

# PREA AUDIT: AUDITOR'S SUMMARY REPORT

## JUVENILE FACILITIES



**[Following information to be populated automatically from pre-audit questionnaire]**

<b>Name of facility:</b>		Highland Residential Center	
<b>Physical address:</b>		629 North Chodikee Lake Road, Highland, NY 12528	
<b>Date report submitted:</b>		July 30, 2014	
<b>Auditor Information</b>		<b>Glen E. McKenzie, Jr. M.S.H.P.</b>	
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<b>Telephone number:</b>		512-576-1800	
<b>Date of facility visit:</b>		July 22-24, 2014	
<b>Facility Information: Highland Residential Center</b>			
<b>Facility mailing address:</b> <i>(if different from above)</i>			
<b>Telephone number:</b>		845-961-6006	
<b>The facility is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> County	<input type="checkbox"/> Federal
	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Municipal	<input checked="" type="checkbox"/> State
	<input type="checkbox"/> Private not for profit		
<b>Facility Type:</b>	<input type="checkbox"/> Detention	<input checked="" type="checkbox"/> Correction	<input type="checkbox"/> Other – Residential Group Care Home
<b>Name of PREA Compliance Coordinator:</b>		Mikki Judge	<b>Title:</b> Assistant Director
<b>Email address:</b> Mikki.judge@ocfs.ny.gov			<b>Telephone number:</b> 845-961-6006
<b>Agency Information - Highland Residential Center</b>			
<b>Name of agency:</b>		Same as above	
<b>Governing authority or parent agency:</b> <i>(if applicable)</i>		New York State	
<b>Physical address:</b>		52 Washington St., Room 130 North, Rensselaer, NY 12144	
<b>Mailing address:</b> <i>(if different from above)</i>			
<b>Telephone number:</b>		518-486-6766	
<b>Agency Chief Executive Officer</b>			
<b>Name:</b> Ines Nieves		<b>Title:</b>	Deputy Commissioner - DJJOY
<b>Email address:</b> Ines.nieves@ocfs.ny.gov		<b>Telephone number:</b>	518-486-6766
<b>Agency-Wide PREA Coordinator</b>			

<b>Name: Kurt Pfisterer</b>	<b>Title:</b>	PREA Coordinator
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## **AUDIT FINDINGS**

### **NARRATIVE:**

The Highland Residential Center is a staff-secure 80 bed male facility and is a New York State operated facility. The PREA Audit took place July 22-24, 2014, in Highland, New York. The evening before the audit the auditor met with the PREA Coordinator, Kurt Pfisterer to discuss the final audit schedule. On the morning of July 22, 2014 the auditor entered the facility for purposes of conducting an on sight tour of the facility and interviewing residents, staff members, volunteers and contractors. The PREA Coordinator provided a list of all staff by shift and employee job categories and a list of all residents by housing unit. Prior to arrival the auditor reviewed pertinent agency policies, procedures, and related documentation used to demonstrate compliance with JUVENILE FACILITY PREA Standards. The pre-on-site review of documents contained in the Pre-Audit Questionnaire submitted by the facility prompted few questions. Answers to those questions were submitted to the auditor by the facility staff and any additional remaining questions were resolved during the audit. The auditor interviewed ten (10) residents at random; two (2) residents from each of the five (5) occupied living units. Residents' length of stay for those interviewed ranged from less than one (1) month to less than one (1) year with an average length of stay of six (6) months. The average daily population is 64 residents. There were no youth who identified themselves as lesbian, bisexual, gay, transgender or intersex residents nor were there any residents who needed translation services or other disability related services at the facility. One (1) resident reported sexual abuse in November 2013 by another resident while at the facility. The investigation of the alleged perpetrator is on-going as the alleged perpetrator remains in the Ulster County Jail. Appropriate measures had been taken immediately by staff to protect the victim. No resident had requested to speak with the auditor nor had the auditor received any written/e-mail correspondence from any resident or staff. The facility does not utilize isolation, but relies on increasing levels of staff supervision as appropriate and necessary.

Following the on-site review, additional questions were answered by executive and upper-level management staff. Staff and resident interviews followed and were conducted privately in a conference room in the Administration Building. There are no SANE or SAFE staff employed at the facility. These services are available at the local hospital through an agreement. The auditor reviewed the Memorandum of Understanding (MOU) between the facility and local hospital (Vassar Brothers Hospital) to provide SANE and

SAFE services in conjunction with services of rape crisis center providers. The auditor interviewed members of the incident review team and staff members charged with monitoring retaliation. Administrative and criminal investigations are conducted exclusively by the New York State Justice Center. There were no volunteers or contractors interviewed as none were at the facility or available during the audit. The auditor interviewed the Facility Superintendent, the Assistant Director, ten (10) staff and ten (10) residents. It should be noted that due to the facility's resident population and physical plant design, several staff served multiple responsibilities thereby reducing the overall number of specialized staff interviewed. The auditor interviewed a medical staff member and the mental health professional, along with intake staff who also conduct risk assessments for risk of victimization and abusiveness. The PREA Compliance Coordinator was interviewed. Also interviewed were mid to upper management staff that also conducts unannounced visits to the facility during the all shifts.

The Highland Residential Center has the following Mission Statement: "Highland Residential is committed to providing a safe environment for youth entrusted to our care, operated in accordance with recognized standards of best practice build on a foundation of mutual respect; wherein opportunities for personal growth and development with the support of families and other stakeholders toward the youth's successful reintegration into the community."

## **DESCRIPTION OF FACILITY CHARACTERISTICS:**

The Highland Residential Center is located in a rural area of the state halfway between the cities of Albany and New York City on Chodikee Lake Road in Highland, New York. The campus design includes sixteen buildings. Ten of these buildings are residential buildings, however only five (5) units are currently operational. The five (5) units operational include three (3) units for general population residents, one (1) mental health unit and one (1) unit as an orientation/assessment unit. The Highland Residential Center is a "Limited Secure" (medium) facility. The perimeter is enclosed by a single fence with razor ribbon attached to the top. Entry and exit of the facility is controlled through one primary point; a sally port that is designed for vehicle and pedestrian traffic. Entry is limited to authorized persons and vehicles. All traffic is recorded in a log.

It should be noted that facility staff were very familiar with the residents; knew their individual names, their background, treatment needs, characteristics and their involvement with families. There was many staff that had numerous years of service at the facility. Staff spoke highly of the facility managers, of other employees and the numerous programs offered to residents. All residents stated they felt very safe at the facility and could speak with any staff about any issues/concerns.

## SUMMARY OF AUDIT FINDINGS:

Number of standards exceeded: 0

Number of standards met: 37

Number of standards not met: 0

Number of standards not applicable: 4

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

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

The following information was utilized to verify compliance with this standard:

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment - entire policy; and specifically page 2, section 1

OCFS-4902 Youth Admission Handout – “What You Should Know About Sexual Abuse/Harassment”

Facility Organization Chart

Agency policy PPM 3247.01 Prevention, Detection and Response to sexual Abuse, Assault and Harassment includes mandatory reporting, zero tolerance toward all forms of sexual abuse and harassment and outlines the facility’s approach to prevention, detecting and responding to such conduct. The policy meets all requirements including definitions of prohibitive behaviors regarding sexual abuse/sexual harassment and appropriate sanctions. Youth receive detailed information about rights and reporting during their admission processes. The agency PREA Coordinator is the full-time facility PREA Coordinator who also serves as the Assistant Director. She oversees the agency’s PREA compliance activities and reports to the facility Superintendent and to the agency PREA Coordinator. She appeared to have sufficient time to conduct her duties and was present during this audit.

## **§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** Non-Applicable

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

## **§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)

The following information was utilized to verify compliance with this standard:

Agency policy PPM 3247.40 Administrative Coverage in OCFS Facilities, p. 2/3 (B) (D)

Agency Staffing Plan and Staffing Plan Reviews

Agency Employee Handbook – prohibiting staff from alerting other staff of unannounced rounds.

The agency policy relating to staffing plan, video monitoring, unannounced rounds and staffing ratios clearly documents PREA requirements and the tour reflected compliance with all components. While the staffing plan was developed for a resident population of 80 residents, the average daily population at the time of the audit was 64 residents. The staffing plan is reviewed during management team meetings to ensure proper coverage is met. The Superintendent, Assistant Director and other facility managers also check the rosters of staff on-duty and on-call daily. A daily staffing roster board was prominently displayed in the Superintendent's office. Any deviation from the staffing plan is immediately noted and modified. Deviations from the staffing plan were due to employees with illnesses and those on administrative leave. The facility Assistant Director and upper/mid-level managers conduct required unannounced visits on all shifts. A document of each unannounced visit by intermediate and higher-level supervisors is noted in the unit log books and memos of the unannounced rounds are submitted to the Superintendent and higher level agency management. A review of unit log books and memos documented unannounced visits on all shifts. The staffing plan review with the PREA Coordinator occurs daily and no less than once each year to determine the adequacy of staff assignments and monitoring systems. Staff

is prohibited from alerting other staff of unannounced rounds is noted in employee handbooks provided to all staff.

Minimum staffing ratios range from 1:4 to 1:6 provided during resident waking hours and no less than 1:12 during resident sleeping hours. The facility tour confirmed ample resident supervision/monitoring capabilities. Numerous video cameras were strategically located throughout the facility and were in good working order. There were neither judicial findings of inadequacy nor findings of inadequacy from any investigation agency/oversight bodies.

### **§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)

The following information was utilized to verify compliance with this standard:

Agency Policy Contraband, Inspections & Searches PPM 3247.18, p. 4, section F, 3 (b)

Agency Policy PPM 3247.01 Prevention, Detection and Response to sexual Abuse, Assault and Harassment, p. 5 C/D/E, p. 6

Training Curriculum/training logs

Random resident/staff interviews

Agency policy prohibits strip/body cavity searches and allows only male staff to conduct pat-down searches, except in exigent circumstances. There have been no cross gender searches of residents by staff. Resident interviews confirmed that staff respects residents' privacy during dressing, showering and normal bodily functions. Policy requires staff to respect the privacy of residents when showering, dressing and normal bodily functions and requires staff of the opposite sex to announce their presence when entering housing units. Policy prohibits staff from conducting a search or physically examining a transgender or intersex resident; staff interviews confirmed this prohibition. Physical examinations are not conducted for the sole purpose of determining resident genital status. Agency training curriculum and training logs properly document compliance. Staff interviews further confirmed that these practices occur as required. Training had been completed for all staff except those few out due to long-term illnesses and/or on current administrative leave. Staff upon returning is to be trained in agency policy regarding such searches.

### **§115.316 – Residents with Disabilities and Residents who are Limited English Proficient**

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 following information was utilized to verify compliance with this standard:

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment, p. 2 I and <http://ocfs.state.nyenet/LED.asp>

Training Curriculum/training logs related to disabled residents and residents with limited English proficiency

List of Language Assistance Resources – OCFS Intranet

Interviews - random residents/staff

There have been zero (0) instances where the services of an interpreter was needed during the review period; however appropriate services may be provided through professional organizations. During the audit review period, there had been no residents who were limited English proficient or who had disabilities for which interpretative services were needed.

### **§115.317 – Hiring and Promotion Decisions**

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

The following information was used in determining compliance with this standard:

<http://ocfs.state.nyenet/LED.asp> - Prohibition on hiring practices

PPM 2026.03 p. 2, (C) Criminal History Screening-Employees/Candidates

Agency policy 8.2 Personnel Records (E)

Staff Exclusion List Checks for Prospective Staff Hired

FAQ Criminal Background Checks Process/NYS Justice Center

Interviews with Superintendent, Assistant Director and PREA Coordinator

During the past year all new employees who were hired received background checks, to include child abuse registries. Background checks are conducted by the NYS Justice Center. The Superintendent and Assistant Director were interviewed and confirmed adherence of the required applicant background processes which ensured all staff considered for promotions are free of legal charges, convictions and civil or administrative adjudications of sexual abuse/harassment. Material omissions of sexual abuse or harassment incidents or the provision of materially false information are grounds for termination.

## **§115.318 – Upgrades to Facilities and Technology**

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 following information was utilized to verify compliance with this standard:

Interviews with Superintendent, Assistant Superintendent and discussion with PREA Coordinator

There have been no renovations to the facility during this review period. Through interviews, it was learned that the facility will soon begin renovation of two (2) resident living units which will allow for additional resident monitoring capability by staff. Any additional plans for expansions or modifications will take into consideration the possible need to increase video monitoring and to further review monitoring technology.

## **§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 following information was utilized to verify compliance with this standard:

Formal letter to NYS Justice Center Executive Director requesting investigations be conducted in compliance with PREA standards

Agency policy PPM 3243.16 Payment for Health Services, p.1 (A)

MOU with Vassar Brothers Hospital

The NY Justice Center conducts all administrative and criminal investigations. All alleged incidents involving sexual abuse/assault or that which may be criminal are also reported other to appropriate authorities as required. If a felony criminal offense was committed, the New York State Police becomes responsible for additional investigation and action(s). The agency Deputy Commission had formally asked the NYS Justice Center Executive Director to comply with PREA investigative standards. All criminal investigators are sworn Law Enforcement Officers. All forensics examinations are provided without cost to the resident(s) and are completed at Vassar Brothers Hospital according to the written signed agreements. Confirmation was based upon review of the agency policy and the MOU with Vassar Brothers Hospital, interviews with facility medical staff and upper-level management. There have been no forensic examinations in the past 12 months. Victim Advocates are available through the hospital with a local provider of rape crisis hotlines and local intervention and counseling

agencies not affiliated with the criminal justice system. There are staff members at the facility that can provide crisis intervention and accompany/support the resident through the forensic medical examination processes/interviews if requested by the resident. The facility PREA Coordinator stated she conducts follow-ups on all investigations.

### **§115.322 – Policies to Ensure Referrals of Allegations for Investigations**

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

The following information was utilized to verify compliance with this standard:

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment, p. 10 F

Agency PREA Annual Report: 2013

NYS Justice Center investigation PREA requirements written request from agency Deputy Commissioner

The facility recently published its 2013 Annual Report which was reviewed at the facility, as well as facility policies which demonstrated compliance with the above PREA standard. The Superintendent, upper-level management staff and the PREA Coordinator were also interviewed. The agency Deputy Commissioner had formally asked the NYS Justice Center Executive Director to comply with PREA investigative standards. There had been one (1) allegation of sexual abuse/sexual harassment (resident sexual conduct with another resident) which resulted in an administration and criminal investigation from a November 2013 incident. Video recording of the incident was preserved. The administrative investigation was appropriate and proper actions had been taken and documented. The criminal investigation is to be completed while the alleged perpetrator remains in the Ulster County Jail.

### **§115.331 – Employee Training**

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

The following information was utilized to verify compliance with this standard:

NIC PREA Training curriculum

Employee Manual – Personnel Policies, Employee Benefits and Staff Conduct

## Resident Sexual Misconduct Brochure

### Random staff interviews

The auditor reviewed agency policies which stated that all employees receive training tailored to the needs/attributes/gender of residents on each of the following topics required by this PREA standard: Zero tolerance; employee responsibilities; residents' right to be free from sexual abuse/harassment; the right of employees and residents to be free from retaliation for reporting sexual abuse/harassment; dynamics of sexual abuse/harassment in juvenile facilities; common reactions of juvenile victims of sexual abuse/harassment; how to detect and respond to signs of threatened and actual sexual abuse and how to distinguish between consensual sexual contact/abuse between residents; how to avoid inappropriate relationships with residents; effective and professional communication with all residents; compliance with relevant laws related to mandatory reporting and applicable age of consent. The facility's training curriculum (National Institute of Corrections DVD materials) was discussed with the PREA Coordinator. Training curriculum was inclusive of each topic required. Policy and training records documented staff participation and training hours received. Each staff documented that they understand the training they received. Staff will also receive annual refresher training every two (2) years and in alternative years they will receive information on current facility policies. Additionally, the Superintendent and upper-level management staff hold regular team meetings to communicate concerns related to PREA policies/procedures and other management issues. All staff has received the required training within the past 12 months and refresher training is conducted regularly. There are posters about the facility PREA policies throughout the facility and in all housing units. This information is also contained in resident handbooks. Brochures and other forms of communicating to the residents about safety guides had been provided to all residents, staff, volunteers and contractors. The agency also has PREA information both for residents and the public in general through the agency website.

### **§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 following information was utilized to verify compliance with this standard:

#### Employee /Volunteer/Contractor Training and Acknowledgement

##### Sexual Misconduct Brochure

In the past 12 months, 44 volunteers and contractors have been trained (based on services provided) in the agency's policies and procedures regarding sexual abuse/harassment prevention, detection and response. A sample of volunteer/contractor training records was reviewed. Volunteers and contractors documented that they understood the training they received. There were no volunteers or contractors available for interview.

## §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)

The following information was utilized to verify compliance with this standard:

Agency Policy PPM 3402 Limited Secure and Non-Secure Facilities Admission and Orientation, p. 10-13 (V)

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment, pp. 6 B, 8 (5)

Agency form OCFS-4902 – Youth Admission Handout “What you should know about sexual abuse/assault”

Resident Booklet – “Checking in for: YOUR SAFETY AT OCFS DJJOY”

Facility PREA posters

Random resident/staff interviews

In the past year, 154 residents were admitted. Residents had been given information about the zero-tolerance policy and how to report incidents/suspicious of sexual abuse/harassment orally and in writing in the resident handbook during the intake process. The information is also provided to residents in a brochure created by the facility and through posters prominently placed throughout the facility. Documentation of randomly sampled residents documented that they received such information. While there were no residents at the facility with limited English proficiency, deaf, visually impaired, limited reading skills or otherwise disabled, they will be provided assistance as outlined in agency policies. These practices were additionally verified through staff interviews.

## §115.334 – Specialized Training: Investigations

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

**XX** Non-Applicable

The following information was utilized to verify compliance with this standard:

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment, p. 11 F

Random staff interviews

Interview with facility PREA Manager and Superintendent

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment, p. 10 F

NYS Justice Center investigation requirements formal request from agency Deputy Commissioner

The New York State Justice Center is the State entity outside the agency responsible for investigation allegations of sexual abuse, assault and harassment within the Office of Children and Family Services operated juvenile justice facilities. The agency Deputy Commissioner had formally asked the NYS Justice Center Executive Director to comply with PREA investigative standards.

### **§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)

The following information was utilized to verify compliance with this standard:

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment, p. 8 (4)

Training curriculum

Training records

Medical/mental health staff interviews

All medical and mental health care staff has received required trainings as documented in training records and through interviews with medical/mental health staff. Training included how to detect and assess signs of sexual abuse/harassment, preservation of physical evidence of sexual abuse, effective/professional response to victims, reporting of allegations or suspicions of sexual abuse/harassment.

### **§115.341 – Screening for risk of victimization and abusiveness.**

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 following information was utilized to verify compliance with this standard:

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment, p. 6, (B)

Agency Policy PPM 3402.00, Limited Secure and Non-Secure Facilities Admission and Orientation, p. 9 III

Facility Classification Form – OCFS-4928

Intake staff and resident interviews

Initial screening is conducted on all residents prior to living unit/room assignments. Screenings for risk of sexual abuse victimization or sexual abusiveness toward other residents are conducted within 72 hours of admission. The assessment attempts to ascertain information through conversations with the residents about prior sexual victimization/abusiveness, any gender nonconforming appearance or manner/identification and whether the resident may be vulnerable to sexual abuse. Information is also obtained related to current charges/offense history, age, level of emotional and cognitive development, physical size and stature, mental illness or mental disabilities, intellectual or developmental disabilities, physical disabilities, residents' perception of vulnerability and any other specific information (medical/mental health screenings, any court records and resident file documentation) that may indicate heightened supervision needs and additional safety precautions, to include separation from certain other residents. The screening instrument is used in conjunction with resident history and records from referral agencies. Information obtained through these processes are provided only to designated staff who work directly with residents to ensure sensitive information is not exploited to the residents' detriment by staff/contractors/volunteers or other residents. Random resident records were reviewed. The review demonstrated the required initial screening and the facility reported that all residents (100%) received this screening within 24 hours. Reassessments are conducted every six (6) months. All residents interviewed stated this screening and/or reassessments had been performed.

### **§115.342 – Use of Screening Information**

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

The following information was utilized to verify compliance with this standard:

Agency Policy PPM 3247.15, p. 2 III (A)

Facility Classification Form – OCFS-4928

All screening results are used to establish housing/room assignments and to increase awareness of potential safety concerns of staff who work directly with residents. The housing/room assignments are considered on an individual basis to ensure the health and safety of each resident and whether such assignment would present potential management or

security problems. Screening occurs two (2) times each year following the residents' admission to the facility. While there were no reported transgender or intersex residents at the facility, serious consideration of transgender or intersex residents own views will be made. This facility does not utilize isolation of residents. Housing/bed/other assignments are not made solely on the basis of identification or status nor made as an indicator of likelihood of being sexually abusive.

### **§115.351 – Resident 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 following information was utilized to verify compliance with this standard:

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment, p. 8, (5), p. 9 (D)

Resident Booklet – “Checking in for: YOUR SAFETY AT OCFS DJJOY”

Postings on all living units and program areas

The facility provides multiple methods for residents to report allegations of sexual misconduct internally and externally. Staff is required to report all verbal allegations immediately and document such action(s). Residents and staff may privately report allegations confidentially, through in-person reporting, e-mail communication, anonymously, and through private telephone communication with local agencies. Reports may also include staff neglect or violation of responsibilities that may have contributed to such incidents.

### **§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** Non-Applicable

The following information was utilized to verify compliance with this standard:

Agency Grievance Policy PPM 3443.00 –entire policy

The facility's Grievance Procedure policy outlines administrative procedures to address resident grievances but does not address allegations regarding sexual abuse. Allegations of sexual abuse may be reported to authorities through multiple channels, including reporting to the following: staff/administrators/Ombudsman/Justice Center. If a resident files a grievance related to imminent sexual abuse, the grievance will be classified as an emergency grievance

and forwarded appropriately. No time limit is imposed on any resident for allegations of sexual abuse and does not require the use of any informal grievance process and does not attempt to resolve an alleged incident of sexual abuse with staff. There is no statute of limitation restricting the facility's ability to defend itself against a lawsuit filed by any resident. Third parties, without resident consent, may report allegations of sexual misconduct to designated facility staff, local law enforcement, the Justice Center or the Ombudsman's office.

Resident interviews indicated that residents were aware of how to report and to whom including outside third parties including parents and legal guardians. Residents were also aware they did not have to report an allegation to the person he is alleging to have committed an act of sexual abuse or harassment.

### **§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)

The following information was utilized to verify compliance with this standard:

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment, p. 8, (5)

Resident Booklet – “Checking in for: YOUR SAFETY AT OCFS DJJOY”

Memoranda of Understanding between Highland Residential Center and Vassar Brother's Hospital – to provide advocate for rape counseling and advocacy services

Facility PREA posters

Interviews with residents and staff

The facility provides residents with outside victim advocates for emotional support services related to sexual abuse and has provided this information to all residents through Resident Handbooks, intake orientation, brochures, and posters placed throughout the facility.

Services are provided through Vassar Brother's Hospital. Residents may call an attorney at any time and may receive telephone calls according to scheduled hours. Should parents or guardians, not be able to call according to scheduled hours, they can be accommodated by arrangements at other times.

### **§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 following information was utilized to verify compliance with this standard:

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment, p. 10 F

<http://www.justicecenter.ny.gov/> information regarding Third Party Reporting made available on the agency's website.

The facility's policy on Prevention, Detection and Response to sexual Abuse, Assault and Harassment describes multiple methods used to receive third-party reports of sexual abuse/harassment and is posted on their website to inform the public about reporting resident sexual abuse or harassment on behalf of residents. Third party reports can also be made to the Superintendent or Ombudsman. While there were zero (0) third party reports, third parties can also report to law enforcement or department of social services or use confidential grievance lock boxes.

### **§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 following information was utilized to verify compliance with this standard:

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment, p. 10 F

Agency Policy PPM 3456 Child Abuse and Neglect Reporting, p. 2,

Random staff interviews

The facility's policy on Prevention, Detection and Response to sexual Abuse, Assault and Harassment describes requirements for all staff (including medical and mental health practitioners) to immediately report any knowledge, suspicion or information received related to sexual abuse/harassment incidents, retaliation and staff negligence that may have contributed to such incidents. Staff is required to make such reports to facility investigators. Random staff interviews confirmed their responsibility to comply with facility policies and mandatory child abuse reporting laws and to maintain that information in confidence except as necessary to make treatment/investigation and other security/management decisions. Staff will report the allegation promptly within 72 hours after receiving the allegation. There were zero (0) number of allegations of sexual abuse the facility received from other facilities.

### **§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)

The following information was utilized to verify compliance with this standard:

Code of Conduct, p.1, (2)

Interviews with the Superintendent, Assistant Director, PREA Coordinator and random staff

The facility requires all staff to take immediate action to protect the resident from imminent sexual abuse. There have been zero (0) instances that the facility determined that a resident was subject to risk of imminent sexual abuse. Interviews confirmed compliance with expected practices.

### **§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)

The following information was utilized to verify compliance with this standard:

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment, p. 10, F; p. 11 second paragraph

Interviews with the Superintendent, Assistant Director and PREA Coordinator

Policies and procedures properly document reporting actions which will be taken upon receiving an allegation of sexual abuse of a resident while at another facility with such action(s) initiated no later than 72 hours and actions documented. There have zero (0) instances of these allegations received from other facilities.

### **§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)

The following information was utilized to verify compliance with this standard:

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment, p. 10, E

Interviews with the random staff/first responders

Facility policies comply with all elements of this standard (separate alleged victim/abuser, preservation and protection of crime scene, to include collection of physical evidence as possible, including the request of the victim not to take any actions which could destroy any physical evidence) and all staff has been trained accordingly. Interviews with random staff/first responders confirmed knowledge of policy requirements and staff expectations.

### **§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)

The following information was utilized to verify compliance with this standard:

Local Operating Practice PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment, p. 1-2

Interviews with Superintendent, Assistant Director

The facility has a written local operating practice which coordinates actions to be taken when an incident occurs. This plan coordinates actions among staff first responders, medical/mental health staff, investigators and facility leadership. Staff interviews and interviews with the Superintendent and Assistant Director indicate that staff is aware of their responsibilities to coordinate responses within the facility.

### **§115.366 – Preservation of Ability to Protect Residents from Contact with abusers**

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

**XX** Non-Applicable

The following information was utilized to verify compliance with this standard:

There have been no new or renewed contracts in the past year; however, any contracts developed or renewed will allow alleged staff sexual abusers to be removed from contact with residents pending the outcome of the investigation and a determination of discipline.

### **§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 following information was utilized to verify compliance with this standard:

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment, p. 11, G

Interviews with Superintendent, Assistant Director, both of whom are charged with monitoring for retaliation

The facility has a written policy related to protection against retaliation. The PREA Coordinator (Assistant Director) is charged with monitoring for retaliation. Should any other person who cooperates with a sexual misconduct investigation express fear of retaliation, appropriate protective measures will be taken. Retaliation monitoring will be discontinued should the allegation be unfounded. Measures include housing changes, removing contact of alleged staff/resident abusers and emotional support services for those who fear retaliation. Interviews with the Assistant Director confirmed her duties and responsibilities. There have been zero instances of alleged retaliations.

### **§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

The following information was utilized to verify compliance with this standard:

Agency Policy PPM 3447.15, Use of Room Confinement

Interviews with Executive Director, Associate Director, medical/mental health staff

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

### **§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)

The following information was utilized to verify compliance with this standard:

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment, p. 11, third (3<sup>rd</sup>) paragraph

Interviews with Executive Director, Associate Director, medical/mental health staff

NYS Justice Center investigation PREA requirements written request from agency Deputy Commissioner

The facility had one (1) incident of sexual abuse in November 2013. The Deputy Commissioner formally requested that the NYS Justice Center conduct investigations outlined by PREA standards. Investigations are to use any available evidence, including witness interviews and suspected sexual abuse perpetrator reports. Investigations are not terminated should the source of the allegation recant the allegation. Should criminal prosecution be considered interviews of alleged victims/suspected abusers and witnesses will be conducted by the NYS Justice Center investigators who will also gather physical and DNA evidence, and any electronic data; along with prior complaints and reports. No truth-telling device is used as a condition for continuing the investigation.

Administrative investigations will include efforts to determine whether staff actions/failures contributed to the abuse documented through written reports which will include physical/testimonial evidence, credibility reasoning assessments and investigative facts and findings. All written reports will be retained for at least seven (7) years from resident(s) discharge or until the age of majority is reached whichever is longer. Investigations will not be terminated due to the departure of an alleged abuser or victim. The facility will cooperate with outside investigators and will remain informed of the investigation progress.

### **§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 following information was utilized to verify compliance with this standard:

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment

NYS Justice Center investigation PREA requirements written request from agency Deputy Commissioner

Facility policy stipulates no standard higher than a preponderance of evidence will be used in making a determination of alleged sexual abuse/harassment. The NYS Justice Center has been asked to use this standard for investigations at the facility. Through an interview with the agency PREA Coordinator, it was stated that the NYS Justice Center uses no standard higher than the preponderance of evidence in making final determinations of sexual abuse/harassment.

### **§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 following information was utilized to verify compliance with this standard:

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment, p. 14, (K)

Interviews with Superintendent and Assistant Director

Facility policy requires residents to be informed as to whether the allegation was substantiated, unsubstantiated or unfounded; whether the allegation involved staff, contractors, volunteers or another resident. If a sexual misconduct allegation is confirmed, the resident will be informed of the abuser's employment/volunteer/contractor status; and as appropriate of an indictment/conviction. Interviews with the Superintendent, Assistant Director and PREA Coordinator confirmed practices involving all standard components were in place. Information regarding the status of investigations is readily available (either through telephone call or e-mail communication) through the NYC Justice Center. During the audit, the auditor was presented with the status of the single investigation currently in process.

### **§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)

The following information was utilized to verify compliance with this standard:

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment, p. 13, J (1) (A)

Interviews with Superintendent and Assistant Director

No staff has violated agency sexual abuse or harassment policies. Interviews conducted with the Executive Director and Assistant Director verified that there had been no substantiated allegations at the facility during this audit period review. Interviews also confirmed that agency policies would be followed should disciplinary measures be required including a report to law enforcement and relevant licensing authorities should termination and/or resignation of staff occur.

### **§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)

The following information was utilized to verify compliance with this standard:

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment, p. 13, J (2)

Interviews with Superintendent and Assistant Director

Contractors and volunteers are subject to disciplinary actions including termination for violation of agency sexual abuse/harassment policies. There have been no contractors or volunteers accused of sexual misconduct in the audit review period. According to the Superintendent and Assistant Director, should any violation of this type be substantiated, the facility has complete agency policies related to administering remedial measures including prohibiting further contact with residents

### **§115.378 – 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)

The following information was utilized to verify compliance with this standard:

Agency policy PPM 3443 Youth Rules p. 6 (IV), p. 7 (6)

Interviews with Superintendent and Assistant Director, Medical/Mental Health staff interviews

For resident on resident findings of sexual abuse, administrative sanctions will be administered following the formal disciplinary processes applied commensurate with the level of infractions. Interviews revealed a therapeutic approach when administering sanctions. Residents indicated in interviews that they are aware that should the need arise there are staff who will assist them with obtaining appropriate counseling. The facility does not use isolation as a sanction. Residents' access to general programming or education is not conditional on receiving interventions designed to address/correct underlying reasons or motivations for abuse.

### **§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)

The following information was utilized to verify compliance with this standard:

Agency policy PPM 3243.18 Initial Mental Health and Health Screening Interview for Facility Youth p. 2 (B)

Medical/Mental Health staff, Risk Screening (Intake) Staff and resident interviews

Facility policies are complete on all standard elements. There were zero (0) residents who disclosed a prior sexual victimization. Interviews confirmed agency policy expectations and staff were aware of their responsibilities including limiting information strictly to medical/mental health and other staff, as necessary. Medical and mental health staff was also aware of mandatory reporting laws for residents under the age of 18 years.

### **§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)

The following information was utilized to verify compliance with this standard:

Agency policy PPM 3243.16 Payment for Health Services, p. 1 (A)

Medical/Mental Health staff, Risk Screening (Intake) Staff and resident interviews

A review of facility policy documented PREA requirements for access to emergency medical and mental health services. An agreement exists with Vassar Brother's Hospital, for mental health services necessary when facility mental health staff is not available. These services have not had to be used during the audit review period.

### **§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)

The following information was utilized to verify compliance with this standard:

Agency policy PPM 3243.33 Behavioral Health Services, p. 5 B (2)

Agency policy PPM 3243.01 Health Services, p.1, ii (A)

Medical/Mental Health staff interviews

The facility as identified in agency policy offers medical/mental health evaluations and treatment at no cost to sexual abuse victims and abusers. Medical/mental health staff verified this as a necessary practice and residents are to be seen within a week after being notified; however mental health staff stated that as soon as an incident was reported, a counseling session would be scheduled. When residents are transferred or discharged, a continuing care plan is developed for follow-up services consistent with those services provided in the community. The facility is a male-only facility. Tests for sexually transmitted infections are offered, but no resident had requested testing.

### **§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)

The following information was utilized to verify compliance with this standard:

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment, p. 12, (8)

2013 PREA Annual Survey of Sexual Violence

Superintendent, Assistant Director, PREA Coordinator, Incident Team member interviews

The facility conducts a sexual abuse incident review following each sexual abuse investigation regardless of final determination of findings, unless unfounded. Residents may be assigned to another living unit to increase supervision capabilities. Upper-level staff has received incident review training which allows for input from supervisors, Justice Center investigators, medical or mental health staff.

### **§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 following information was utilized to verify compliance with this standard:

Agency Policy PPM 3247.01, Prevention, Detection and Response to sexual Abuse, Assault and Harassment, pp. 2-4, p. 15, L

The facility collects uniform data for all allegations of sexual abuse based on incident reports, reports, investigation files and incident reviews. Aggregate annual data from other state facilities are available through the Statewide Data Base. There agency has provided this information to the Department of Justice.

## §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)

The following information was utilized to verify compliance with this standard:

Agency's website posting of 2013 PREA Annual Survey of Sexual Violence

The PREA Coordinator and Incident Review Team review all incidents for corrective action measures. The annual report provides data collected in 2013 and will compare data collected from 2014 to the previous year and will track progress on all recommended corrective actions. The annual report for 2013 is located at <http://www.ocfs.state.ny.us/main/rehab/2013-SSV-Survey-DJJOY-Facilities.pdf>. The report is approved by the agency Deputy Commissioner.

## §§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 following information was utilized to verify compliance with this standard:

Agency Policy PPM 1900.00 Telecommunications and Computer Use Policy, p3., (1-5)

Agency's website posting of 2013 PREA Annual Survey of Sexual Violence  
<http://www.ocfs.state.ny.us/main/rehab/2013-SSV-Survey-DJJOY-Facilities.pdf>.

Data collected is retained via limited access and through a secure server for at least ten (10) years.

### **AUDITOR CERTIFICATION:**

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

*Allen E. McKenzie, Jr.*

July 29, 2014

Auditor Signature

Date