PREA information upon arrival at the facility and the information was reinforced during the orientation video. They were able to explain how to report an incident and were aware of the zero tolerance policy. There were no new intakes during the audit for the auditor to observe the education process.

## **Standard 115.234: Specialized training: Investigations**

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

### **115.234 (a)**

- In addition to the general training provided to all employees pursuant to §115.231, 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 115.221(a).]  Yes  No  NA

### 115.234 (b)

- Does this specialized training include: Techniques for interviewing sexual abuse victims? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.221(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 115.221(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 115.221(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 115.221(a).]  Yes  No  NA

### 115.234 (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 115.221(a).]  Yes  No  NA

### 115.234 (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*)

The facility does not conduct investigations. All investigations are conducted by NYDOCCS or local law enforcement. The State of New York Department of Corrections and Community Supervision (NYDOCCS) is responsible for criminal and administrative investigations for the parolees under confinement. The Office of Special Investigations (OSI) Sex Crimes Division (SCD) conducts the investigations. Local law enforcement would be responsible for conducting investigations for residents in the other programs. The investigator interview was conducted with an investigator from NYDOCCS Office of Special Investigations. The investigator indicated that he received training on sexual abuse investigations through the training curriculums: PREA

Specialized Training: Investigations, Basic Investigative Photograph Course, Police Crime Scene and Evidence Specialist Course, Investigating Physical and Sexual Abuse in Institutional Settings, and NIC PREA Investigating Sexual Abuse in a Confinement Setting. These training curriculums cover the topics of techniques for interviewing sexual abuse victims, proper use of the Miranda and Garrity warnings, sexual abuse evidence collection in confinement setting, and the criteria and evidence to substantiate a case for administrative action or prosecution referral. The investigator stated during the interview process that investigators attend a three-week basic Office of Special Investigations training which includes topics of investigating sexual abuse in the confinement settings. Documentation of training is maintained on the Report of Training Form which the employee must sign and date acknowledging training. The specialty training was verified through the investigator interview and review of the training records provided.

## Standard 115.235: Specialized training: Medical and mental health care

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

### 115.235 (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  N/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 preserve physical evidence of sexual abuse?  Yes  No  N/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 respond effectively and professionally to victims of sexual abuse and sexual harassment?  Yes  No  N/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 and to whom to report allegations or suspicions of sexual abuse and sexual harassment?  Yes  No  N/A

### 115.235 (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

### 115.235 (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  N/A

### 115.235 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.231?  Yes  No  N/A
- Do medical and mental health care practitioners contracted by and volunteering for the agency also receive training mandated for contractors and volunteers by §115.232? [N/A for circumstances in which a particular status (employee or contractor/volunteer) does not apply.]  
 Yes  No  NA

### Auditor Overall Compliance Determination

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

The facility does not have medical and mental health staff. All residents are transported to the outside local hospital for medical care by law enforcement or ambulance.

## SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

### Standard 115.241: Screening for risk of victimization and abusiveness

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

### 115.241 (a)

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

### 115.241 (b)

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

### 115.241 (c)

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

### 115.241 (d)

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

#### 115.241 (e)

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

#### 115.241 (f)

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

#### 115.241 (g)

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

#### 115.241 (h)

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

#### 115.241 (i)

- Has the agency implemented appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the 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*)

The screening process for the risk of victimization and abusiveness is outlined in the agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment (PREA) section 115.241. The auditor had the facility staff explain the risk screening process from the receiving of the resident at the facility to the completion of the risk screening process. During the site visit, the auditor was unable to observe the risk screening process since there were no intakes during the on-site audit. The resident initial screening occurs immediately upon intake at the facility utilizing the Prison Rape Elimination Act (PREA) Risk Screening Form – Male Facility. Section A of the risk screening form includes questions regarding mental, physical, and developmental disabilities; age of the resident; physical build of the resident; whether the resident has been previously incarcerated; whether the resident's criminal history is exclusively nonviolent; whether the resident has prior convictions against an adult or child; whether the resident wishes to identify their sexual orientation or gender identity; whether or not the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; whether the resident is perceived as LGBTQI by others; whether or not the resident has previously experienced sexual victimization; and the resident's own perception of vulnerability. The form is a no, yes, and no answer format. If the resident has five or more yes responses or answered yes to specific questions (7b, 8, or 9), the resident may be at high risk of sexual victimization. The supervisor is then notified immediately. The form also provides space for narrative responses and information. Section B of the risk screening form asks questions for the risk of sexual abusiveness. These questions include has the resident been convicted of a crime related to sexual abuse of another inmate, detainee, or resident including the instant offense; have a know history of committing institutional sexual abuse; been convicted of a violent offense including the instant offense; and known history of committing institutional violence. If the resident answers yes to question a or b, the resident may be at high risk of being sexually abusive. The supervisor must be notified immediately. The resident and staff member conducting the assessment both sign and date the form. The screening process conforms to the PREA standard. Staff indicated the risk screening are usually completed on the day of intake if early arrival or the next day if a late arrival. If the resident arrives late on Friday, the risk screening is completed Monday morning. The agency's policy requires the screening should occur no longer than 72 hours from arrival.

Of the 106 residents whose stay was longer than 72 hours, only 90 received screening. Of the sixteen (16) that did not receive screening: eleven (11) entered the program prior to the screening protocol implementation which began in May 2017; three (3) were not present in the facility due to hospital or absconded although carried on the facility count; and two (2) were not



screened for unknown reasons. All residents present during the audit had initial risk screening as documented in the resident files.

The resident is reassessed utilizing the same agency form Prison Rape Elimination Act (PREA) Risk Screening Form – Male Facility within thirty (30) days of the resident's arrival at the facility. The policy states the Program Manager, or designee, will conduct the 30-day reassessment of the resident's risk level of victimization or abusiveness. The case managers were interviewed for the staff member that conducts risk screening. They indicated the reassessments are conducted within thirty (30) days or sooner if the resident is seen as vulnerable. Sixty-nine (69) residents had length of stay longer than thirty (30) days. Of those residents forty-seven (47) received reassessments within thirty days. Of the twenty-two (22) residents not reassessed: eighteen (18) residents exited the facility before the risk screening follow-up was implemented, one (1) resident refused to meet with the case manager and then tested positive for drug use and was exited from the program; one (1) left on the thirtieth day; and two (2) unknown reasons. All residents in the program at the time of the audit had the reassessments completed in a timely manner as documented in the resident files. All the resident files were reviewed. The case manager maintains a spreadsheet that lists the day the resident entered the facility, number of days in the facility, initial screen completed with date, rescreen completed with date, and a comment section.

The agency's policy also addresses the reassessment of a resident's risk level when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness. Through policy review and confirmed during staff interviews, residents may not be disciplined for refusing to answer or disclosing information during the risk assessment process.

The staff interviews also confirmed appropriate controls have been implemented to ensure that sensitive information is not exploited by staff or other residents. The screening tools are maintained in the resident's file locked in file cabinets in the case manager's office. Other than the case managers, the only other staff with access to the resident's file is the Program Manager and PREA Manager/Vice President of Housing. Information is shared with appropriate staff as needed to make housing, bed, work, education, program assignments, and mental health and medical referrals based on providing safety for the resident.

## **Standard 115.242: Use of screening information**

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

#### **115.242 (a)**

- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Housing Assignments?  Yes  No

- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Bed assignments?  Yes  No
- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Work Assignments?  Yes  No
- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Education Assignments?  Yes  No
- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Program Assignments?  Yes  No

#### 115.242 (b)

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

#### 115.242 (c)

- 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

#### 115.242 (d)

- 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

#### 115.242 (e)

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

### 115.242 (f)

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

### Auditor Overall Compliance Determination

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

The facility uses the screening information from the Prison Rape Elimination Act (PREA) Risk Screening Form – Male Facility to determine housing, bed, work, education, and program assignments with the goal of keeping residents at high risk of being sexually victimized from those at high risk of being sexually abusive. When a resident is identified, the supervisor is notified promptly to assist with housing placement. The staff interviewed that conducts risk assessments indicated that based on the number of yes responses to questions (five or above or yes to specific targeted questions), the resident would be referred to the supervisor for housing and program placement. The resident would also be referred to a local walk in medical clinic if indicated prior victimization. If the resident indicates prior perpetration, the parole officer is contacted.

The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment (PREA) section 115.241, states the program makes individualized determinations about how to ensure the safety of each resident. If a resident is determined to be at risk of sexual victimization or at risk of being a predator, case management staff will share the information with the Program Manager who will help determine next steps related to continued placement in the facility and housing,

education and employment placements. The Program Manager will involve the VP of Housing or the PREA Coordinator as appropriate. Supervisory staff shall be proactive in the prevention of sexual abuse and sexual harassment when making roommate and room selections for residents. Staff will use the results of the PREA Risk Screening Form for Male Facilities and will consider the following factors: compatibility of resident's chronological age; maturity; gang affiliation; level of sophistication; functioning level; size and strength; disabilities; infirmities; behavioral history; and detaining or committing offenses. If a resident has a known history of being a sexual predator, as evidenced through detaining or committing offenses, reports from prior placements, or other credible information, that resident shall be placed in a single room, if space allows. No potential victims will be placed with potential perpetrators or vice versa. Staff shall take seriously a resident's request for a room change and discretely inquire whether the resident is feeling unsafe. If the resident answers yes, the staff member should bring this to the attention of a Site Supervisor and/or the agency PREA Coordinator for investigation. The housing and program assignments are made on a case by case basis on whether a placement would ensure the resident's health and safety and whether the placement would present management or security issues. There were two (2) residents this audit year whose risk assessments indicated that they were at risk of being victimized. The case manager discussed with the residents their own perception of their vulnerability and housing placement. The residents felt safe in the housing environment of the facility. The case manager made extra contact with these residents to ensure the resident was safe and felt safe in their housing placement.

There were no residents identified as a lesbian, gay, bisexual, transgender, or intersex resident to interview at the facility. The policy states the facility shall consider on a case by case basis whether a housing placement would ensure the resident's health and safety, and whether the placement would present management or security problems. The resident is asked during the screening process if they perceive themselves at risk for sexual victimization.

The facility has a process in place for the transgender or intersex the opportunity to shower separately from other residents. The directive states any resident that identifies themselves as transgender or intersex will be allowed to shower separately from all other resident upon their request. The transgender or intersex resident is able to use the single shower by requesting the key from the resident assistant. All showers in the facility are single stalls with shower doors. The facility policy only allows one resident at a time in a bathroom.

The agency does not place lesbian, gay, bisexual, transgender, or intersex residents in dedicated facilities, units, or wings solely on the basis of such identification or status, per policy Staff and Resident Sexual Abuse and Sexual Harassment (PREA).

## REPORTING

### Standard 115.251: Resident reporting

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

### 115.251 (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

### 115.251 (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

### 115.251 (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

### 115.251 (d)

- 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*)

The Volunteers of American Western New York Inc Binghamton's Men's Facility established procedures allowing for multiple internal and external ways for residents to report sexual abuse, sexual harassment, and retaliation. These procedures are outlined in policy Staff and Resident Sexual Abuse and Sexual Harassment (PREA) sections 115.251 and 115.261. PREA reporting methods are shared with residents at intake, during orientation, in the PREA brochure The Prevention of Sexual Abuse Community Based Residential Program Information, and on posters throughout the facility. The PREA Brochure, The Prevention of Sexual Abuse Community Based Residential Program Information, inform residents they can report verbally to the designated PREA Compliance Manager, program staff, and Parole Officer. They can also write facility staff, the NYDOCCS PREA Coordinator, the NYDOCCS Office of Special Investigations (OSI), and report to an outside agency the New York State Commission of Correction. Residents may also report allegations through third party reporting or send an anonymous note. The residents may also use call the agency's PREA Coordinator, Crime Victims Assistance Center, and NYS Sexual Violence Hotline. All of these numbers are provided to the resident on the flyers posted in their housing rooms and throughout the facility. Posters also direct the resident to call the NYDOCCS Office of Special Investigations (OSI).

The outside agencies, Crime Victims Assistance Center, and NYS Sexual Violence Hotline that operates the hotlines will forward any reporting incidents to the facility with the residents approval. Reports to the NYDOCCS Office of Special Investigations (OSI) will begin an investigation and the facility will be notified. Reports to the New York State Commission of Correction may be made confidentially and remain anonymous upon request. The New York State Commission of Correction will immediately forward any reports of sexual abuse and sexual harassment to NYDOCCS officials and the facility for investigation. If the resident requested to stay anonymous then the allegation with basic information is forwarded without the resident's name or number. The one allegation this audit year was made through a phone call to the NYDOCCS Office of Special Investigations (OSI). These reporting systems were demonstrated through review of policies and procedures, resident handbook, posters throughout the facility, and interviews with residents and staff. During the resident interviews, most residents indicated they felt comfortable reporting sexual abuse or sexual harassment and they know the options available to them for reporting. The auditor tested the phone hotlines during the on-site audit.

Staff indicated through interviews they were aware of the methods available to residents to report sexual abuse and sexual harassment. Staff were also knowledgeable on the ways residents could report to staff and their responsibility in the process. They indicated in the interviews they would report immediately to a supervisor. After verbal reporting, a written report would be completed and forwarded to the supervisor. Staff can privately report by calling the NYDOCCS Office of Special Investigations. The one allegation this audit year was made by a staff member calling the NYDOCCS Office of Special Investigations.

## Standard 115.252: Exhaustion of administrative remedies

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

#### 115.252 (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

#### 115.252 (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

#### 115.252 (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

#### 115.252 (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 115.252(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

#### 115.252 (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 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

#### 115.252 (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

### 115.252 (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*)

The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment (PREA) section 115.252, outlines a formal administrative process to address resident grievances regarding sexual abuse and sexual harassment. The program prohibits an informal grievance process or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse or sexual harassment. To submit a grievance, a resident can: provide a verbal or written report to any VOA staff member; call or email VOA's PREA Coordinator; call VOA's Human Resources line; and call local or state crime victims or sexual abuse hotline. This information is shared with residents at move-in and posted prominently throughout the facility and in the residents' rooms. VOA will respond to any third-party reports of sexual abuse on behalf of residents; and allows residents to access staff and other outside parties to assist with grievances. If the resident chooses to decline third-party assistance, VOA will document the refusal in the resident's chart. The program shall not impose a time limit on when a resident may submit a grievance regarding an allegation of sexual abuse or sexual harassment. A resident who alleges sexual abuse or sexual harassment may submit a grievance without submitting it to a staff member who is the subject of the complaint. Such grievance is not referred to a staff member who is the subject of the complaint. VOA will address the grievance in a timely manner. The staff person who receives the initial report will immediately notify the Site Supervisor, Vice President of Housing or the PREA Coordinator. The PREA Coordinator will be notified on the first business day following the initial report. Within 72 hours of notification the PREA Coordinator will inform the resident of the grievance process including all notifications that will be made to the resident and the associated timeframes. VOA shall issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance unless the contracting agency or another appropriate entity is conducting an investigation into the grievance in VOA's stead or has instructed VOA not to share information. Residents who made an allegation of personal abuse will be informed in writing of any agency decision. Computation of the 90-day time period shall not include time consumed by residents in preparing any administrative appeal. VOA may claim an extension of time to respond, of up to 70 days, if the normal time-period for

response is insufficient to make an appropriate decision; VOA shall notify the resident in writing of any such extension and provide a date by which a decision will be made. 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, the resident may consider the absence of a response to be a denial at that level.

The policy also states the program shall provide procedures for the filing of an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse or sexual harassment. After receiving an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse or sexual harassment, the program shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse or sexual harassment) to a level of review at which immediate corrective action may be taken, shall provide an initial response within 48 hours, and shall issue a final agency decision within 5 calendar days. The initial response and final decision shall document the program's determination whether the resident is in substantial risk of imminent sexual abuse or sexual harassment and the action taken in response to the emergency grievance.

The policy also states the program may discipline a resident for filing a grievance related to alleged sexual abuse only where the program demonstrates that the resident filed the grievance in bad faith.

During the audit period, there were no grievances filed.

## **Standard 115.253: Resident access to outside confidential support services**

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

#### **115.253 (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 enable reasonable communication between residents and these organizations and agencies, in as confidential a manner as possible?  Yes  No

#### **115.253 (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

### 115.253 (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

#### Auditor Overall Compliance Determination

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

The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment (PREA) section 115.253, states victim services will be made available through community services to all program residents while they reside at the program, who were victims of sexual abuse or sexual harassment by program staff, contract employees, volunteers, or other residents while in the program or in other community programs. The program will 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, and national victim advocacy or rape crisis organizations, and by enabling reasonable communication between residents and these organizations, in as confidential a manner as possible.

Information for services is provided to the residents upon intake through the PREA brochure, The Prevention of Sexual Abuse Community Based Residential Program Information. The brochure provides the toll-free number for the NYS Domestic and Sexual Violence Hotline. The brochure also states that all information is confidential. Information is only shared with the people involved in the reporting, investigation, discipline, and treatment process or as otherwise required by law. This information is also shared on the posters throughout the facility.

Services are available through the New York State Sexual Violence Hotline and the Crime Victims Assistance Center. Crime Victims Assistance Center would provide the emotional support services to the resident. During the interview with Crime Victims Assistance Center, they indicated an advocate would report to the hospital and provide emotional support during the exam. Counseling would also be provided to the resident after through meetings at their office. The agency would also support and go to court with the resident if needed. Advocates are available twenty-four hours a day. Posters provide the residents with the toll-free number for the

agency. The agencies indicated a formal MOU was not needed, the services are available to the residents just like the general public.

The residents interviewed were aware of the services available to them and how to contact the emotional support agencies. They referenced the brochure and the poster near the phone as providing contact numbers to call.

## Standard 115.254: Third-party reporting

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

#### 115.254 (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*)

The agency's policy states the program shall allow for third-parties to report sexual abuse or sexual harassment for any resident and distributes information explaining how to report sexual abuse and sexual harassment on behalf of a resident. The PREA Third Party Reporting Form is available for individuals to report sexual abuse or sexual harassment on behalf of a resident. Copies of the form can be found at the program. All reports of sexual abuse and sexual harassment received from third parties shall be responded to according to VOA policy by agency staff. Any staff receiving a third party report of sexual abuse or sexual harassment shall forward such report to their immediate supervisor who will in turn forward to the Program Manager and PREA Coordinator who will follow the proper PREA reporting guidelines. Third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, shall be permitted to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse and sexual harassment, and shall also be permitted to file such requests on behalf of residents. If a third-party files such a request on behalf of a resident, VOA may require as a condition of processing the request, that the alleged victim agree to have the request filed on his behalf, and may also require the alleged victim to personally pursue any subsequent steps

in the administrative remedy process. If the resident declines to have the request processed on his or her behalf, VOA shall document the resident's decision. The policy is available on the agency website to direct individuals on how to make a third-party report.

Information is also posted at the facility for all visitors entering the facility. The NYDOCCS hotline also provides the resident with a third-party method of reporting. Third party reporting information is shared through the agency website, brochures, and posters.

The one allegation during this audit period was a third-party report by a staff member through the NYDOCCS hotline.

## OFFICIAL RESPONSE FOLLOWING A RESIDENT REPORT

### Standard 115.261: Staff and agency reporting duties

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

#### 115.261 (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

#### 115.261 (b)

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

#### 115.261 (c)

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

- Are medical and mental health practitioners required to inform residents of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services?  
 Yes  No  N/A

#### 115.261 (d)

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

#### 115.261 (e)

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

#### Auditor Overall Compliance Determination

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

The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment (PREA) section 115.261, outlines the reporting requirements for staff. This is also part of the First Responder-Reports of Sexual Abuse or Sexual Harassment and in the job descriptions. The policy and directives require that all staff must report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment; retaliation against residents or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. It also states apart from reporting to designated supervisors or agency officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions. The reporting requirements are covered in the annual PREA training. Policy also directs upon receiving an allegation that a resident was sexually abused while residing at the program, the staff receiving this information must immediately notify the Site Supervisor. The Site Supervisor, or designee, must then institute the Incident Report process, notify the PREA Coordinator and Human Resources if a staff person is involved. The PREA Coordinator will provide direction about calling the local authorities to begin a criminal investigation and the appropriate contracting agency. The Site Supervisor will notify the PREA Coordinator as soon as possible, but not longer than by the end of the business day of the day the report of the allegation was received. The Site

Supervisor will document such report and notification in the facility log. All allegations including third-party are referred to the appropriate investigation unit.

The specialized and random staff interviews confirm that staff are knowledgeable in their reporting duties, the process of reporting, and to whom to report sexual abuse and sexual harassment of residents. Staff indicated through interviews they were aware of the methods available to report sexual abuse and sexual harassment. Staff were also knowledgeable on the ways residents could report to staff and their responsibility in the process. They indicated in the interviews they would report immediately to a supervisor. After verbal reporting, a written report would be completed and forwarded to the supervisor and PREA Coordinator. Staff interviewed knew that private reporting may be completed by calling the Office of Special Investigations through the hotline.

The facility does not employ any medical or mental health staff. All services are provided by community agencies.

The PREA Coordinator interview indicated that NYDOCCS parolees are not included within the statutory jurisdiction of the State entity that investigates allegations concerning vulnerable adults, Article 11 Protection of People with Special Needs. However, the agency would report to the Adult Protective Services (APS) Agency. The policy states staff receiving a report of sexual abuse or sexual harassment of a vulnerable adult, as defined by APS, is required to report the incident to the state or local adult protective services by the person who received the report or the Site Supervisor.

## Standard 115.262: Agency protection duties

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

### 115.262 (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*)

The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment (PREA) sections 115.221 and 115.262, requires staff to take immediate action to protect any resident subject to substantial risk of sexual abuse. The policy states upon learning that a resident is subject to risk of imminent sexual abuse, the first staff member to respond will separate the alleged victim and alleged abuser (to protect the victim and prevent further violence); not leave the alleged victim alone; call 911 if warranted; and contact the Person-in-Charge (Site Supervisor or designee) to request assistance (including notifying BOP or Parole, as applicable, of incident). All staff interviewed knew the steps to take to protect an resident at risk for sexual abuse.

The Agency Head indicated that each case is evaluated on an individual basis to determine how to keep the resident safe during the investigation. It may be through housing and work assignment changes. The case manager and resident assistant would monitor the resident more and through a one on one contact. The resident or the potential resident causing threat may be moved from the facility. If the resident must be transferred back to the prison, it will be the considered after all available alternatives are reviewed and determination has been made that there is no available alternative means of separation from the risk.

The Facility Program manager indicated in the interview that the case manager would review the housing placements and make changes if necessary. If staff was creating the risk, the staff would be placed on administrative leave during the investigation. If another resident, the facility would contact NYDOCCS for housing change.

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

## Standard 115.263: Reporting to other confinement facilities

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

#### 115.263 (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

#### 115.263 (b)

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

#### 115.263 (c)

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



### 115.263 (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*)

The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment (PREA) section 115.263, outlines upon receiving an allegation that a resident was sexually abused or sexually harassed while confined at another facility, the Site Supervisor that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse or harassment occurred. The notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. The program shall document that it has provided such notification; and send the documentation to the VOA PREA Coordinator. The agency head or program manager from the non-VOA agency that receives such notification shall ensure that the allegation is investigated. Within 90 days, the Site Supervisor will contact the agency head or program manager from the non-VOA agency who received the notification and request an update on the investigation and outcome.

The Agency Head indicated that the PREA Coordinator or PREA Manager/Vice President of Housing would be the designated point of contact for another agency to report. Once an allegation is reported, the agency would follow the Coordinated Response Plan and begin an investigation. It was stated that no allegations were reported from another facility or agency.

In the past twelve months, there were no allegations received that a resident was abused while confined at another facility or any notification of an allegation of sexual abuse reported at another facility.

### Standard 115.264: Staff first responder duties

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

### 115.264 (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

#### 115.264 (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*)

The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment (PREA) section 115.264, outlines upon learning that a resident was sexually abused, the first staff member to respond to the scene must: separate the alleged victim and alleged abuser (to protect the victim and prevent further violence); not leave the alleged victim alone; ensure no one else enters the area to preserve and protect the crime scene; call 911 if warranted; and contact the Person-in-Charge (Site Supervisor or designee) to request assistance (including notifying BOP or Parole, as applicable, of incident). If the abuse occurred within a time period that would still allow for the collection of physical evidence (up to 96 hours), request that the alleged victim and abuser not take any action that could destroy physical evidence, including washing or showering, drinking or eating (unless medically indicated), brushing teeth, changing clothes, or toileting. If toileting needs to take place, the resident should be instructed to not wipe. In the event of an allegation

of sexual abuse within the last 96 hours, including but not limited to those involving penetration, staff will have resident transported to a local hospital, with the victim's permission, equipped to evaluate and treat sexual abuse/rape victims, where he/she may receive a forensic medical exam by medical personnel not employed by the program. Staff will not allow the resident to wash, shower, toilet, change clothes, brush teeth, eat or drink (unless medically indicated) before examination, as evidence may be destroyed. The process is also outlined in the First Responder – Reports of Sexual Abuse or Sexual Harassment directive.

The first responder duties are covered in the First Responder – Reports of Sexual Abuse or Sexual Harassment directive, during annual training, and PREA refreshers for all staff. Through interviews with staff it was demonstrated that staff was knowledgeable in the steps to as a first responder and the steps to be taken.

There was one allegation of staff on resident sexual abuse. This allegation was reported after the resident left the facility.

## Standard 115.265: Coordinated response

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

#### 115.265 (a)

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

#### Auditor Overall Compliance Determination

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

The Volunteers of American Western New York Inc Binghamton's Men's Facility has a written coordinated response plan, PREA Reports – Agency Coordinated Response Plan. The first section of the plan, Immediate Response includes the initial report, first responder duties, notifications, victim advocate contact, and immediate victim services. The second section, Next Business Day, addresses further notifications, review of the response coordination, additional procedures; medical assessment; mental health referral; post medical assessment; and confidentiality. The plan coordinates the actions taken in the investigation process, and victim

services follow-up. The third section, Follow-Up, details the retaliation monitoring, investigation updates, post-investigation reviews, and data collection. During staff interviews, staff detailed their responsibilities in their coordinated efforts during an incident. The Program Manager interview indicated the facility would utilize the First Responder and Coordinated Response directives for handling a coordinated response to an allegation. During the interview it was stated that the site supervisor would coordinate the incident.

## **Standard 115.266: Preservation of ability to protect residents from contact with abusers**

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

#### **115.266 (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

#### **115.266 (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*)

The Volunteers of American Western New York Inc reported there has been no collective bargaining agreement entered into or renewed since August 2012. The agency is an "at will employer" and does not have collective bargaining. The facility can remove alleged staff sexual abusers from contact with any residents or place an employee on administrative leave pending the outcome of an investigation. The Agency Head designee confirmed that the agency has not entered any collective bargaining or other agreements since August 2012.

## Standard 115.267: Agency protection against retaliation

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

#### 115.267 (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

#### 115.267 (b)

- Does the agency employ multiple protection measures, 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 for residents or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations?  Yes  No

#### 115.267 (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

#### 115.267 (d)

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

#### 115.267 (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

#### 115.267 (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*)

The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment (PREA) section 115.267, outlines protection of all residents and staff who report sexual abuse or sexual harassment, cooperates with sexual abuse or sexual harassment investigations, and from retaliation by staff or residents. Policy designates the PREA Coordinator as the staff member to monitor retaliation. The policy states residents and staff who report sexual harassment or abuse or who participate in a related investigation will be protected from retaliation. The PREA Coordinator will help staff identify any changes to the program structure or operations necessary to minimize retaliation. The PREA Coordinator or designee will meet with any residents or staff who report sexual harassment or abuse or who participate in a related investigation within 2 business days of the report and will inform them that they have a right to protection from retaliation, describe what retaliation might look or feel like, and provide staff contact information for multiple staff who will respond to reports of retaliation and collect preferred method of on-

going contact (phone or email). The PREA Coordinator will designate staff to monitor the conduct and treatment of residents and staff to ensure retaliation is not happening. The PREA Coordinator will pro-actively contact residents and staff every 30 days (as long as they are in the facility) via their preferred contact method to ask about any concerns related to retaliation. Any reports of retaliation will be thoroughly investigated and appropriate efforts will be made to keep staff and residents safe.

The PREA Coordinator interviewed as the staff member charged with monitoring retaliation stated that an initiate contact occurs with the resident of staff within 72 hours. The monitoring would occur for up to ninety (90) days and longer if needed. Monitoring would occur daily through the program staff with more formalized monitoring meeting at least monthly with the PREA Coordinator or designee. The resident monitoring will include any high rate of restrictions, work assignments, and behavior changes. The staff monitoring would include work hours, disciplinary actions, a change in behavior or morale. The agency can provide protection of retaliation by monitoring, administrative leave, or transfer for a staff member. Protection for a resident would be program changes or a transfer from the facility by contacting NYDOCCS.

There were no instances requiring monitoring for retaliation during this audit period.

## INVESTIGATIONS

### Standard 115.271: Criminal and administrative agency investigations

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

#### 115.271 (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 115.221(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 115.221(a).]  Yes  No  NA

#### 115.271 (b)

- Where sexual abuse is alleged, does the agency use investigators who have received specialized training in sexual abuse investigations as required by 115.234?  Yes  No

**115.271 (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

**115.271 (d)**

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

**115.271 (e)**

- Do agency investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and not on the basis of that individual's status as 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

**115.271 (f)**

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

**115.271 (g)**

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

**115.271 (h)**

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



#### 115.271 (i)

- Does the agency retain all written reports referenced in 115.271(f) and (g) for as long as the alleged abuser is incarcerated or employed by the agency, plus five years?  Yes  No

#### 115.271 (j)

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

#### 115.271 (k)

- Auditor is not required to audit this provision.

#### 115.271 (l)

- When an outside entity investigates sexual abuse, does the facility cooperate with outside investigators and endeavor to remain informed about the progress of the investigation? [N/A if an outside agency does not conduct administrative or criminal sexual abuse investigations. See 115.221(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*)

The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment (PREA) section 115.271, states in allegations of sexual abuse, the Site Supervisor shall notify the local law enforcement department as soon as possible and any contracting agency. The Site Supervisor must ensure that all protocols are followed for crime scene preservation in order to enable the local authorities to conduct a proper investigation of all allegations of sexual abuse. The Site Supervisor or designee shall make all witnesses, the scene, and any evidence immediately available to the police investigators. In allegations of sexual abuse by staff upon a resident, the matter may be prosecuted. The program shall request that the investigating agency abide by all PREA requirements/standards. Documentation shall be maintained if this request is unsuccessful. In all other allegations of sexual harassment (boundary violations), the Site Supervisor, will contact the contracting agency and a determination will be made whether the allegation will be investigated by the contracting agency or should be investigated internally. Staff must cooperate fully with the local authorities and any administrative investigators in all

facets of any criminal and/or administrative (internal) investigations. Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. The agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as resident or staff. No agency shall require a resident who alleges sexual abuse to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an allegation.

The facility does not conduct investigations. All investigations are conducted by NYDOCCS or local law enforcement. The State of New York Department of Corrections and Community Supervision (NYDOCCS) is responsible for criminal and administrative investigations for the parolees under confinement. The Office of Special Investigations (OSI) Sex Crimes Division (SCD) conducts the investigations. The Department has a working agreement with the New York State Police (NYSP) Bureau of Criminal Investigation (NYBCI) to work cooperatively in the investigations of reports of Staff-on-Resident and Resident-on-Resident sexual assault cases that may involve criminal conduct. NYDOCCS utilizes the New York Department of Health Protocol for the Acute Care of the Adult Patient Reporting Sexual Abuse for evidence protocols and forensic medical examinations. Local law enforcement would be responsible for conducting investigations for residents in the other programs. The investigator interview was conducted with an investigator from NYDOCCS Office of Special Investigations. The investigator confirmed the practices for PREA investigations and was very knowledgeable of the investigation process.

The NYDOCCS follow a uniform evidence protocol to investigate sexual abuse and sexual harassment; sexual investigations shall be conducted promptly, thoroughly, and objectively including third party and anonymous reports, and the use of investigators who have been specially trained in sexual abuse investigations. In the review of the training record provided for the investigator interviewed and who responds to this facility, the investigator received specialized training in sexual abuse investigations. The following training curriculums are utilized to provide training on sexual abuse investigations: PREA Specialized Training: Investigations, Basic Investigative Photograph Course, Police Crime Scene and Evidence Specialist Course, Investigating Physical and Sexual Abuse in Institutional Settings, and NIC PREA Investigating Sexual Abuse in a Confinement Setting. The auditor reviewed the Sexual Abuse Incident Review Information Form from the one allegation at the facility. This form is a checklist of the steps taken in the investigation. From the review of the form, interview with the PREA Coordinator and investigator, and the agency's policy; it was determined investigations into allegations of sexual abuse and sexual harassment are done promptly, thoroughly and objectively. When an allegation is reported, the NYDOCCS Office of Special Investigations begins an administrative investigation immediately. All allegations are investigated to completion even if the resident is transferred or released; and if a staff member resigns or is terminated from

employment. The investigator indicated that a preponderance of evidence is required to substantiate allegations.

If criminal prosecution is warranted, the New York State Police are contacted; and the two agencies continue the investigation working together. The investigator indicated the two agencies have a good working relationship with open communication during the progress of the investigation. If determined a crime has been committed, the case is referred for prosecution.

The credibility of an alleged victim, suspect, or witness is assessed on an individual basis and not determined by the person's status as a resident or staff. Credibility is evidence based. Neither the NYDOCCS nor New York State Police require a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation and it is a violation of state law, Law of New York Criminal Procedure 160.45. Investigators complete a written report with investigation findings that contains a thorough description of physical, testimonial, and documentary evidence. NYDOCCS written reports are maintained for seven years as a hard case and are permanently maintained electronically.

NYDOCCS would take the lead on the investigation and the facility would follow the directives from NYDOCCS. The facility would remain in contact with the investigator for the progress of the investigation and outcome. Once the investigation is completed, the NYDOCCS PREA Coordinator will forward a memorandum to the agency informing the close of an investigation and outcome along with the Sexual Abuse Incident Review Information Form. This information will be utilized by the facility during the sexual abuse incident review.

There was one (1) allegation reported during the audit period. The allegation was staff on resident sexual abuse, inappropriate relationship. This allegation was reported by a staff member through the hotline. When the facility received the information, the employee had been already terminated on other causes and the resident was no longer at the facility. The investigation is still open by the New York State Department of Corrections and Community Supervision (NYDOCCS) investigator, the investigation unit for the facility.

## **Standard 115.272: Evidentiary standard for administrative investigations**

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

#### **115.272 (a)**

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

## Auditor Overall Compliance Determination

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

The agency imposes a standard of preponderance of the evidence for determining whether or not allegations of sexual abuse or sexual harassment are substantiated per policy Staff and Resident Sexual Abuse and Sexual Harassment (PREA). The investigator interviewed indicated that a preponderance of evidence is required to substantiate allegations. The interviews with the investigator and staff confirm compliance with the policy and standard.

## Standard 115.273: Reporting to residents

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

#### 115.273 (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

#### 115.273 (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

#### 115.273 (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

#### 115.273 (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

#### 115.273 (e)

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

#### 115.273 (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*)

The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment (PREA) section 115.273, states following an investigation into a resident's allegation of sexual abuse suffered in an agency facility, the agency shall inform the resident in writing as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. If the agency did not conduct the investigation, it shall request the relevant information from the investigative agency

in order to inform the resident. Following a resident's allegation that a staff member has committed sexual abuse against the resident, the agency shall subsequently inform the resident (unless the agency has determined that the allegation is unfounded) whenever: the staff member is no longer posted within the resident's unit; the staff member is no longer employed at the facility; the agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or the agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility. Following a resident's allegation that he or she has been sexually abused by another resident, the agency shall 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; or the agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility. All such notifications or attempted notifications shall be documented. Residents will be asked to sign notifications to indicate receipt. A copy of the letter provided to the resident will be attached to the original incident report. An agency's obligation to report under this standard shall terminate if the resident is released from the agency's custody.

The facility has not made any notifications to residents during this audit period. There was one (1) allegation reported during the audit period. The allegation was staff on resident sexual abuse, inappropriate relationship. The investigation is still open.

## DISCIPLINE

### Standard 115.276: Disciplinary sanctions for staff

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

#### 115.276 (a)

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

#### 115.276 (b)

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

#### 115.276 (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

### 115.276 (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*)

The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment (PREA) section 115.276, states staff shall be subject to disciplinary sanctions up to and including termination for violating VOA sexual abuse or sexual harassment policies. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse of residents. Disciplinary sanctions for violations of VOA policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. All terminations for violations of VOA sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, (unless the activity was clearly not criminal), and to any relevant licensing bodies.

In the past twelve months, there have been no terminations or discipline imposed on any staff member for sexual abuse or sexual harassment. There was one (1) allegation reported during the audit period of staff on resident sexual abuse, inappropriate relationship. The employee was terminated prior to the PREA allegation being reported for other causes. The investigation is still open.

## Standard 115.277: Corrective action for contractors and volunteers

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

#### 115.277 (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

#### 115.277 (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*)

The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment (PREA) section 115.277, states any contractor or volunteer who engages in sexual abuse or sexual harassment shall be prohibited from entry to any VOA programs and shall be reported to law enforcement agencies, (unless the activity was clearly not criminal), and to relevant licensing bodies. The facility shall take appropriate remedial measures; and shall consider whether to prohibit further contact with residents, in the case of any other violation of VOA sexual abuse or sexual harassment policies by a contractor or volunteer.

The volunteer interviewed confirmed knowledge of the policies and remedial measures taken for engaging in sexual abuse or sexual harassment of a resident. The Program Manager stated during the interview that the volunteer/contractor would be suspended from entering the facility during the investigation. In the past twelve months, there have been no contractors or volunteers suspended or reported to law enforcement for engaging in sexual abuse of residents.



## Standard 115.278: Interventions and disciplinary sanctions for residents

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

#### 115.278 (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, are residents subject to disciplinary sanctions pursuant to a formal disciplinary process?  Yes  No

#### 115.278 (b)

- Are 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

#### 115.278 (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

#### 115.278 (d)

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

#### 115.278 (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

#### 115.278 (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

#### 115.278 (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*)

The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment (PREA) section 115.277, states residents shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse or sexual harassment or following a criminal finding of guilt for resident-on-resident sexual abuse or sexual harassment. Sanctions shall be 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. The disciplinary process shall consider whether a resident's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. The program may offer therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse and shall consider whether to require the offending resident to participate in such interventions as a condition of continued access to programming or other benefits. The program may discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation. The program prohibits all consensual sexual activity between residents and will discipline residents for such activity. However, according to PREA, VOA may not deem such activity to constitute sexual abuse if it determines that the activity was not coerced.

The Program Manager indicated that all resident discipline would be determined by the NYDOCCS which may include sanctions or removal from the facility. The sanctions would be proportionate to the nature and circumstances for the safety of the residents in the facility. In the past twelve months, there were no administrative findings of resident on resident sexual abuse. There was no criminal finding of guilty for resident on resident sexual abuse.

## MEDICAL AND MENTAL CARE

### Standard 115.282: Access to emergency medical and mental health services

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

### 115.282 (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

### 115.282 (b)

- If no qualified medical or mental health practitioners are on duty at the time a report of recent sexual abuse is made, do security staff first responders take preliminary steps to protect the victim pursuant to § 115.262?  Yes  No
- Do security staff first responders immediately notify the appropriate medical and mental health practitioners?  Yes  No

### 115.282 (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

### 115.282 (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*)

The facility does not employ medical and mental health staff. The medical and mental health services are available to the resident through community agencies. The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment (PREA) section 115.282, states the program shall coordinate access to medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any criminal justice setting. This includes helping residents call local or state sexual abuse hotlines, connecting residents with immediate mental health care options and referring residents to emergency medical services with SANE nurses. Each site should refer to its PREA First Responder

Protocol for site-specific and updated information. VOA staff will help residents make phone calls, provide transportation and/or accompany residents to appointments as appropriate and requested. Resident victims of sexual abuse while incarcerated shall be provided referrals for tests for sexually transmitted infections as medically appropriate. Staff will also provide residents with requested level of support (transportation, staff accompaniment, etc.) necessary for residents to access these referrals. On-going treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

The First Responder protocol directs staff that the resident should be directed to Lourdes Hospital to see SANE nurses. Staff should call Lourdes and make sure the resident will have access to SANE nurses upon arrival. Staff will offer to help the reporting resident call the Crime Victims Association 24/7 crisis line. The Crime Victims staff will assess next steps and connect resident with counseling and other appropriate services. If the resident needs immediate psychiatric care and cannot reach or does not have a current or preferred mental health provider, the staff will help the resident call the UHS Comprehensive Psychiatric Emergency Program (CPEP).

During the staff interviews, they were knowledgeable in their roles as first responders and the referral to medical services. Most indicated that 911 would be contacted to transport the resident to the emergency room for services.

The facility did not have any allegations that required medical care.

## **Standard 115.283: 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**

### **115.283 (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

### **115.283 (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

### **115.283 (c)**

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

#### 115.283 (d)

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

#### 115.283 (e)

- If pregnancy results from the conduct described in paragraph § 115.283(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

#### 115.283 (f)

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

#### 115.283 (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

#### 115.283 (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*)

The facility does not employ medical and mental health staff. The medical and mental health services are available to the resident through community agencies. The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment (PREA) sections 115.282 and 115.283, states the program shall coordinate access to medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any criminal

justice setting. This includes helping residents call local or state sexual abuse hotlines, connecting residents with immediate mental health care options and referring residents to emergency medical services with SANE nurses. Each site should refer to its PREA First Responder Protocol for site-specific and updated information. VOA staff will help residents make phone calls, provide transportation and/or accompany residents to appointments as appropriate and requested. The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. The program shall help such victims with access to medical and mental health services consistent with the community level of care. Resident victims of sexual abuse while incarcerated shall be provided referrals for tests for sexually transmitted infections as medically appropriate. Staff will also provide residents with requested level of support (transportation, staff accompaniment, etc.) necessary for residents to access these referrals. On-going treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. The program shall attempt to coordinate a mental health evaluation of all known resident-on-resident abusers who remain in a VOA facility within 60 days of learning of such abuse history and connect abusers with treatment when deemed appropriate by mental health practitioners. VOA staff will work with the funding agency to identify an appropriate mental health evaluator and encourage resident engagement in the evaluation and follow-up treatment deemed appropriate by the mental health evaluator.

If a resident discloses prior victimization during the risk screening process, the resident is referred to a local walk in medical clinic. The staff member documents on the Prison Rape Elimination Act (PREA) Risk Screening Form – Male Facility that the referral was made, and whether the resident accepted or declined the referral. Also, whether the resident was offered local rape crisis program information and if the resident accepted or declined the information. The resident also signs the form acknowledging the information. If the resident accepts the referral facility staff will provide residents with requested level of support (transportation, staff accompaniment, etc.) necessary for residents to access these referrals. One resident disclosed prior victimization during the risk screening, the staff faxed the information release form and referral to the mental health counselor already providing services to the resident.

The PREA Coordinator and PREA Manager indicated that the facility would provide all follow-up medical care as directed by the hospital. The Case Manager would assist in developing an outside plan with referrals to services. The case manager would follow-up to ensure all appointments are made by the resident. If the treatment is not covered by medicaid, the costs would be covered through the agency.

The facility is a male only facility.

## DATA COLLECTION AND REVIEW

### Standard 115.286: Sexual abuse incident reviews

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

#### 115.286 (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

#### 115.286 (b)

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

#### 115.286 (c)

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

#### 115.286 (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 §§ 115.286(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager?  Yes  No

## 115.286 (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*)

The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment (PREA) section 115.286, states the facility shall conduct a sexual abuse or sexual harassment incident review at the conclusion of every sexual abuse/harassment investigation, including where the allegation has not been substantiated. The incident review shall ordinarily occur within 30 days of the conclusion of the investigation. The review team shall include upper-level management officials, with input from line supervisors, investigators, local law enforcement and medical or mental health practitioners. The review team shall consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility; examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; assess the adequacy of staffing levels in that area during different shifts; assess whether monitoring technology should be deployed or augmented to supplement supervision by staff and current camera systems; and prepare a report of its findings, including but not necessarily limited to determinations made pursuant to sections a. – e. (above) and any recommendations for improvement, and submit such report to the Program manager and the PREA Coordinator. The facility shall implement the recommendations for improvement; or shall document its reasons for non-compliance.

The Facility Program manager indicated that the incident review team includes the PREA Manager/Vice President of Housing, CEO, PREA Coordinator, Program Manager, and other staff as determined relevant. The team utilizes the investigation report to determine factors and review the incident. Some of the factors reviewed include the incident detailed information, were there blind spots, does staff need further training, was staff interacting appropriately and following policies and procedures, and what measures, if any, needs to be put in place to ensure resident and staff safety. The Incident Review Report is then submitted to the Program Manager and PREA Coordinator for approval and implementation of any recommendations.

The incident review team members interviewed indicated they review the incident in detail. All incidents will be reviewed even unfounded. Under motivation they review the race, sexual



orientation, gang affiliation, were residents properly screened, and the review of the investigation information. In reviewing the location of the incident, they consider if the area has other issues and blind spots. When assessing staffing, they review proper staffing of the day, assigned staff to the area, was policy followed, and is there a need for policy change. Under monitoring technology, the team reviews camera location, video needs, and are mirrors needed.

The facility has not completed an incident review during the audit period. There was one allegation forwarded for investigation. At the time of the audit, the investigation is still open.

## Standard 115.287: Data collection

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

#### 115.287 (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

#### 115.287 (b)

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

#### 115.287 (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

#### 115.287 (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

#### 115.287 (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

#### 115.287 (f)

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

## Auditor Overall Compliance Determination

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

The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment (PREA) section 115.287, states the VOA shall collect accurate, uniform data for every allegation of sexual abuse and sexual harassment at all facilities under its direct control using a standardized instrument and set of definitions. VOA shall aggregate the incident-based sexual abuse data at least annually. The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice. VOA shall maintain, review, and collect data as needed from all available incident-based documents including reports, investigation files, and sexual abuse incident reviews. Upon request, VOA shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

The PREA Coordinator is responsible for complying the number of sexual abuse and sexual harassment data at a minimum once a month. The agency utilizes the Department of Justice Survey of Sexual Victimization Other Confinement Facilities as their standardized instrument and set of definitions. The agency provided the auditor the survey completed for 2017. The agency has not been requested to submit the information to the Department of Justice.

The 2015-2016 Annual PREA Report and 2016-2017 Annual PREA Report are available for review on the agency's website. The reports were reviewed as part of the audit process.

## Standard 115.288: Data review for corrective action

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

#### 115.288 (a)

- Does the agency review data collected and aggregated pursuant to § 115.287 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 § 115.287 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 § 115.287 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

#### 115.288 (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

#### 115.288 (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

#### 115.288 (d)

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

#### Auditor Overall Compliance Determination

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

The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment (PREA) section 115.288, states VOA shall review data collected and aggregated pursuant to Section Q. in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including: identifying problem areas; taking corrective action on an ongoing basis; and preparing an annual report of its findings and corrective actions for each program, as well as VOA as a whole. Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse. VOA's report shall be approved by VOA's CEO and made readily available to the public through its website. VOA may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a program; but must indicate the nature of the material redacted.

The PREA Coordinator indicated that all incidents are reviewed; and the data maintained for the incident. The data is maintained on the computer system with a secure drive with limited access to the PREA folder. This security is overseen by the IT company. The data is reviewed during

the monthly meeting. And issues or trends would be discussed and corrective action would be taken including changing policy and procedures. There have been no trends identified in the agency. The agency would redact any details of the incident and the individuals involved. This information is provided in the annual report. The annual report is created by the PREA Coordinator and approved the agency CEO.

The annual report is published on the agency website [www.voaupny.org](http://www.voaupny.org). The 2015-2016 Annual PREA Report and 2016-2017 Annual PREA Report are available for review on the agency's website. The reports were reviewed as part of the audit process.

## Standard 115.289: Data storage, publication, and destruction

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

#### 115.289 (a)

- Does the agency ensure that data collected pursuant to § 115.287 are securely retained?  
 Yes  No

#### 115.289 (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

#### 115.289 (c)

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

#### 115.289 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.287 for at least 10 years after the date of the initial collection, unless Federal, State, or local law requires otherwise?  Yes  No

### Auditor Overall Compliance Determination

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

The agency's policy, Staff and Resident Sexual Abuse and Sexual Harassment (PREA) section 115.289, states VOA shall ensure that data collected pursuant to Section Q. are securely retained in locked filing cabinets behind locked doors or in limited access electronic files. Access to electronic files is controlled by Information Technology staff and access requires the PREA Coordinator's authorization. VOA shall make all aggregated sexual abuse data, from programs under its direct control, readily available to the public at least annually through its website. Before making aggregated sexual abuse data publicly available, VOA shall remove all personal identifiers. VOA shall maintain sexual abuse data collected pursuant to Section Q. for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.

The PREA Coordinator indicated that all incidents are reviewed; and the data maintained for the incident. The agency does not contract with other entities or agencies for the holding of residents. The data is maintained on the computer system with a secure drive with limited access to the PREA folder. This security is overseen by the IT company. The data is reviewed during the monthly meeting. And issues or trends would be discussed and corrective action would be taken including changing policy and procedures. There have been no trends identified in the agency. The agency would redact any details of the incident and the individuals involved. This is provided in the annual report. The annual report is created by the PREA Coordinator and approved the agency CEO.

The annual report is published on the agency website [www.voaupny.org](http://www.voaupny.org). The 2015-2016 Annual PREA Report and 2016-2017 Annual PREA Report are available for review on the agency's website. The reports were reviewed as part of the audit process.

## 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 prior three-year audit period, 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? (*Note: The response here is purely informational. A "no" response does not impact overall compliance with this standard.*)  Yes  No

##### 115.401 (b)

- Is this the first year of the current audit cycle? (*Note: a "no" response does not impact overall compliance with this standard.*)  Yes  No

- If this is the second year of the current audit cycle, 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 during the first year of the current audit cycle? (N/A if this is **not** the *second* year of the current audit cycle.)  Yes  No  NA
- If this is the third year of the current audit cycle, did the agency ensure that at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency, were audited during the first two years of the current audit cycle? (N/A if this is **not** the *third* year of the current audit cycle.)  Yes  No  NA

#### 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*)

The review of the agency's website confirms that PREA audits are being conducted on the agency's facilities. The agency did not ensure that each facility operated by the agency was audited at least once and at least one-third of facilities audited each year during the three-year period starting August 20, 2013. The auditor observed on the agency's website one report for their other facility that was conducted in 2016. This facility started their new contract in May 2017 and this was the Binghamton Men's Facility initial audit.

During the audit, the facility and agency provided the auditor full access to all areas of the facility and the auditor was able to observe practices. Prior to the audit, during the audit, and after the on-site audit, the agency and facility provided the auditor requested documents. Private interview space was provided to the auditor for conducting staff and resident interviews. Staff and resident interviews were held in an administrative office located off the lobby. Posted signs advised residents could send confidential information or correspondence to the auditor. The auditor did not receive any correspondence from residents.

Based on the above information, the agency/facility meets the Standard 115.401 Frequency and scope of audit requirements.

## 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*)

A review of the agency's website [www.voapny.org](http://www.voapny.org) confirms that the agency publishes PREA final reports and makes them available through the website to the public. The auditor observed on the agency's website the final report of the agency's other facility. The audit report was completed on December 30, 2016 and posted. The agency meets the requirements of this part of Standard 115.403 (f) Audit contents and findings.

## 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.

Barbara A. King

June 30, 2018

**Auditor Signature**

**Date**