

PREA AUDIT: AUDITOR'S FINAL REPORT

JUVENILE FACILITIES



Name of Facility: Industry Residential Center			
Physical Address: 375 Rush-Scottsville Road, Rush, New York 14543			
Date report submitted: March 1, 2015			
Auditor information: Charles J. Kehoe			
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Date of facility visit: June 2 – 4, 2014			
Facility Information			
Facility Mailing Address: Same			
Telephone Number: (610) 258-2880			
The Facility is:	<input type="checkbox"/> Military	<input type="checkbox"/> County	<input type="checkbox"/> Federal
	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Municipal	<input type="checkbox"/> XX State
	<input type="checkbox"/> Private not for profit		
Facility Type:	<input type="checkbox"/> Detention (Juvenile)	<input type="checkbox"/> XX Correction (Juvenile)	Other:
Name of PREA Compliance Manager: Rahsaan DeLain		Title:	Asst. Director
Email Address: Rahsaan.DeLain@ocfs.ny.gov		Telephone Number:	(585) 533-2600
Agency Information			
Name of Agency: Office of Children and Family Services			
Governing Authority or Parent Agency: (if applicable) New York State			
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Mailing Address: (if different from above) Same			
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Agency Chief Executive Officer			
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Agency Wide PREA Coordinator			
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AUDIT FINDINGS

NARRATIVE:

The PREA Audit of the New York State, Office of Children and Family Services (OCFS), Industry Residential Center (IRC), 375 Rush-Scottsville Road, Rush New York, was conducted on June 2, 3, and 4, 2014. The Designated Auditor was Charles J. Kehoe of Midlothian, Virginia.

The auditor wishes to extend his deepest appreciation to OCFS, Deputy Commissioner, Ines Nieves, Industry, Acting Facility Director (Assistant Director), Velma Harris, (Facility Director Todd Johnson was on medical leave at the time of the audit), OCFS PREA Coordinator Kurt Pfisterer, IRC PREA Manager, Rahsaan DeLain, and all the employees of the IRC for their professionalism, hospitality, and kindness.

Because of scheduling conflicts, the interviews with the Deputy Commissioner of OCFS ("Agency Director"), Ines Nieves and the PREA Coordinator could not be conducted until after the on-site audit. Ms. Nieves was interviewed on June 16, 2014. Mr. Pfisterer was interviewed on July 8, 2014.

The PREA Coordinator sent materials to the auditor in advance of the audit. Following the audit, the auditor requested additional policy and procedures which were received on July 9, 2014.

The Auditor contacted Just Detention International to inquire if that agency had received any information regarding the IRC. A check of their records showed no complaints on file regarding the facility.

During the tour of the facility, it was discovered that the Notice of the Audit had not been posted for six weeks, as required. The PREA Coordinator and the auditor discussed possible solutions and conferred with PREA Resource Center. It was decided that the notice would be amended to include extending the period for responding to July 15, 2014. The 30-day report writing period would begin on July 16, 2014. A copy of the notice was given to every individual resident and posted on each unit that day. A Letter of Agreement was prepared and signed by the PREA Coordinator and the auditor.

On June 2, 2014, The PREA Audit Entrance Meeting was held in the Conference Room at 9:00 a.m. Six administrative staff, the PREA Coordinator, the PREA Information Technology Coordinator, and the auditor participated in the meeting. The Auditor thanked the facility leadership for being involved in the PREA process and for being one of the early state juvenile justice agencies in the country to request an audit. The Auditor explained the audit process and reviewed the Audit Schedule with the administrative team.

The tour of the IRC followed the Entrance Meeting from 10:12 a.m. to 12:06 p.m. Accompanying the auditor on the tour was Acting Facility Director Velma Harris, OCFS PREA Coordinator Kurt Pfisterer, PREA Manager Rahsaan DeLain and other management and supervisory staff. All areas where residents could be found were seen, including the outdoor areas and vocational programs. Mr. DeLain gave the auditor a list of all current employees and a list of all residents. Residents who were identified as being in specialized categories were also identified. The Auditor randomly selected a list of residents, by living unit, and staff, by shift, to be interviewed, in addition to those who were identified in specific groups.

Ten interviews were conducted of randomly selected residents. In addition, three other interviews were conducted; one with a resident who was identified as being disabled or having language difficulties, another who disclosed a prior victimization, and another who reported an abuse while in the facility. No residents were identified as being gay or transgender. Residents reported they felt safe in this facility.

Ten Youth Development Aides (YDAs) and Youth Counselors (YCs), who were randomly selected by the auditor from all shifts, were interviewed. Eighteen interviews were conducted with staff and volunteers in specialized categories and included the Assistant Commissioner (Agency Director's Designee), the OCFS PREA Coordinator, the Acting Facility Director, the PREA Manager, two investigators, first responders, therapists (mental health professionals), counselors (intake and screening), an Incident Review Team

member, mid-level managers, the supervisor who monitors for retaliation, non-security first responder, the Human Resource Manager, a contractor and three volunteers. It should be noted that since this is a relatively small facility, several of the staff have multiple responsibilities so a few individuals were interviewed twice if their duties covered more than one specialized area. In all, the auditor conducted 41 interviews.

During the audit, the auditor found that IRC did not meet three standards. During the 180-day corrective action period, the agency corrected the areas that did not meet the standards. Two standards had to do with the confirmation that employees and volunteers not only received the required PREA training, but that they confirmed they “understand” the PREA training. The third standard focused on the Annual PREA Report that the agency must write and publish on its Web site. The auditor was informed, by the PREA Coordinator, that the agency has written an Annual Report that focuses on the OCFS’s PREA commitment and that this report was available on the Agency’s Web site as of January 30, 2015. The auditor confirmed that the report was on the Web site on that day.

Interviews with residents clearly indicated that they are well informed about PREA, their rights, and how to report an abuse. New admissions are informed about PREA upon admission to the facility. All staff who are authorized to do admissions are well trained on how to conduct the PREA interview and the admission process. The OCFS has an excellent publication which is given to each resident. The booklet, titled *Checking in for: Your Safety at OCFS DJJOY*, explains in great detail what residents need to know about PREA, how to avoid sexual assaults and harassment and how to report it if it happens. This is an impressive publication and is an easy to read format. There are large posters in English and Spanish throughout the facility that call attention to PREA and the importance of reporting any abuse or harassment. In the units there are large posters that describe how to access language services and interpreters. Residents all spoke of knowing how to call the Ombudsman and the Justice Center and acknowledged the posters throughout the facility.

Staff training is comprehensive. During interviews with the YDAs and YCs, it was obvious they had received the required PREA training. All the YDAs described procedures for protecting residents from harm or threats of retaliation and the mandatory reporting requirements. Three YDAs reported that they did not remember being trained on the procedure for searching transgender residents and two of three said they were not aware of the policy that prohibits searching transgender youth to determine their genital status. A Training Specialist was interviewed and described the 3 hour, computer-based training that was produced by the National Institute of Corrections. Training records were reviewed and provided documentation that the training was provided. However, when an employee signed that he/she had “received” the training, the document did not ask if the employee understood the training he or she just received. This was also confirmed in other interviews. Medical and mental health staff are given specialized training and a written exam following the training. Two volunteers who were interviewed said they received PREA training, but one said she did not understand everything that was presented about PREA and another volunteer said she did not remember the training (the agency provided documentation that volunteer had received basic PREA training). A third volunteer reported he had received the PREA training and described what it included. At time of the audit, employees and volunteers were not acknowledging that they “understood” the training. This issue was corrected during the corrective action period and documentation was provided to the auditor that showed employees and volunteers confirmed that they understood the training.

The auditor was impressed with the 345 cameras that are positioned inside and outside the facility. The Control Room has eight (8) flat screen monitors that are showing what the cameras are viewing throughout the facility and on the outside. The resolution of the cameras and wide-screens is very good. Individuals can be easily identified with these cameras. The system has an automatic 14 days of storage.

Investigations are conducted by the New York State Justice Center. This agency was established to protect the vulnerable populations in the State’s care. Investigators are assigned to regions and have considerable responsibilities that go beyond responding to issues in OCFS facilities. Given the workloads

of the investigators, it can take several months for a case to be investigated, reviewed, and approved by Justice Center headquarters.

Sexual assault and harassment data is collected using an impressive data base. When an allegation of sexual abuse or sexual harassment is made, the information is entered into the database. The OCFS has put the agency's Survey of Sexual Violence, 2012 on the agency's Website. As previously stated, at the time of the audit, the agency had not published its PREA Annual Report. The OCFS does publish an agency-wide Annual Report that is very complete, but this did not meet the requirements of the PREA standard. The PREA Annual Report was made publically available on the OCFS Web site on January 30, 2015.

When the on-site audit was completed, the auditor conducted an exit meeting on Wednesday, June 6, 2014 at approximately 1:00 p.m. While the auditor could not give the facility a final finding, as there were issues needing further attention, the Auditor did give an overview of the audit and thanked the Deputy Commissioner, the PREA Coordinator, the Acting Facility Director and the staff of the IRC for their hard work and commitment to the full implementation of the Prison Rape Elimination Act.

The Interim Report identified 3 standards the IRC did not meet during the audit. Following the submittal of the Interim Report, the PREA Coordinator created a corrective plan of action which was shared verbally with the auditor. All corrective actions were completed and sent to the auditor on or before January 30, 2015. The auditor reviewed and approved the corrective actions on January 30, 2015. The Industry Residential Center is now in complete compliance with the PREA Juvenile Facility Standards.

DESCRIPTION OF FACILITY CHARACTERISTICS:

The New York Office of Children and Family Services, Division of Juvenile Justice and Opportunities for Youth (DJJOY), provides a continuum of services for juvenile offenders and juvenile delinquents, including limited secure facilities.

The IRC is a limited secure facility, located at 375 Rush-Scottsville Road, Rush, New York, in a rural area, 16 miles from Rochester. The facility is the site of one of the oldest "training schools" still in operation in the United States, having opened over 111 years ago. The 347 acre campus is comprised of several buildings including the administration building, a Control Center and medical services building, an older church/auditorium building, four residential buildings, a school with seven classrooms and a library, a gym and weight room, four dining rooms, a scout building (used when there was a Boy Scouts program) and vocational buildings that include a green house, wood-working building, an aqua building where perch and trout are raised, and smaller buildings where swine, chickens, and pheasants are raised.

The IRC serves male juvenile offenders between the ages of 10 and 17 from across New York State who are committed by a Judge in the New York Family Courts.

On the first day of the audit, there were 46 residents in the facility. The facility is budgeted for 50 and has an overall capacity of 50. The average length of stay is 8 months for youth in the general population and 12 months for youth in the sex offender and mental health programs.

There are 150 positions assigned to the IRC. Of these, 100 positions are YDAs. The facility operates under a Department approved staffing plan that provides for a staff to resident ratio of 1:4 on the mental health unit and sex offender unit and 1:5 in the generic unit. In actual operation there are three staff for every 10 residents in the Generic Unit and 4 staff for every 10 residents on the Sex Offender and Mental Health Units.

The living units are single story, brick and stone masonry buildings and include single occupancy rooms, a day room and supervisor's office/control area. The Seneca Unit has 20 residents, mostly from Western New York, and is referred to as the Generic Unit. The Wyoming Unit is where the Sexually Harmful

Treatment program is located and has a maximum occupancy of 20 residents from across New York. The Ahwaga Unit has 10 residents who are from Western New York and is the mental health unit. Each unit has a case manager and two clinicians. The Ahwaga Unit has 10 Youth Development Assistants (YDAs); the other two units have 20. All sleeping rooms are "dry rooms" (i.e., no toilets or sinks in the room) and residents are locked in their rooms at night. The Welcome Unit which served as an intake and receiving area is now closed.

The IRC follows the Sanctuary Program and the principles of this model. The facility also follows the Missouri Approach using the "TEAM" Concept and small group settings. There is a daily group counseling session that uses the Anger Replacement Training (ART) model along with Victim Awareness, Innervations, Dialectal Behavior Therapy (DBT), and HIV/AIDS counseling. Each youth receives weekly individual counseling with his counselor and social worker/psychologist.

The school operates on a 12-month academic calendar. Remedial programs focus on youth operating at the sixth grade or below. There is an accredited program providing services to youth who are functioning at the seventh grade or above. Required courses include English, Global Studies, Math, and Science. Vocational courses include carpentry, food service, building and grounds maintenance, aquaculture, and horticulture.

Health services are provided by registered nurses who work the day and evening shifts. A physician's assistant works five days a week and a doctor is on-call at all times. A dentist is also at the facility two days a week (the facility has a fully equipped dental office) or as needed. An optometrist is also under contract with the facility. IRC has a Letter of Agreement with Strong Memorial Hospital to provide forensic exams and support services, as well as other medical services as may be required.

IRC provides comprehensive mental health services to residents in the mental health unit and to other residents, as needed. In addition to the psychologists and social workers, a psychiatrist is at the facility 12 hours per week to provide direct treatment and medication therapy and to consult with staff on specific cases.

IRC has a full-size gym and a 300 seat auditorium with a full stage. Outdoor recreation includes an athletic field which includes football and soccer fields and a confidence course with a climbing tower. Each housing unit also has its own outdoor recreation field, including a surfaced basketball area. The Boys and Girls Club of Rochester also offers a program at the facility.

Religious services are coordinated by a full-time chaplain. Services are held on Saturday and Sunday mornings.

IRC has a citizens' advisory group, referred to as the Board of Visitors and makes heavy use of volunteers at all levels. One of the more successful volunteer ventures is the Dugout Café where a volunteer couple prepare short order meals for staff and visitors. The program began three years ago. The café is open from 10:00 a.m. to 3:00 p.m. on Tuesdays, Wednesdays, and Thursdays and serves only staff and official visitors. Two to three residents who work in the café are paid. The volunteers teach them small business food service skills.

Visitation takes place on the weekends. Video visitation can be provided as needed.

SUMMARY OF AUDIT FINDINGS:

Number of standards exceeded:	4
Number of standards met:	34
Number of standards not met:	0
Number of standards that are not applicable	3

Standard Prevention Planning**§ 115.311 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator.**

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

The Office of Children and Family Services (OCFS) has widely published its Zero Tolerance Policy in material provided to the residents, in the resident education program, and in posters that are visible to residents, staff and members of the general public. The agency's Zero Tolerance Policy is also on the OCFS Web site in the Juvenile Justice section. In part the policy states: OCFS "is committed to the prevention and elimination of sexual abuse/assault within Division of Juvenile Justice and Opportunities for Youth (DJJOY) facilities through compliance with the Prison Rape Elimination Act (PREA) of 2003." The policy includes the agency's protocols for preventing, detecting, reporting, and responding to sexual abuse and harassment.

DJJOY has appointed Kurt Pfisterer as the PREA Coordinator. This is Mr. Pfisterer's only responsibility with the agency. He reported he has sufficient time to do his PREA Coordinator duties.

Rahsaan DeLain is the PREA Manager for IRC. In addition to his responsibilities as the PREA Manager, Mr. DeLain serves as the administrator for Seneca Unit and the substance abuse program, and handles all administrative scheduling. He reported he has sufficient time and authority to coordinate IRC's efforts to comply with the PREA standards and do the PREA Manager work. The PREA Manager position is on the facility's organizational chart.

Standard**§ 115.312 Contracting with other entities for the confinement of residents.**

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

The IRC does not contract with other public or private agencies for the confinement of its residents.

Standard**§ 115.313 Supervision and monitoring**

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

As directed by OFCS policy, IRC has a Video Surveillance and Staffing Plan. The staffing plan is based on a population of 50 youth in 3 living units (20 residents in two units and 10 the other unit.). On the day of the audit, there were 46 youth in the facility. The staffing ratios on the first and second shift are 1:4 during program hours in the sex offender unit and the mental health unit and 1:10 on the third shift. In the generic unit the ratio

is 1:5 during program hours and 1:10 during sleep periods. In the 12 months prior to the audit, the facility did not deviate from the staffing plan. The Video Surveillance and Staffing Plan is reviewed annually by the Facility Director and the PREA Coordinator and takes into consideration all the elements in the standard and determines if any changes are needed in the plan.

There are 345 cameras that are positioned inside and outside the facility. The Control Room has eight (8) flat screen monitors that are showing what the cameras are viewing throughout the facility and on the outside. The resolution of the cameras and wide-screens is very good. Individuals can be easily identified with these cameras. The system has an automatic 14 days of storage. The greenhouse, the Scout Building, and the auditorium are not covered by cameras.

Supervisors and administrators conduct unannounced rounds on all shifts. The unannounced rounds are documented in what is called an Off-hours Inspection Report. Documentation is not consistently done in the log books. OCFS policy also prohibits staff from alerting other staff members that the unannounced rounds are taking place. While the Off-hours Inspection Report fulfills the documentation of unannounced rounds, it is recommended that supervisors make a notation of their unannounced rounds in the log books, as they move through the facility.

Standard

§ 115.315 Limits to cross-gender viewing and searches.

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

Cross-gender strip searches, pat-down searches, and cross-gender visual body cavity searches are prohibited by OCFS policy, except in exigent circumstances. During random staff interviews, some security staff reported that they had received training on how to do a cross gender search at the Academy. Three YDAs told the auditor they had not had any training on how to do a cross-gender pat-down search of a transgender resident. It appears that refresher training on cross-gender searches is needed. Paragraph (f) of this standard requires such training, as well as how to conduct searches of transgender and intersex residents, "in a respectful and professional manner, and in the least intrusive manner possible, consistent with security needs."

In a memo of April 10, 2014, the Seneca Unit Manager informed IRC staff that there was a transgender resident in the facility and that this individual preferred to be referred to using female pronouns and that she had also requested a preferred first name. The Unit Manager said this resident could be pat searched by female staff and reminded everyone of the OCFS search policy.

In interviewing residents, two residents reported that announcements were not being done consistently by the female security staff. The majority of residents said the announcements are being made. Residents reported female staff never see residents naked. OCFS policy prohibits such viewing.

Two YDAs said they were not aware of the agency policy that prohibits staff from strip-searching a resident strictly for the purpose of determining the youth's genital. When refresher training is conducted regarding searches, this policy should be reviewed, as well.

Standard

§ 115.316 Residents with disabilities and residents who are limited English proficient.

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

- Does Not Meet Standard (requires corrective action)

IRC posters and printed materials for resident education are all in Spanish and English. In addition, OCFS has a contract with an interpretation service that is available to assist with several different languages seven days a week. Signs, that explain this service, are posted in the living units and other public areas. At the time of the audit, there were no residents who were limited in the English language. One student who was developmentally disabled was interviewed. He reported that PREA was not explained to him but that he figured it out from the signs. He did say he would know how to report an abuse. Staff told the auditor that a resident would never be used to interpret for another resident in the event of a sexual assault unless the victim initiated the other resident's help. It would be helpful to residents who are developmentally disadvantaged to have quarterly refresher sessions to ensure they can demonstrate they understand the Zero Tolerance Policy and how to report harassment of abuse.

Standard

§ 115.317 Hiring and promotion decisions.

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

Screening and hiring of prospective employees in OCFS facilities is a multi-step process. The New York State Justice Center for the Protection of People with Special Needs (known at the Justice Center) is the lead agency on conducting background checks. The process begins when a person applies for a position in OCFS. The first step begins when the Justice Center checks to see if the person is identified on the Staff Exclusion List (SEL). The Justice Center is responsible for maintaining this statewide register (SEL) which contains the names of individuals found responsible for serious or repeated acts of abuse and neglect. If the applicant is on the list, the person is dropped from further consideration. If a person is not on the list, then the OCFS requests a criminal background check and a check of the Statewide Central Register of Child Abuse and Maltreatment (SCR). The Justice Center then informs the agency if the person has successfully passed his/her background check. Previous employment references are also contacted. On the application for employment, applicants are also required to report any arrests or misconduct that would impact their ability to work with young people.

When a person is hired in OCFS, he/she is also entered into a national database that tracks all contacts with law enforcement agencies. If an OCFS employee is arrested anywhere in the U.S, a notification is immediately sent to the New York State Justice Center where a notice is then sent to the agency. While the agency does not do criminal background checks every five years, this system captures arrest information for current employees in real time. Agency policy states that employees have an affirmative duty to disclose misconduct that can impact on their ability to perform their responsibilities. OCFS checks the Statewide Central Register of Child Abuse and Maltreatment every two-years for current employees.

Promotions follow similar procedures.

If a former employee, for whom there is a substantiated allegation of sexual abuse or sexual harassment, applies for a position at another institution and that institutional employer requests a reference for such employee, that request is sent to the Justice Center where the determination is made as to what will be shared with the perspective employer. The OCFS does not respond to the institution requesting the information.

The auditor interviewed the Human Resources Manager and examined three personnel files.

Standard**§ 115.318 Upgrades to facilities and technologies.**

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

The facility has not had any substantial expansion or modification of the existing facility in recent years. There are now 345 cameras inside and outside the facility. The cameras are monitored 24/7 in Central Control

Standard Responsive Planning**§ 115.321 Evidence protocol and forensic medical examinations.**

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

The Justice Center is responsible for conducting all administrative and criminal investigations. The Justice Center investigators normally work Monday through Friday, but are on-call on evenings and weekends. In the case of a sexual assault or sexual abuse (felony), the IRC administrator on duty would also notify the New York State Police who would initiate the investigation and work with the Justice Center investigators. The OCFS Deputy Commissioner has requested that the Justice Center follow the requirements of Standard 115.321. Justice Center Investigators are familiar with PREA and its requirements but have not received PREA Investigator training, yet. Justice Center investigators are sworn law enforcement officers. The Acting Facility Director said the Investigators do their best to keep IRC informed on the status of pending investigations.

According to Local Operating Practice, IRC has signed a Memorandum of Understanding (MOU) with Strong Memorial Hospital that can provide a SAFE/SANE who would provide a forensic exam if a resident of IRC is sexually assaulted or sexually abused. Under the MOU, the hospital would also provide crisis counseling, if requested. Counseling and mental health staff at the IRC can provide crisis counseling and accompany the resident to the forensic exam, if requested by the resident.

There have been no sexual assaults and therefore no forensic exams conducted, to date.

Standard**§ 115.322 Policies to ensure referrals of allegations for investigations.**

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

OCFS policy and procedures ensure an investigation is completed for all allegations of sexual abuse and harassment. Allegations of sexual abuse are reported through the chain of command to the Justice Center, the Central Communication Unit where they are entered into the Juvenile Justice Information System, and the nearest State Police Barracks. OCFS publishes the policy and procedures on its Web site. The Justice Center Web site also provides information on reporting and responding to abuse in facilities.

The auditor interviewed two Justice Center Investigators and reviewed six investigations that have been done in the last 12 months, including a new case that was being investigated that day. One case was closed as unsubstantiated when the victim recanted his allegation. The second case was closed by the State Police as being unsubstantiated. The Justice Center has not closed that case, yet because it involves a staff member. The staff member has been assigned to a non-contact post. The third case was found to be unsubstantiated and closed. In the fourth case the alleged victim denied he was touched and recanted the allegation, the case was determined to be unsubstantiated. The fifth case involved the transgender resident who denied anything happened. That case is an on-going investigation. The investigation on the sixth case was just beginning and involved an allegation that one resident put his arm around another resident. The Investigators do make every effort to keep the IRC updated on the progress of the investigation.

Standard – TRAINING AND EDUCATION
§ 115.331 Employee training.

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

Staff receive a three-hour, computer-based training program. All the staff interviewed reported that they had been trained on the areas noted in this standard. All staff acknowledge in writing that they received the training, but the form did not say they “understand” the training they received. Standard 115.331 (d) states, “The agency shall document, through employee signature or electronic verification that employees understand the training they have received.” OCFS PPM 3247.01.IV. C.1 states, “Employees must sign an acknowledgement verifying that they understand the training they receive,” but the form they sign did not include that wording. On January 17, 2015, the PREA Coordinator, Kurt Pfisterer, sent the auditor 12 pages of documentation showing where employees had signed PREA Training Rosters indicating they had received the training and understood the training. The facility now meets the requirements of the standard.

One of the 10 staff interviewed reported that he/she did not know who is responsible for conducting sexual abuse investigations, in spite of the fact that posters that encourage staff and inmates to report to the Justice Center are displayed in all public areas and on all living units. This topic should be reviewed in staff meetings from time to time and documented.

Standard
§ 115.332 Volunteer and contractor training.

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

The IRC’s Volunteer Program Handbook clearly states that there shall be no sexual contact between volunteers and includes specific training on the OCFS Zero Tolerance Policy, definitions (i.e., sexual abuse and assault, sexual contact, and sexual harassment), prohibitions, reporting requirements, and an acknowledgement. The acknowledgement states: “My signature acknowledges that I have received a copy of OCFS PPM 3247.01, *Prevention of Sexual Abuse and Assault of Youth in OCFS Care* and have received training on the above information. I agree to comply with the provisions of OCFS 3247.01, *Prevention of Sexual Abuse and Assault of Youth in OCFS Care.*” The standard requires that “The agency shall maintain documentation confirming that volunteers and contractors understand the training they have received.” The DJJOY Volunteer Training form did not include this language. On January 17, 2015, PREA Coordinator, Kurt Pfisterer provide the auditor with the

revised "Volunteer and Contractor PREA Training" form which states in the last paragraph "My signature acknowledges that I have received a copy of OCFS PPM 3247.01, *Prevention of Sexual Abuse and Assault of Youth in OCFS Care*, and have received training on the above information. I understand the information and agree to comply with the provisions of OCFS PPM." The agency now meets the requirements of the standard.

Two volunteers who were interviewed said they received PREA training, but one said she did not understand everything that was presented about PREA and another volunteer said she did not remember the training. A third volunteer reported he had received the PREA training and described what it included. A refresher training session for all volunteers should be done to ensure the volunteers understand the OCFS Zero Tolerance Policy, how to report an allegation, and how to maintain an appropriate relationship with residents.

Standard

§ 115.333 Resident education.

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

OCFS procedures specify that all residents be informed, at the point of intake, of their rights to be free from sexual assault, abuse, and harassment and how to report any abuse or harassment. Within 10-days, residents are given a more comprehensive PREA education program. Residents are also given a booklet titled "Checking in for: Your Safety at OCFS DJJOY." This 15-page multi-colored booklet explains in great detail what residents need to know about PREA and their protection from sexual assault and harassment. Posters that call attention to sexual assault and harassment are also displayed on every unit and in public places throughout the IRC. All youth acknowledge, on the Resident Orientation Letter, that they have received the booklet and reviewed it.

One resident, who was identified as being developmentally disabled, said he was not informed by staff but learned about PREA from reading the posters.

Standard

§ 115.334 Specialized training: Investigations.

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

In interviews with two investigators, it was reported that although they had law enforcement experience and they have had the basic PREA training, they have not yet had the PREA Training for Investigators. The auditor explained how the investigators could take the training on-line through the National Institute of Corrections Web site. OCFS has also explained to the Justice Center how beneficial the training can be and recommended it to them, as well. The auditor believes the Justice Center Investigators will take the online training in the near future.

Standard

§ 115.335 Specialized training: Medical and mental health care.

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

standard for the relevant review period)

Does Not Meet Standard (requires corrective action)

All medical and mental health staff have received the NIC three-hour program for medical and mental health professionals, as well as the basic training that is required of all staff. The training is documented and was confirmed through interviews with the medical and mental health staff. The training was facilitated by Robert Lally. Forensic exams are not conducted at this facility.

**Standard Screening for Risk of Sexual Victimization and Abusiveness
§ 115.341 Obtaining information from residents.**

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

OCFS policy and procedures require that within 72-hours of intake and periodically throughout their confinement at IRC, information is obtained about each resident's history, behavior, and mental health status. The process begins with the Admission Checklist, then moves to the Admission Screening Interview, then the Facility Classification Form, and then to the Orientation Checklist. During this interview process, the youth's social history and delinquency history are obtained. Residents are also asked about their sexual orientation and their own perception of vulnerability. Staff observations on these areas are also asked on the forms. A check of three resident files confirmed the material was in the file. Two residents reported they did not remember or recall being asked about their sexual orientation or if they felt at risk of being sexually abused or harassed.

**Standard
§ 115.342 Placement of residents in housing, bed, program, education, and work assignments.**

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

The information that is obtained pursuant to Standard 115.341 is used to classify residents and make housing, room, program, education, and work assignments, consistent with OCFS policy.

Lesbian, gay, bisexual, transgender, or intersex residents are maintained in the general population, but may shower separately. There were no youth in the facility during the audit who identified themselves as lesbian, gay, bisexual, transgender, or intersex. OCFS policy and procedures require that the agency determine, on a case-by-case basis whether a placement ensures the resident's health and safety and whether the placement would present management or security problems. Prior to the audit, the administrators reported there was a youth who identified as being transgender. In several interviews, the staff and residents reported how the transgender youth was treated with respect and had no difficulties in the facility. In the one allegation, the transgender youth denied any PREA violation occurred.

Policy and procedures require that housing and programming assignments for transgender or intersex residents are reassessed at least every six months to review any threats to the resident's safety.

**Standard Reporting
§ 115.351 Resident reporting.**

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

The OCFS has provided multiple ways for residents to report sexual abuse, assault, and harassment. All residents interviewed knew they could call the agency’s Ombudsmen or the Justice Center. They also knew they could talk to a staff member, make a written report, and notify their parent or lawyer, or their probation officer. There are posters and signs on every living unit that inform residents how they can contact the Ombudsman and Justice Center. They also knew that reports could be made by third parties or anonymously. Residents said they would have no difficulty getting writing materials to make a referral and that staff are very helpful.

Most staff, though not all, knew they could report a case of sexual assault or sexual harassment privately by calling the Justice Center.

The auditor interviewed one resident who reported that he was touched on the buttocks. He stated that the staff responded immediately to his allegation. From the resident’s detailed description it was clear that the staff followed the OCFS policies and procedures which are consistent with this standard. The investigation is on-going.

Standard
§ 115.352 Exhaustion of administrative remedies

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

Residents have been informed of the multiple ways they can report an allegation of sexual abuse, assault, or harassment. If a resident filed a grievance regarding a sexual assault, abuse, or harassment, that report would be handled in the way prescribed in the OCFS policy and procedures.

Standard
§ 115.353 Resident access to outside support services and legal representation.

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

Outside support services contact information is provided to residents in the booklet, “Checking in for: Your Safety at OCFS DJJOY and in the Resource Guide which is available to residents. These services are also made known on posters in the facility. In spite of these efforts, nearly half of the residents interviewed said they were not aware of these services nor could they name any services or what they do. The booklet does inform residents that their calls are subject to monitoring. Residents reported that they have access to their attorneys and reasonable access to their parents and guardians. Residents require regular refresher training on support services. It is not something they pay close attention to when it is being discussed.

All residents know of the OCFS Ombudsman and how to access that service.

Standard
§ 115.354 Third-party reporting.

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

The OCFS Web site informs readers on how to report allegations of sexual abuse or harassment. OCFS policy and procedures also state how third party reporting can be accomplished. The primary referral route is to the Justice Center but referrals can also be made to the Ombudsman, law enforcement agencies, and Children’s Protective Services and to the facility directly.

**Standard Official Response Following a Resident Report
§ 115.361 Staff and agency reporting duties.**

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

The OCFS policy and procedures regarding staff and agency reporting duties meet the standard. All staff interviewed stated they fully understand they are mandatory reporters of all types of child abuse and neglect, including sexual abuse and sexual harassment. Agency procedures articulate the reporting chain. Staff also confirmed their understanding that any information related to a sexual abuse or sexual harassment is confidential and should not be shared with anyone who does not have a “need to know.”

Medical and mental health professionals understand that in addition to their reporting duties, they must also inform residents they are mandatory reporters.

OCFS procedures state how parents, guardians, attorneys, and agencies that have custody of a resident (i.e., juvenile courts, social service agencies, etc.) are to be informed of a sexual abuse allegation involving a youth in their care.

**Standard
§ 115.362 Agency protection duties.**

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

Interviews with staff confirm that they have been well trained in how to immediately respond when they learn that a resident is subject to substantial risk of imminent sexual abuse. OCFS training and procedures are very explicit.

**Standard
§ 115.363 Reporting to other confinement facilities.**

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

- Does Not Meet Standard (requires corrective action)

OCFS policy and procedures articulate reporting requirements when an allegation of sexual abuse of a resident is made while the resident was at another facility. OCFS policy and procedures meet the requirements of this standard. There have been no reports of this type reported.

Standard

§ 115.364 Staff first responder duties.

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

OCFS policy and procedures state how an employee will respond when he/she is a first responder to a sexual abuse. The policy and procedures are consistent with the requirement of this standard. All staff interviewed knew exactly what to do if they happened to be the first responder to sexual abuse incident. Staff knew the first priority would be on protecting the victim, securing the alleged offender, and securing the crime scene and all evidence, including instructions to the victim and offender regarding what they cannot do until they have been given permission. Staff said they are trained often on these procedures. The Deputy Commissioner issued a memorandum to all facility directors on April 2, 2014, that clearly stated First Responder Duties, to reinforce the revised PPM 3247.01 which was re-issued on March 18, 2014. The Deputy Commissioner stated that this memorandum "must be shared with all staff during pre-shift briefings and staff meetings throughout the month of April. Additionally, this information must be issued to all staff as a paycheck attachment April 23, 2014."

Standard

§ 115.365 Coordinated response.

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

IRC has a local operating practice which identifies what the initial responders will do when a sexual abuse is reported. OCFS PPM 3247.01 identifies the priorities of protecting the victim and securing the offender (if he is known), notifying the appropriate law enforcement agency, arranging for immediate medical attention and protection of evidence, securing the crime scene, arranging for emotional support, notification of parents or guardian, and arranging for a mental health assessment.

Standard

§ 115.366 Preservation of ability to protect residents from contact with abusers.

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

The OCFS has not entered into or renewed any collective bargaining agreement or other agreements since August 20, 2012. The Deputy Commissioner did state that management and the collective bargaining unit have

held discussions regarding PREA. If a staff member is the subject of a PREA investigation he/she can be placed on administrative leave pending the outcome of the investigation. As previously mentioned there is one case currently under investigation at IRC where the employee has been placed in a non-contact position.

Standard

§ 115.367 Agency protection against retaliation.

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

The IRC's Local Operating Practice specifies that the PREA Manager and the Assistant Directors assigned to specific living units are the designated staff members charged with monitoring retaliation. For a youth who feared retaliation, he could be moved to a different housing unit, or if the abuser was known, he could be moved to a different unit. For a staff member, he or she could be moved to a different post. Emotional support services can also be provided. Residents and staff will be monitored for at least 90-days following their report of a sexual abuse or sexual harassment. Such monitoring will include status checks of a resident's behavioral reports and program participation. For a staff member, it can include monitoring attendance and behavior on the job. OCFS policy and procedures are consistent with the requirements of this standard.

Standard

§ 115.368 Post-allegation protective custody.

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

IRC does not use segregated housing to protect a resident who is alleged to have suffered sexual abuse.

Standard Investigations

§ 115.371 Criminal and administrative agency investigations.

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

As previously stated, the Justice Center and the New York State Police are the two primary agencies who are designated to investigate allegations of sexual abuse and sexual harassment in OCFS facilities. Evidence is gathered and preserved and victims, witnesses, and alleged offenders are interviewed according to professional law enforcement practices. All allegations of a sexual abuse or harassment are taken on their face value and assumed to be possible until shown otherwise. Criminal case investigations will be referred to the local prosecuting attorney or the special prosecutor in the Justice Center where a decision will be made on how to proceed with the case.

All investigations will consider whether staff neglect or failures contributed to the assault. Written reports will be presented to the appropriate bodies for further action.

All investigations (criminal and administrative) are documented in written reports. Reports include a thorough description of all the evidence taken in the course of the investigation.

As reported earlier, there have been six investigations at IRC in the past 12 months. Three cases were determined to be unsubstantiated and closed. Three other cases continue under investigation.

OCFS policy and procedures regarding investigations are consistent with the requirements of the standard.

Standard

§ 115.372 Evidentiary standard for administrative investigations.

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

The Justice Center and OCFS use no higher standard than preponderance of evidence in making the final determination if a sexual abuse or harassment is substantiated. However, for the prosecutor to move forward with a case it would almost certainly require probable cause.

Standard

§ 115.373 Reporting to residents.

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

The OCFS policy and procedures are consistent with the requirements of the standard and require that the victim be notified of the status of the case and the offender when a case has been substantiated. Of the three cases that were closed as unsubstantiated, two were recanted by the victim and did not require a notification. The third case was closed and the victim was informed verbally. There is no written documentation, however. Written notification should be provided to the alleged victim/resident and signed by him.

Standard Discipline

§ 115.376 Disciplinary sanctions for staff.

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

OCFS policy and procedures PPM 3247.01.IV.J. (p. 13) are consistent with the requirements of this standard. Termination shall be the presumptive disciplinary sanction for an employee when it has been substantiated that he/she engaged in the sexual abuse of a resident. Should a termination or resignation occur following a substantiated case of sexual abuse or sexual harassment, OCFS or the Justice Center would notify the appropriate law enforcement agency and any relevant licensing body.

Standard**§ 115.377 Corrective action for contractors and volunteers.**

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

OCFS policies are consistent with the requirements of this standard. PPM 3247.01.IV.J.2 (p. 13) states "Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with residents and shall be reported to law enforcement agencies (unless the activity was clearly not criminal) and to relevant licensing bodies."

Standard**§ 115.378 Interventions and disciplinary sanctions for residents.**

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

OCFS PPM 3247.01.IV.3 is consistent with the requirements of this standard. IRC would not use isolation as a sanction or deny a youth access to general programming.

Standard Medical and Mental Care**§ 115.381 Medical and mental health screenings; history of sexual abuse.**

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

OCFS policy and procedures are consistent with the requirements of the standard. The nurse and mental health professional both stated that a resident who reported having been sexually victimized while in a juvenile or adult detention or correctional facility or community-based program would be offered immediate medical and mental health services. One resident who reported he was abused when he was a child reported that he was provided immediate mental health service and that he and his counselor met with his parent.

Standard**§ 115.382 Access to emergency medical and mental health services.**

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

As previously stated, the OCFS policies and procedures are consistent with requirements of this standard. If the IRC nurse is not available, the AOD will have the resident transported to the Strong Medical Center. The mental

health professionals would also be notified. Service will be provided without cost to the victim.

Standard

§ 115.383 Ongoing medical and mental health care for sexual abuse victims and abusers.

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

OCFS health care and mental health policy and procedures are consistent with the requirements of the standard. Medical and mental health services were reported to be offered to the six youth who reported being touched.

Standard Data Collection and Review

§ 115.386 Sexual abuse incident reviews.

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

IRC has a Sexual Abuse Incident Review Team that is composed of designated employees who are in positions grade 18 and above. This would include the Assistant Facility Director, the PREA Coordinator and PREA Manager, a Youth Counselor II (.i.e., supervisor) and possibly other staff. OCFS policy and procedures are consistent with the standard and identify all the areas the Team is to consider when reviewing the investigation and the reports. Since there had been no confirmed reports as of the audit, the team has not met to review a sexual abuse or harassment case. The auditor suggested to the PREA Coordinator that scenarios be developed, based on cases of sexual assaults in other states, which could be used as a drill for the team. To complete the drill, a report should be written by the Review Team, as they would be required to do in a real situation.

Standard

§ 115.387 Data collection.

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

The OCFS has developed a very comprehensive PREA Database that collects and organizes information on reported cases of sexual abuse and assault and sexual harassment. The approach is "incident-based." The elements in the database are consistent with PREA requirements and standards and the most recent version of the Survey of Sexual Violence. While the system is still in its infancy, it has the capacity to be of great benefit to the agency as it moves forward tracking and analyzing PREA data from the various facilities. The system is able to capture large amounts of data that can be used to identify and track areas needing attention (.i.e., physical plant blind spots, the need for more cameras, better staff supervision). The data will also be very useful in generating reports for the three branches of New York State government and other organizations.

The OCFS does aggregate the data and has placed its Survey of Sexual Violence, 2012, on its Web site.

Standard

§ 115.388 Data review for corrective action.

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

As mentioned previously, the OCFS PREA Database will enable the agency to allocate resources to further prevent, detect, and respond to sexual abuse, sexual assaults and sexual harassment. The database will also provide a foundation for training as real time information can be presented to trainees. Because there have been so few allegations of sexual abuse and harassment, at the time of the audit, the database did not contain a great deal of information.

In the auditor's interview with the Deputy Commissioner, it was reported that while the agency had posted the Survey of Sexual Violence, 2012, on its Web site, the agency's Annual PREA Report had not be finalized and published as of the time of the audit. The Annual Report referenced in this standard requires the OCFS DJJ0Y to present its PREA findings and corrective actions and to compare the current year's data with that of previous years and thereby assess the agency's progress in addressing sexual abuse and sexual harassment.

On January 30, 2015, the auditor was informed that the OCFS Annual PREA Report had been posted on the agency's Web site. The auditor confirmed that the report was on the Web site. The agency now meets the requirements of the standard.

Standard

§ 115.389 Data storage, publication, and destruction.

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

The PREA Coordinator and the PREA Information Technology Coordinator both reported that the access to the PREA Database is limited to the Deputy Commissioner and to the two of them. Facility directors have "read only" access to information in the database. All personal identifiers are removed before the information is made public. The PREA Database follows the New York State Retention Schedule which exceeds the requirements of the standard.

AUDITOR CERTIFICATION:

The auditor certifies that the contents of the report are accurate to the best of his knowledge and no conflict of interest exists with respect to his ability to conduct an audit of the agency under review.



March 1, 2015

Auditor Signature

Date