

PREA AUDIT REPORT    INTERIM    FINAL  
 JUVENILE FACILITIES

Date of report: November 4, 2016

Auditor Information			
Auditor name: La Cole Archuletta			
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Telephone number: 720-551-9272			
Date of facility visit: May 26-28, 2016			
Facility Information			
Facility name: Camino Nuevo Youth Center (CNYC)			
Facility physical address: 4050 Edith Blvd. NE, Albuquerque, New Mexico 87107			
Facility mailing address: (if different from above) <a href="#">Click here to enter text.</a>			
Facility telephone number: 505-383-3829			
The facility is:	<input type="checkbox"/> Federal	<input checked="" type="checkbox"/> State	<input type="checkbox"/> County
	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private for profit
	<input type="checkbox"/> Private not for profit		
Facility type:	<input checked="" type="checkbox"/> Correctional	<input type="checkbox"/> Detention	<input type="checkbox"/> Other
Name of facility's Chief Executive Officer: Tamera Marcantel			
Number of staff assigned to the facility in the last 12 months: 132.			
Designed facility capacity: 98			
Current population of facility: 68			
Facility security levels/inmate custody levels: High Secure			
Age range of the population: 14-21			
Name of PREA Compliance Manager: Robert Nieto		Title: Deputy Superintendent	
Email address: Robert.Nieto@state.nm.us		Telephone number: 505-383-3807	

Agency Information	
Name of agency: Juvenile Justice Services	
Governing authority or parent agency: (if applicable) Children, Youth & Families Department	
Physical address: 1120 Paseo De Peralta, Santa Fe, New Mexico 87501	
Mailing address: (if different from above) P.O Box Drawer 5160, Santa Fe, New Mexico 87501	
Telephone number: 505-827-7629	
Agency Chief Executive Officer	
Name: Tamera Marcantel	Title: Director, Juvenile Justice Services
Email address: Tamera.Marcantel@state.nm.us	Telephone number: 505-216-8593
Agency-Wide PREA Coordinator	
Name: Eugene Brewster	Title: PREA Coordinator
Email address: Eugene.Brewster@state.nm.us	Telephone number: 505-252-8020

## AUDIT FINDINGS

### NARRATIVE

Six weeks in advance of the audit, posters announcing the upcoming review were placed throughout the facility, including in living units. The posters explained the purpose of the audit and provided residents and staff with the auditor's contact information. Audit postings were observed throughout the facility during the visit. No letters were received from residents or staff prior to the site visit.

Three and one-half weeks before the on-site audit, the Pre-Audit Questionnaire (PAQ) and supporting documents were received by the auditor. Prior to the visit, the auditor reviewed agency and facility policies, procedures and supporting documentation. The auditor contacted national and local rape crisis advocates to see if they received any reports from CNYC.

On May 26, 2016, an entrance meeting was held at which introductions were made. The following staff members were in attendance:

Valerie Valverde, PREA Administrative Support  
 Patricia Baca, PREA Management Analyst  
 Janet Berry-Beltz, Health Services Administrator  
 Jeannie Cordova, PREA Compliance Manager/Program Manager of YDDC  
 Adam Chavez, PREA Compliance Manager/YCS Supervisor of AGRC  
 Jerald Byers, Classification Supervisor  
 Meena Moest, Policy and Procedure Manager  
 Robert Nieto, PREA Compliance Manager/Deputy Superintendent of CNYC  
 Greg Nelson, Policy and Performance Bureau Chief  
 Eugene Brewster, PREA Coordinator  
 Silverio Pena, Superintendent of CNYC  
 Shane Starr, PREA Coordinator of San Juan County Juvenile Detention Center

After introductions, the auditor took a facility tour that included Youth Diagnostic and Development Center intake (Ivy), all housing units, medical, food services and recreation, programming and education areas.

As part of the audit, the auditor interviewed key agency and facility staff, as well as residents and specialized staff. PREA audit interview protocol questions were used during all interviews. The only interview conducted prior to the on-site visit was with the head of the agency, Mrs. Marcantel.

Specialized staff interviews were conducted on-site on May 26, 2016. These interviews included agency and facility level human resources director and manager, contracts administrator, facility investigator for resident-on-resident investigations and Office of the Inspector General investigator, who conducts staff-on-resident investigations

There were a total of 13 randomly selected resident interviews conducted, including at least one resident from every living unit. Specialized interviews were conducted with residents who disclosed sexual victimization during risk screening, who identified as being gay/lesbian, a resident who the facility identified as limited English proficient, and residents who reported sexual abuse. At the time of the audit, there were no residents who identified as transgender, intersex or disabled. The interviews were conducted in a private office.

There were 19 resident interviews conducted during the site visit.

CNYC staff stated that there were no residents placed in segregated housing for risk of sexual victimization or who alleged to have suffered sexual abuse.

Additional informal interviews with staff working at the facility were conducted at various times during the duration of the audit.

Staff interviews included 13 randomly selected staff from security and non-security. Security staff from all three shifts were interviewed (day, swing and graveyard). Security staff from each housing unit were randomly selected for interviews. Specialized staff interviews were conducted with the Superintendent, PREA compliance manager, PREA Coordinator, first responders, intermediate or higher level facility staff, human resources staff, medical staff, mental health staff, staff members who perform screening for risk of victimization and abusiveness, intake staff, volunteers and contractors, staff assigned to the incident review team, designated employees charged with monitoring for retaliation and investigative staff. These interviews were conducted in a private setting.

The auditor was informed that no cross-gender strip or visual searches were conducted.

The individual who answers the Protective Service Line (Protective Custody Screener) was interviewed over the telephone after the site audit.

The auditor conducted 35 staff interviews either in-person or by telephone.

The auditor found that both staff and residents were aware of the Prison Rape Elimination Act (PREA) standards, agency policy and facility procedures.

On the final day of the site audit, the Superintendent and PREA Coordinator met with the auditor to review the control center camera view, medical holding cell and to review specific agency policies.

The auditor was received with hospitality during the visit and residents and staff were made readily available. It is clear that the leadership of agency as well as the facility have made PREA compliance a high priority.

Additional follow up questions were made to Meena Moest, Policy and Procedure Manager, Arlene Lucero, PS Screener and Eugene Brewster, PREA Coordinator after the site visit.

Corrective Action was required for specific standards and has been re-worked over the past few months. The auditor worked with the PREA Coordinator and Policy and Procedure Manager to verify compliance with corrective action requirements.

From May through October 2016, the PREA Coordinator provided documentation and photos to demonstrate compliance with the corrective actions. On October 27, 2016, the final corrective action requirements were received, making Camino Nuevo Youth Center compliant with the PREA standards.

## DESCRIPTION OF FACILITY CHARACTERISTICS

Juvenile Justice Services (JJS) adopted the Cambiar New Mexico model, which shifts the focus from confinement and punishment to rehabilitation and regionalization. JJS continues to hold young people accountable while providing for their rehabilitation and preparing them for healthy adulthood. Major initiatives include:

- Developing smaller, secure regional facilities across the state
- Creating smaller, safer and more nurturing living units/groups (therapeutic communities)
- Implementing youth-centered unit management and milieu therapy
- Developing individualized service plans addressing carefully assessed needs, strengths and risks
- Staffing of facilities with youth care specialists who receive training that provides them with security and therapeutic skill sets
- Providing rich programming including education, vocational, behavioral health, medical and other services

The mission for Camino Nuevo Youth Center is dedicated to improving the quality of life for the children in custody there. The Superintendent is Silverio Pena. The Deputy Superintendent is Robert Nieto.

CNYC has a capacity of 98 residents, both male and female. Residents range in age from 14-21. The average length of stay at CNYC is 21 months. At the time of the visit, there were 68 residents.

CNYC is a high-secure level facility. All residents have a single room. The facility provides education and specialty programs, including a sex offender program and recreation activities for residents.

CNYC has on-site clinical staff available 24-hours a day.

There are 132 staff members employed at CNYC.

## SUMMARY OF AUDIT FINDINGS

Overall, the auditor was impressed with efforts to make the facility compliant with PREA standards. It was evident that a great deal of work has been done to implement these standards and create a culture that enforces its zero tolerance policy for sexual abuse and sexual harassment. Many changes were recently made in order to demonstrate compliance. CNYC plans to continue to enhance its policies and processes.

CNYC staff and PREA administration worked diligently to complete finalize the corrective actions. CNYC successfully completed this on October 27, 2016 and is now compliant with the PREA standards.

Number of standards exceeded: 1

Number of standards met: 40

Number of standards not met: 0

Number of standards not applicable: 0

**Standard 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)

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

CYFD Juvenile Justice Services (JJS) provided Policy 5.24 A, PREA Compliance – Employee Preparedness section 1.2 As verification that the agency is committed to providing a safe and secure environment, free from all forms of sexual misconduct and retaliation for clients and employees. To that end, Juvenile Justice Services (JJS) has zero tolerance for sexual misconduct and maintains procedures regarding prevention, detention and response to such conduct. 1.1 states that the purpose of the procedure is to prevent, detect and respond to all allegations of sexual misconduct – including sexual abuse and harassment. The agency uses sexual misconduct as an umbrella term to include sexual abuse, sexual assault and sexual harassment.

During the visit to CNYC, it was observed by this auditor that staff were aware of the agency's zero-tolerance policy towards sexual abuse and sexual harassment and were familiar with the agency's PREA policy.

The policy states that sexual misconduct is an "umbrella term" that defines all incidents of sexual abuse and sexual harassment. Examples of sexual misconduct are listed in the policy. Sexual abuse, sexual assault and sexual harassment are mentioned in policy, but are not defined. The PREA standards define sexual abuse including voyeurism by a staff member, contractor or volunteer and sexual harassment. Defining these key terms will enable the users to have a common understanding of each of their meanings.

**Corrective Action Required:**

1. Define sexual abuse and sexual harassment. Determine whether specific definitions are needed for other terms used in policy.
2. Add definitions to PREA policies.

**Verification of Corrective Action since the Audit:**

The auditor was provided with updated policies on July 12, 2016 as evidence and demonstration that the corrective actions were completed.

The PREA standard definitions of sexual abuse and sexual harassment were added to Policy 5.24 A, Policy 5.24 B and Policy 5.24 C. PREA definitions for sexual misconduct as the umbrella term and added definitions for sexual abuse of a client by an employee, contractor, volunteer or student intern, voyeurism of an employee, contractor, volunteer or student intern, sexual harassment of a client by another client and sexual harassment of a client by an employee, contractor, volunteer or student intern.

Additional changes were made to the Standalone Policy 03, Directives 16-001, 16-002, 16-004 and 16-005. The specific changes will be explained as they apply in the applicable standard within this audit report. The agency recognizes the urgency of compliance with the PREA standards and understands the importance of having accurate policies. Therefore, these policies and directives will be issued on August 15, 2016 and be effective September 1, 2016.

Once the policies and directives are issued, they will be posted on the agency website. The Superintendents, Deputy Directors, Office of the Inspector General and training academy will begin on-site training to employees, contractors, volunteers and student interns to make them aware of the policy and directive changes. The Policy & Program Manager will provide written documentation from the PREA compliance managers for the facilities that have received a PREA audit and that their employees, contractors, volunteers and student interns have been trained on the new policy and directive changes as well as when the training occurred. Documentation that employees, contractors, volunteers and student interns have been trained on the policies must be received before this standard can be compliant.

On October 20, 2016, the PREA Coordinator provided verification that the policies were effective on September 1, 2016 and staff were trained on the policy changes.

The agency has designated an upper-level, agency, statewide-level PREA Coordinator. He reports to the Performance/Policy Bureau Chief. The Performance/Policy Bureau Chief reports to the Juvenile Justice Services Director. During the interview, he stated he has sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities in the Child Youth and Family Department (CYFD) Juvenile Justice Services.

An organizational chart was provided to the auditor, as well as a job description stating his authority and responsibilities.

Interviews with the agency head and the PREA Coordinator reinforced compliance with this standard.

CNYC has a designated PREA Compliance Manager. During interviews with the PREA compliance manager, he said he has sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards at CNYC. The PREA Compliance Manager is the Deputy Superintendent at CNYC and reports directly to the CNYC Superintendent.

An organizational chart confirms that this position reports to the Superintendent of the facility.

#### **Policy, Materials, Interviews and Other Evidence Reviewed**

Policy 5.24 A, PREA Compliance – Employee Preparedness

Policy 5.24 B, PREA Compliance – Client Education and Advocacy

Policy 5.24 C, PREA Compliance – Responding to Allegations

Pre-Audit Questionnaire completed by CNYC

Agency and CNYC Organization Charts

PREA Coordinator Job Duties

Memorandum from Director assigning for job duties to deputy superintendent

Meeting and review with Policy & Program Manager of updated policy and directive changes

#### **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)

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CNYC reports that it has a contract with the San Juan County Juvenile Detention Center for confinement of residents that meets the requirement of this standard. The auditor reviewed the contract and found that it met the requirements. It includes PREA language to ensure the contracting entity's obligation to adopt and comply with the PREA standards. The contracting entity's PREA Coordinator was on-site and attended the tour. He said that it is their intent to undergo a PREA audit within the next three months.

The contract outlines the agency's responsibility to monitor the contractor's facility and operations to ensure compliance with the standard by conducting site visits and document reviews.

An interview with the contract administrator indicated the agency has the information within the contract. An interview with the PREA Coordinator and Contract Administrator confirmed that it is the agency's intent to have the PREA Coordinator work with the contracting entity and conduct on-site visits and monitoring. The contract allows for this, and the presence of the contract entity's PREA Coordinator during this audit demonstrates a working relationship and support of adopting the PREA standards.

On September 29, 2016, the PREA Coordinator provided documentation that the contract facility is working towards compliance with the PREA standards.

#### **Policy, Materials, Interviews and Other Evidence Reviewed**

San Juan County Juvenile Detention Center Contract

Pre-audit Questionnaire completed by CNYC

**Standard 115.313 Supervision and monitoring**

- 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)

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**Staffing Plan**

A staffing plan for Camino Nuevo Youth Center was provided, reviewed by the auditor and found to meet the 11 elements outlined in this standard. The staffing plan confirmed that the CNYC considers, but is not limited to, providing direct supervision ratios of 1:8 during the day and 1:12 at night in each living unit as well as installing security cameras to reduce blind spots. The Superintendent, PREA Compliance Manager and PREA Coordinator regularly meet to discuss and approve the meeting minutes of the staffing plan.

In interviews with the PREA Coordinator it was confirmed that other staff such as medical, behavioral health, classification and physical plant staff can also attend the meetings. To date, CNYC has conducted one PREA staffing plan. Directive PREA –Compliant Staffing Plan 16-005 requires that the facility management and the facility PREA compliance manager approve the staffing plan semi-annually.

The staffing plan takes into account generally accepted detention and correctional practices and considers placement of cameras and staff to prevent, detect, and respond to sexual abuse and sexual harassment. Since this is the CNYC first staffing plan, it was suggested that they review the PREA Resource Center staffing plan webinar to prepare for the next one.

The CNYC staffing plan, in combination with interviews, confirmed that all the required elements of the standard are in the plan.

There apparently has not been a time within the past 12 months when the facility needed to deviate from the staffing plan.

Policies currently in place, interviews and the facility staffing plan confirmed that the PREA Coordinator reviews the need for adjustments, staffing patterns, deployment of monitoring technology or if allocation of agency or facility resources to commit to the staffing plan are suggested.

PREA Compliant Staffing Plan Directive 16-005 states that exceptions to the plan are documented in the Staffing Plan Exception Log.

Interviews indicated that all deviations from the staffing plan are documented

CNYC states that there has been no deviation from the staffing ratios.

A blank facility staffing plan review checklist was provided as a sample. Once a year, in collaboration with the agency's PREA Coordinator, this should be reviewed. The PREA Coordinator confirmed that he participates in annual staffing plan meetings.

**Ratios**

CNYC is required by policy to maintain staffing ratios of 1:8 during resident waking hours and 1:12 during resident sleeping hours. There were no indications that during the past 12 months there was any deviation from the staffing plan or from the required staffing ratios.

PREA Compliant Staffing Plan - Directive 16-005 outlines the required staff-to-resident ratios. The facility exceeds the required ratios. Additionally, all rooms are single occupancy.

Additionally, in 2006, CYFD entered into a non-litigious agreement with the American Civil Liberties Union (ACLU) that requires CNYC to ensure that youth are safe in CYFD facilities. One of the requirements is to increase staff in all living units so that the actual working

staff-to-youth ratio for direct supervision in each living unit is at least 1:8 during the day and 1:12 at night, lower than the standard requirement of 1:8 daytime ratios and 1:16 at night.

#### Unannounced Rounds

During the tour of the facility, the auditor observed unannounced rounds by management staff, including the Superintendent and other management staff members. During interviews with staff, it was explained that supervisory rounds take place on all shifts at random times.

CNYC requires that supervisors conduct and document unannounced rounds. Directive 16-002 states that supervisors must conduct and document unannounced rounds aimed to identify and deter employee sexual misconduct, including abuse and harassment. The rounds must occur daily and on every shift.

The facility documents these rounds in a log book/pass-on book. Examples were provided, and during the facility tour, a random log book was inspected.

As a result of interviews, policy, inspection of pass on-book and sample logs, it was determined that the facility is compliant with this standard. For consistency and inspection purposes, the facility might want to consider supervisors making the same entry into the log book.

#### **Policy, Materials, Interviews and Other Evidence Reviewed**

CNYC Staffing Plan

CNYC Staffing Plan Assessment

Facility Staffing Plan Review Checklist

PREA Compliant Controls and Inspection - Directive 16-002

PREA Compliant Staffing Plans – Directive – 16-005

Evidence of Rounds

Interviews with facility staff

Random review of log book during on-site audit

Pre-Audit Questionnaire completed by CNYC

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

- 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)

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CNYC states it does not conduct cross-gender searches or cross-gender visual body cavity searches of offenders except in an exigent circumstance.

PREA Compliant Searches - Directive 16-001 PREA states cross-gender (frisk) searches are prohibited except in exigent circumstances that demand immediate action. Exigent circumstances must be documented on the Search Report. It states that all visual (strip) searches will be conducted with two employees present except in exigent circumstances that demand immediate action. These searches must also be documented on the Search Report.

In the past 12 months there were no cross-gender strip or cross-gender visual body cavity searches or pat-down searches of residents.

In interviews with staff and residents it was clear that these types of searches have not been conducted. Interviews with staff indicated that they are aware of this requirement and would document their actions if there were ever an exigent circumstance. CNYC staff said that searches of this type would be highly unlikely since there are adequate ratios of male and female staff.

PREA Compliant Client Privacy and Grooming - Directive 16-004 states that residents must be able to shower, perform bodily functions, and change clothing without non-medical employees of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental during routine room checks.

As part of the on-site tour of the facility, the auditor inspected every resident bathroom and shower area. All living units have single showers with shower curtains that provide privacy.

A cell located in medical did not have a shower curtain, and the auditor stated that the facility should have one installed. On June 17, 2016, CNYC sent photos showing that a shower curtain was in place. The auditor noted that the facility is now compliant with this requirement.

Each resident has a privacy board that they can use to cover their cell window while changing clothes or performing bodily functions. In interviews with staff and resident, it was determined that this is common practice.

Additionally, the control center cameras have the shower areas blocked out in gray. This prevents opposite gender staff from viewing the showers.

PREA Compliant Client Privacy and Grooming Directive 16-004 also requires opposite gender staff members to announce their presence prior to entering living units. There is a sign reminding opposite gender staff to make the announcement prior to entering the living unit. Interviews and observations indicate that this is being done. Residents confirmed the practice was occurring during all shifts.

PREA Compliant Searches - Directive 16-001 prohibits staff from searching or physically examining a resident for the sole purpose of determining the resident's sexual anatomy. The facility indicated that no searches as described in this provision of the standard have occurred in the past 12 months.

Interviews with staff indicated they were aware of the requirement and said this had not occurred. At the time of this audit, there were no residents identified as transgender or intersex to interview.

PREA Compliant Searches - Directive 16-001 states that all searches (pat/frisk, visual/strip, and non-invasive) of transgender and intersex clients will be conducted with two employees present except in exigent circumstances that demand immediate action. Exigent circumstances must be documented on the search report. Later the policy states that "at intake, self-identified transgender and intersex clients may request the gender of the employees who will conduct their searches. This preference is documented on a Client Search Exception Form and retained in the client's file. For clarification, add to policy that the client's preferred gender of employee be used for when searching the resident. On July 16, 2016, the Policy & Program Manager provided the following update to Directive 16-001: At intake, self-identified transgender and intersex clients may request the gender of the employees who will conduct their searches. This preference is documented on a Client Search Exception Form and retained in the client's file. Regardless of whether or not a client specifies a preference, the client's gender identity still must be considered when selecting appropriate employees to perform their searches. The Policy & Program Manager said that the next time policy P.5.29 – Searches is updated, that it will be stated clearly that the client can request the gender of the employee conducting the search.

A training titled "Guidance in Cross-Gender and Transgender Pat Searches training" and training rosters were provided as documentation. All staff have received the training.

PREA Compliant Searches - Directive 16-001 requires that all JJS employees who conduct searches must complete the PREA Compliant Search Training.

The training was consistent with the requirements of the standard. Interviews with staff indicated they received this training and understand the requirements. The agency provides training to staff requiring how to conduct cross-gender, pat-down searches and searches of transgender and intersex residents in a professional manner.

#### **Policy, Materials, Interviews and Other Evidence Reviewed**

PREA Compliant Searches - Directive 16-001

PREA Compliant Client Privacy and Grooming Directive 16-004

Cross-gender pat down training rosters

Cross-gender and transgender pat searches training

Interviews with staff and residents

Review of changed to PREA Compliant Searches – Directive 16-001

Interview with Policy & Program Manager

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

- 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)

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Policy P.4.13 Special Needs and Services Section 14, residents with mental illness or a developmental disability states that services are provided to residents with mental illness and developmental disabilities and referral sources are identified as needed. This can occur at intake or at any time during commitment of a resident. Staff may identify symptoms of mental illness or indications of developmental disability and refer clients to behavioral health staff for further evaluation.

CNYC has a protocol for interpretive services and guidelines for American Sign Language and services for deaf or hearing impaired individuals to provide developmentally disabled residents equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

CNYC maintains a list of interpreters and identifies available state employees and locations to request interpreters in Spanish or Navajo.

The agency created a Youth Handbook which includes a statement that the facility will provide information to the residents and their family or guardian that is easy to read and understand. It also states that the facility will try to provide information in the language that the resident or their family understands.

A staff training curriculum is included. It states that residents have the opportunity to report. This includes youth with disabilities and those with limited English proficiency. It also states that when facilities create these reporting mechanisms, they must make these channels accessible to youth with disabilities and limited English proficiency.

Policy P.5.24 B, PREA Compliance – Client Education and Advocacy Section 4.3 states that residents who need language assistance are to be provided an interpreter and/or translation services.

An interpreter identifies state employee interpreters and procedures for requesting them.

At the time of the audit, there were no residents at CNYC with disabilities. One resident identified another language as their first language. However, the resident stated during an interview that they were comfortable with English and did not request to have PREA orientation education provided in another language. However, material is available in the resident's language, if requested.

Policy P.5.24 B, states other clients are never relied upon for interpreter and/or translation services. In the past 12 months there were no instances in which resident interpreters, readers or other resident assistants were used.

Interviews with random staff members indicated they were aware of this requirement. Interviews with limited English proficient residents indicated interpreters and PREA material are available in the resident's language.

### **Policy, Material, Interviews and Other Evidence Reviewed**

Policy 5.24 B, PREA Compliance - Client and Education Advocacy

Policy P.4.13 Social Needs and Services

CYFD translators per division List

CYFD Protocol and guidelines for interpretive services

CYFD – JJS – Facility Orientation Handbook

PREA staff training power point

Interviews with random staff

PREA Audit Report

Interview with Limited English Proficient resident  
**Standard 115.317 Hiring and promotion decisions**

- 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)

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

Policy 5.24 A, PREA Compliance – Employee Preparedness Section 4.1- 4.8 outlines the hiring of employees for JJS. Section 4.4 of the policy states that the CYFD conducts background checks on employees and contractors. The agency prohibits hiring or promoting employees or enlisting the services of contractors if they have engaged in sexual abuse in a confinement facility, been convicted of engaging or attempting to engage in sexual abuse in the community and/or been civilly or administratively adjudicated for sexual abuse.

Section 4.6 of the policy states that JJS administration considers any and all substantiated and unsubstantiated incidents of sexual harassment when determining whether to hire or promote any applicant.

Section 4.2 of the policy states that during the hiring process, JJS employee applicants are informed that in addition to an initial background check, CYFD receives notification (via the RAP Back Program) of any JJS employee involved in a triggering event, which includes a change in criminal history record information, a fingerprint verified arrest and/or a sex offender registration.

The Human Resource Director and Manager stated that criminal background records, child abuse registry checks and sex offender registration checks are conducted on applicants. The auditor reviewed examples of these for new hires, promotions, contractors and volunteers.

Section 4.4 requires an applicant reference check from previous facilities of employment. Elements of standard A and C have been met.

The agency provides information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a written request from an institutional employer where a former employee has applied to work.

CYFD employees are required to comply with the facility code of conduct, last updated in 2011. It is recommended that it be updated again as soon as possible to include sexual abuse protocols including as sexual harassment.

JJS policy 5.24 C requires that employees report sexual misconduct, including sexual abuse and sexual harassment. Section 1.3 states that all sexual contact between employees and clients; contractors, volunteers, or student interns and clients; and clients and clients, regardless of consensual status, is prohibited and subject to disciplinary action and possible criminal prosecution. Section 1.4 all JJS employees, contractors, volunteers and student intern are required to report any suspected or witnessed sexual misconduct. Section 15.2 states that an employee who fails to follow this Procedure may be subject to disciplinary action in accordance with the CYFD Code of Conduct.

In interviews with the Superintendent, PREA Coordinator, Human Resource Director and Manager it was confirmed that new employees, contractors, volunteers and student interns undergo a criminal background records check and child abuse registration and sex offender registration checks. CNYC staff said that 32 people were hired within the past 12 months and that each underwent criminal record background checks.

CYFD consults child abuse registries before enlisting the services of any contractor that has contact with residents. Section 4.8 states that the JJS administration considers any and all substantiated and unsubstantiated incidents of sexual misconduct in determining whether to enlist the services of contractors.

In the past 12 months there were 14 contractors who underwent criminal background record checks.

Policy 5.24 A, Section 4.2 requires that CYFD receive notification on any employee involved in a change in criminal history records information, a fingerprint verified arrest and/or a sex offender registration. All employees, contractors, volunteers and student interns are fingerprinted, and told that if they have a law enforcement contact, they are required to report it and if arrested, JJS must be notified. The agency asks all applicants and employees about previous misconduct described in paragraph (a) in written applications for hiring or promotions. The agency also imposes upon employees a continuing affirmative duty to disclose any such misconduct. In the code of conduct there is a requirement to report arrest, charges or protective service referrals during off-duty hours to their supervisor the next business day.

Policy 5.24 A, Section 7.7 states that an applicant who does not reveal any issues of sexual misconduct, but is later discovered to have a history of sexual misconduct, may be subject to disciplinary action, up to and including dismissal.

**Policy, Materials, Interviews and Other Evidence Reviewed**

- Policy 5.24 A, PREA Compliant Employee Preparedness
- Completed Pre-Audit Questionnaire completed by CNYC
- Samples of PREA Questionnaire for New hire, Promotion and transfer
- Samples of background checks for new hire, promotion, contractor and volunteer
- Interviews with PREA Coordinator, Human Resources Director and Manager.
- Collective Bargaining Agreement – Union Contract
- Code of Conduct
- Sample of PREA for Prior Institutional Employees
- Employment Practices Policy

**Standard 115.318 Upgrades to facilities and technologies**

- 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)

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

Since August 20, 2012, CNYC has not acquired a new facility or made a substantial expansion or modification to the existing one.

Interviews with the Superintendent and PREA Coordinator indicated that there has been no expansion or modification and that they are aware of this requirement. The only physical change made was to the recreation area where a metal canopy was added.

CNYC installed and updated video monitoring systems on August 20, 2012. A camera plan is included in the staffing plan in standard 115.313 and in the Schematic Layout of Facility section. CNYC has good camera coverage.

**Policy, Materials, Interviews and Other Evidence Reviewed**

- Pre-audit questionnaire completed by CNYC
- Interviews with Superintendent and PREA Coordinator
- PREA staffing Plan
- Schematic Layout of Facility

**Standard 115.321 Evidence protocol and forensic medical examinations**

- 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)

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

CNYC has established a document that outlines the PREA coordinated response protocol for Camino Nuevo Youth Center as its uniform evidence protocol to maximize the potential for obtaining usable physical evidence for criminal and administrative investigations. Reports of sexual abuse or sexual assault are referred to the office in charge, whose responsibility is to initiate the coordinated response protocol.

CNYC refers allegations of sexual assault or sexual abuse to the New Mexico State Police for criminal investigation. New Mexico State Police follow policy OPR: 17 Evidence/Property Handling when required to preserve evidence and property. The policy is dated March 12, 2012.

Upon direction of New Mexico State Police, victims of sexual abuse or sexual assault are transported to Albuquerque SANE Collaborative for forensic sexual assault medical exams.

New Mexico Interagency Behavioral Health Safehouse Interviews and Family Advocacy Service have established procedures for an investigative forensic interview of victims of sexual abuse or sexual assault. The intent is to produce an interview of child sexual abuse, physical abuse, neglect, sexual assault by a child, or child witness to crimes of violence that is of evidence quality and visually recorded by electronic media, and also provide advocacy services. The Safehouse interview must be guided by a multi-disciplinary investigation team consisting of at least one of the following: law enforcement (local/county/state police), district attorney's office, the licensing and certification authority, a case worker or social worker from Children, Youth and Families Department, Tribal Social Services, or Sexual Assault Nurse Examiner and Safehouse Interviewer(s).

CNYC will provide residents with a forensic medical exam conducted by a sexual assault nurse examiner upon request according to Policy 5.24 B, Section 9.2, stating that a client requesting a forensic medical exam be transported to a clinic and provided services and advocacy at no cost. These services are provided, regardless of whether the victim names the abuser and/or cooperates with the investigation. Section 9.3 states that if requested by the client, a victim advocate accompanies and supports the client during the SANE exam and investigatory interviews. The advocate provides the client emotional support, crisis intervention, information, and referrals.

JJS is in the process of developing a signed memorandum of understanding (MOU) with the Rape Crisis Center of Central New Mexico. The MOU will provide residents who are victims of sexual assault or sexual abuse with access to a victim advocate for forensic medical exams, emotional support, crisis intervention, information and referrals.

Additionally, allegations of sexual abuse or sexual assault are reported to CYFD Protective Services. Both agencies conduct their own investigations based on the information provided by the facility.

No residents have been referred for forensic medical exams in the past 12 months.

Policy 5.24 B, Client Education and Advocacy, states that a resident can request that a victim advocate accompany and support them during a SANE exam and investigatory interview.

CNYC has attempted to make victim advocates from a rape crisis center available to residents. CYFD is in the process of developing an MOU with New Mexico Coalition of Sexual Assault Program, Inc. Rape Crisis Center of Central New Mexico. An unsigned copy of the MOU was provided for auditor review.

CNYC made an effort to secure services from a rape crisis center and is trying to obtain a memorandum of understanding with a rape crisis center to provide victim advocate services. On July 22, 2016, the MOU was signed by the CYFD Cabinet Secretary.

The auditor recommended that the agency continue pursuing the MOU with the rape crisis center. Once the agreement is in place, update protocol to include that an advocate can be provided to accompany and support the victim throughout the examination process and investigatory interviews. On July 25, 2016, the Performance/Policy Bureau Chief provided the signed MOU to the auditor. The Rape Crisis Center of Central New Mexico will provide residents who are victims of sexual assault or sexual abuse with emotional support, crisis

intervention, information and referrals. Residents can now be provided notification of these services. The PREA coordinator updated facility specific documentation for staff and clients to include this information.

In addition, CNYC provided regional advocacy information to clients.

Policy 5.24 B Section 8.3 and 8.4 provides for advocate services from a rape crisis organization as well as a "qualified agency staff member" who is the BH clinician. All residents are assigned a BH clinician. If a report of sexual abuse is made, the BH clinician is also made available to provide in house advocacy in addition to the outside victim advocate. Section 8.4 states in addition to serving as an in-house advocate, the BH clinician offers the client access to outside rape crisis organizations for support, information, advocacy, and victim services.

Policy 5.24 B Section 9.3 states that an advocate can be provided to accompany and support the victim throughout the forensic medical exam and investigative interview process. The advocates provide emotional support, crisis intervention, information and referrals.

#### **Policy, Material, Interviews and Other Evidence Reviewed**

List of CNYC Behavioral Health therapists and nurses

SART coordinated response protocol for CNYC

New Mexico Interagency Behavioral Health Service Requirements and Utilization Guidelines Safehouse Interview and Family Advocacy

New Mexico State Police Evidence Protocol Policy

Policy 5.24 B PREA Compliant – Client Education and Advocacy

Draft advocacy MOU CYFD

Draft MOU with rape crisis

Licensure spreadsheet FY 16

State police letter

Albuquerque SANE Collaborative Website

Updated Policy 5.24 B PREA Compliance-Client Education and Advocacy

Interview with Policy & Program Manager

#### **Standard 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)

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

Policy P 5.24 C, PREA Compliant Responding to Allegations section 4.2, states that all reports of sexual misconduct are considered credible and must be promptly investigated, regardless of the following circumstances: resident named is no longer in custody, the employee is no longer employed by CYFD, resident reporter has made false allegations previously, source of the allegation recants the allegation, the employee receiving the allegation does not believe the allegation is true and the resident reporter has developmental and/or cognitive disabilities. State police investigate criminal allegations of sexual abuse. Section 10.2 requires that all other investigations be suspended until law enforcement releases the case for administrative processing.

The facility states there were five allegations of sexual abuse and sexual harassment. Five were administrative and none were criminal in the past 12 months. All of the allegations were investigated.

An on-site interview with an investigator indicated she was aware of the requirement that all allegations be investigated.

Policy 5.24 C, PREA Compliant Responding to Allegations section 10.1, states that if the incident is referred for criminal prosecution, law enforcement must conduct the investigation. Section 10.3 states that the Office of the Inspector General special investigator and/or a protective services investigator conducts an investigation of all allegations screened in by a protective services screener.

Section 9 states that per CYFD stand-alone procedure (SAP), the protective services screener receives all incoming calls to the JJS Facility Confidential Reporting Number. If the caller alleges any sexual misconduct, the screener immediately alerts the officer in charge. Then, per SAP, the screener follows the guidelines for screening the allegation for the Office of the Inspector General investigation or out for the grievance officer investigation.

During interviews, some staff members said they didn't know who conducts investigations. Some stated that to make a referral for investigation they would notify a supervisor, officer in charge, or call the SAP 02 line or do all three. There is an understanding that the protocol is to call the protective services screener (PS) (who only works M-F / 8am-5pm) to determine who will investigate the allegation. The screener returns call and/or refers the allegation based upon the report. If the allegation is criminal, it is referred to the New Mexico State Police. If not, and the incident involves a staff-on-resident sexual abuse and sexual harassment, the report is referred to the OIG investigator. If not criminal and involves a resident-on-resident incident, the report is referred to the grievance officer. In an interview with the PS screener, the SAP 02 is a reporting line where clients, parents of youth and staff can make a report of sexual abuse or sexual harassment. There seems to be confusion on the purpose of the line.

Section 5 states that all employees are required to report sexual misconduct. They can do so in the following ways: notify a supervisor, call the toll-free JJS Facility Confidential Reporting number, write a confidential letter to protective services, call the Statewide Central Intake Hotline, and/or Email and/or call the JJS PREA Coordinator. Section 7 requires that when the officer in charge receives notification of an allegation of sexual misconduct, he/she is responsible for coordinating an immediate response which includes, but is not limited to, notifying law enforcement, if appropriate, calling the JJS Facility Confidential Reporting Number, making notification to management and initiating an administrative investigation.

Additionally, the standard requires the agency to have a policy that requires allegations of sexual abuse or sexual harassment referred for investigation to an agency with the legal authority to conduct criminal investigations, including the agency, if it conducts its own investigations, unless the allegation does not involve potentially criminal behavior.

The PREA procedure and information on which entity investigates sexual misconduct including sexual abuse and sexual harassment is not posted on the website. On July 27, 2016, the agency website was reviewed and all the PREA policies were found there. Information detailing which entity investigates sexual misconduct including sexual abuse and sexual harassment was posted on the agency website was verified on October 5, 2016.

The auditor reviewed random investigative files and found that all allegations were referred for administrative investigation. They were investigated by the PREA Coordinator, contrary to what the policy states. The PREA Coordinator investigated resident-on-resident administrative incidents prior to the implementation of the policy. There was no documentation that the PREA Coordinator received specialized investigator training.

**Required Corrective Action:**

1. Provide documentation verifying that incidents of sexual misconduct that are determined not to be criminal in nature are referred to the appropriate personnel (OIG or Grievance Officer) for investigation.

**Verified Corrective Action:**

On October 5, 2016, the PREA Coordinator provided documentation that incidents of sexual misconduct are referred to the OIG or Grievance Officer for investigation instead of the PREA Coordinator for investigation.

**Policy, Materials, Interviews and Other Evidence Reviewed**

Website - <https://cyfd.org/facilities/prison-rape-elimination-act-prea>

Policy 5.24 C PREA Compliant – Responding to Allegations

Administrative Investigations

Interviews with random staff

Interview with PS Screener

**Standard 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)

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

Policy 5.24 A, PREA Compliant - Responding to Allegations, Section 5 indicates that all employees will receive training. The policy indicates training will include all the components covered in 115.331 (a) (1-10). Section 5.5 states that after the initial training, CYFD will conduct annual refresher training.

The training curriculum indicated that all components required in (a) (1-10) are covered in the training. The training curriculum notes on slide 14 confirm that staff are trained every two years. The required elements are included in the lesson plan.

CNYC states that employees who are reassigned from facilities housing opposite gender are given additional training.

The facility states that employees receive PREA training every other year. A memo was included from the PREA Coordinator outlining the following: In the years they do not receive training, employees receive a quarterly newsletter that is distributed by email. Then the facility PREA compliance managers cover the topics in a supervisory meeting. The supervisors are then expected to cover the information in the PREA newsletter in their unit team meetings.

Policy 5.24 A section 5.5 states that in addition to the initial training, CYFD conducts mandatory refresher courses, allowing all JJS employees to recertify in PREA training every year. According to interviews with the PREA Coordinator, employees will not receive refresher training every year, but instead will receive a quarterly newsletter. The PREA Coordinator said that the agency will require employees to take annual PREA refresher training during recertification training.

Recommend that policy be changed to reflect what is actually occurring. On July 12, 2016, the JJS Policy & Procedure Manager provided documentation that the policy was updated. Policy 5.24 A Section 5.5 now states that in addition to the initial training, CYFD conducts mandatory refresher courses so that all JJS employees recertify in PREA training every other year.

After reviewing the PREA curriculum, conducting interviews with staff and reviewing a variety of educational information provided to employees, the facility has met the training requirement as outlined in this standard.

All employees have received PREA training. Training rosters were provided to verify this.

Policy 5.24 A section 5.4 requires that all employees sign a document indicating that they understand the training they have received and understand that they serve as mandatory reporters. However, no information was provided to show that by signature, the employees understood the training they received.

The PREA Coordinator stated that all CNYC staff have received PREA training. The auditor required that CNYC provide PREA acknowledgment forms for a sample of employees to demonstrate that all employees received and understood the PREA training. CNYC required their staff to sign the PREA acknowledgement form and samples were provided on June 17, 2016.

#### **Policy, Materials, Interviews and Other Evidence Reviewed**

Policy 5.24 A, PREA Compliant – Responding to Allegations

Training Curriculum

JJS NEO CORE SAP02 – updated 2-4-14

Explanation of education between trainings

Quarterly Newsletter

Pre-audit questionnaire completed by CNYC

Memorandum from PREA Coordinator

Interview with PREA Coordinator

**Standard 115.332 Volunteer and contractor 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)

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

Policy 5.24 A, PREA Compliant – Employee Preparedness, Section 5.3 states that volunteers and contractors will receive training in order to work in a CYFD facility. A copy of the link to the National Institute of Corrections (NIC) PREA online training was included. Contractors and volunteers are required to complete the section entitled “Your role: responding to sexual abuse.”

A total of 53 contractors and volunteers have received the training in the past 12 months. The PAQ lists a total of 75 volunteers and contractors. 64 volunteers and 13 contractors.

Interviews with contractors and volunteers indicated they have received training and were knowledgeable of their expectations under this standard.

CNYC says that it maintains documentation that volunteer and contractors understand the training they receive. A list of volunteers who attended PREA training was provided by the CYFD Academy of Professional Development and Training. It did not support compliance with the standard.

Documentation showing that contractors received and understood the training was not provided.

**Required Corrective Action:**

1. Provide documentation that all contractors/volunteers received PREA training.
2. Provide documentation that volunteers and contractors have signed the PREA form acknowledging that they understand the training they received
3. Identify the number of contractors and volunteers that received the training.

**Verification of Corrective Action:**

On August 4, 2016, the PREA Coordinator provided verification that contractors for CNYC received PREA training and signed the PREA acknowledgement form. On October 27, 2016, the PREA Coordinator provided, verification that volunteers received PREA training and a background check.

**Policy, Material, Interviews and Other Evidence Reviewed**

- NIC training curriculum link for Sexual Abuse training
- Policy 5.24 A, PREA Compliant – Employee Preparedness
- Interview with contractor and volunteer
- Interview with PREA Coordinator
- Pre-audit questionnaire prepared by CNYC
- Blank PREA training acknowledgement for volunteers and contractors

**Standard 115.333 Resident education**

- 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)

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

Policy 52.4 B, PREA Compliant Client Education and Advocacy, Section 4 states that within the first 72 hours of arriving at JJS Central Intake, residents are given a comprehensive orientation which includes definitions of sexual misconduct – including sexual abuse and sexual harassment, the zero-tolerance policy and how to report sexual misconduct. The orientation also includes a resident’s right to be free from sexual misconduct, protection from retaliation and the right to treatment and counseling.

Withing10 days of entering CNYC residents receive comprehensive PREA education.

Residents are given a handbook and brochure at intake. The handbook contains information about PREA, the agency’s zero-tolerance policy, the definition of sexual misconduct, and how to report sexual misconduct and retaliation. Residents sign a form indicating that they were educated regarding the agency’s zero-tolerance policy, definitions, ways to report, information that retaliation for reporting sexual abuse or sexual harassment will not be tolerated, as well as protection of all victims and witnesses.

CNYC reports that there were 68 residents who were admitted to the facility. All were given comprehensive age appropriate information upon intake.

As part of the orientation process, residents view a video that includes definitions of sexual misconduct, including sexual abuse and sexual harassment, the zero tolerance policy and how to report sexual misconduct. The orientation also includes residents’ rights to be free from sexual misconduct, protection from retaliation and the right to treatment and counseling. Staff members stop the video at intervals to discuss content and ensure that residents understand what is being presented. The video is available in English and Spanish. Visually impaired residents would be provided the PREA information orally, and limited English proficient residents would be given the PREA information in a language they understand.

Policy 5.24 B, PREA Compliant Client Education and Advocacy Section 4.3-4.5 states that orientation information for residents who need language assistance is provided. Services provided are interpreter and/or translation services. Special accommodations for residents who are deaf, visually impaired or otherwise disabled are made for developmentally appropriate services. Additionally, written material and model language material is provided in order to ensure effective communication with disabled, special-needs (limited reading skills) and non-English speaking residents. The Superintendent and PREA Coordinator said accommodations would be made in the event they receive residents with such needs.

CNYC maintains documentation of residents’ participation in PREA education. One specific example was reviewed. Interviews with residents and staff confirmed that they received PREA education.

Residents receive handbooks and brochures. Posters are available throughout the facility in every unit, medical, visiting/dining area, and program/education.

The agency ensures that key information about PREA policies are continuously and readily available or visible on posters and in resident handbooks.

#### **Policy, Materials, Interviews and Other Evidence Reviewed**

Policy 5.24 B, PREA Compliant Client Education and Advocacy

Pre-audit Questionnaire completed by CNYC

Resident handbook

PREA Brochure – English and Spanish

PREA Poster – English and Spanish

Offender orientation PREA video

CYFD-JJS PREA Orientation Checklist

Interviews with residents

PREA Audit Report

**Standard 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)

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

JJS conducts administrative investigations and the New Mexico State Police conducts criminal investigations. Policy 5.24 A, PREA Compliant Employee Preparedness, Section 6.2 states that all facility PREA compliance managers, OIG employees, and grievance officers are required to complete training for PREA investigators.

The training curriculum was provided for auditor review. It is the on-line NIC PREA training for investigating sexual abuse in a confinement setting that the PREA compliance managers, OIG employees and grievance officer are required to complete. The training is designed for conducting sexual abuse investigations in confinement settings.

Training that the OIG and grievance officer received includes the mandatory elements in the PREA standard. It includes interview techniques, sexual abuse evidence collection in a confinement setting, trace evidence collection in confinement settings, criteria and evidence required to substantiate a case for administrative action or prosecution referral, as well as proper use of Miranda and Garrity advisements.

During interviews with the auditor, the OIG investigator and the grievance officer were able to articulate an understanding of all requirements of the standard.

Additionally, the agency maintains certifications for the employees who have completed training. All employees interviewed completed investigator training.

**Policy, Material, Interviews and Other Evidence Reviewed**

- Policy 5.24 A, PREA Compliant Employee Preparedness
- Training Curriculum
- Investigator training certificates
- Pre-audit questionnaire completed by CNYC
- Interview with OIG investigator and Grievance Officer

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

- 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)

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

Policy 5.24 A, PREA Compliant Employee Preparedness, Section 6.5-6.8 states that all Behavioral Health (BH) clinicians are required to complete specific training for BH practitioners. All BH clinicians are required to complete victim advocacy training and receive continuing education on sexual assault, forensic examinations and victim services. Medical employees are required to complete specific training for medical responders to PREA incidents.

Include in policy that all full and part-time medical and mental health care practitioners who work regularly in its facilities be trained in:

- (1) Detection and assessment of signs of sexual abuse and sexual harassment;
- (2) Preservation of physical evidence of sexual abuse;
- (3) Responding effectively and professionally to juvenile victims of sexual abuse and sexual harassment; and
- (4) Proper reporting allegations or suspicions of sexual abuse and sexual harassment.

The training curriculum for both medical and mental health was provided as documentation. Both trainings are detailed and cover all topics required by this standard.

There are 11 medical and mental health staff members at the facility and all have received specialized training.

Interviews with medical and mental health staff indicate that they received and understood the training. This training is the NIC Medical Health Care for sexual assault victims in a confinement setting. Behavioral Health employees receive the Behavioral Health care for sexual assault victims in a confinement setting.

B and C. This provision of the standard is not applicable, because CNYC does not have any medical staff who conduct forensic examinations. All forensic examinations are done at a hospital.

Medical and mental health practitioners shall also receive the training mandated for employees under standard 115.331 or for volunteers and contractors under standard 115.332. Two names on the medical list were randomly selected and their names did not appear on the basic PREA training roster provided.

A random review of medical and medical health staff was conducted to ensure they had received the PREA training required in standard 115.331/115.332.

Certificates were provided for the medical staff. However, not all of the medical staff had certifications, which indicates that they have not received the required specialized training. The auditor required that NIC PREA Medical Health Care for Sexual Assault Victims in a Confinement Setting training certificates be provided for all medical staff. On June 22, 2016, certifications for the remaining medical staff were provided. CNYC now demonstrates compliance with this requirement of the standard. The auditor verified that medical staff received specialized training.

#### **Policy, Materials, Interviews and Other Evidence Reviewed**

Policy 5.24 A, PREA Compliant Employee Preparedness

Pre-audit questionnaire prepared by CNYC

Interviews with medical and mental health staff

NIC Medical Health Care for sexual assault victims in a confinement setting

NIC Behavioral Health care for sexual assault victims in a confinement setting

Behavioral Health training certificate

Medical training certificates

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

- 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)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action**

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

Policy 5.24 B, PREA Compliant Client Education and Advocacy, Section 5 states that within 72 hours of a resident’s arrival, a vulnerability assessment be conducted to obtain information to protect the resident from being the victim of or engaging in sexual misconduct. In the past 12 months, 20 residents were screened for risk of sexual victimization or risk of sexually abusing others. The Vulnerability Screening form was reviewed and required elements 1-11 are included. The auditor recommended that “boys wearing makeup” in the inappropriate physical behavior category be removed. On June 20, 2016, CNYC removed it from the screening tool. Additionally, any gender nonconforming appearance and whether the resident may therefore be vulnerable to sexual abuse needs to be added in place of “boys wearing makeup”.

The initial screening is done at IVY (CYFD central intake facility) upon intake. The next assessment is conducted at CNYC intake by a case manager. Usually this screening is completed the day the resident arrives but no longer than 72 hours after arrival, as required by the standard. Screenings are conducted in a private area

Policy also states that another assessment be conducted within 30 days of the resident’s commitment, at every new orientation/transfer, and after every alleged incident of sexual misconduct. The case manager completes this assessment

Intake and case managers complete the assessments. The assessments are done in private and the results are kept confidential in a secure location. CNYC began using the screening instrument five months ago and verified that all residents were assessed.

Random samples of 72-and 30-day screenings were reviewed on-site. Interviews with residents showed that they were assessed within the required timeframe.

A blank copy of the Vulnerability Assessment Instrument: Risk of Victimization and/or Sexually Aggressive Behavior/Violent Behavior form was provided. Additional samples of completed assessments were requested. The staff also conduct assessments at six-month intervals and after a PREA incident. If residents are identified as being vulnerable to victimization, sexually aggressive and/or violent aggressive, then placement recommendations are made.

Interviews with Intake staff at Ivy and at CNYC indicated a clear understanding of the requirement under this standard. As well as a review of assessments confirmed that they were being conducted and used to determine placement as per standard 115.342.

**Policy, Materials, Interviews and Other Evidence Reviewed**

Policy 5.24 B, PREA Compliant – Client Education and Advocacy

Vulnerability Assessment Instrument: Risk of Victimization and/or Sexually Aggressive Behavior/Violent Behavior assessments

Examples of 72 and 30 days Vulnerability Assessment Instrument: Risk of Victimization and/or Sexually Aggressive Behavior/Violent Behavior assessments

Pre-audit questionnaire completed by CNYC

Interviews with Intake staff at Ivy

Interview with Intake staff at CNYC

Intake with case manger

Interviews with residents

**Standard 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)

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

Policy 5.24 B, PREA Compliant - Client Education and Advocacy Section 6.1 requires that information collected during resident intake drives housing and programming assignments with the goal of optimizing rehabilitative and educational services and keeping all residents safe from sexual misconduct. Recommendation: Add “education” to policy. On July 12, 2016, the JJS Policy & Procedure Manager provided an updated policy. Section 6.1 now reads that Information employees collect during a client’s intake informs housing, education and other programming assignments with the goal of optimizing rehabilitative services and keeping all clients safe from sexual misconduct. Procedure P.21.9, 10, 12, 13 and 14, Classification and Programs, describes a multidisciplinary team that determines placement based upon needs/risk. There is also a placement and follow-up recommendation that the intake or case manager makes during the vulnerability and risk screening.

During interviews with the auditor, the CNYC administrators stated that they do not use isolation. Procedure P.21.18, room confinement section 11 and Procedure P.4.14, outlines room confinement procedure. According to policy, room confinement is used during some routine operational proceedings and emergency/crisis events. Room confinement is never used for non-compliance, discipline, punishment, or for the convenience of employees. During room confinements, clients are confined in their rooms for the shortest time necessary to deescalate the client, control the situation or perform necessary employee duties. If a resident poses an immediate and substantial risk to self, others or the security of the facility, and lesser means of intervention have failed to control behavior, the resident may be confined to their room. Emergency notification protocols are then put into place. The protocols include being evaluated by behavioral health. The resident is checked every two hours at least.

Additionally, education staff provide residents with schoolwork if they are able to do it. Residents are also given the opportunity to exercise. Medical and Behavioral Health Services P.4.13, Section 14.9 states that services be provided to victims of sexual assault. The medical and psychological trauma of a sexual assault is minimized by prompt and appropriate intervention. Section 17 refers to care of clients physically separated from the population. Whenever separation is imposed, only approved methods are used in compliance with approved Department separation procedures at 8.14.5.43. When a client is physically separated from the rest of the population, the appropriate employees monitor medical and behavioral health status to make sure the client has the opportunity to request care for medical or behavioral health issues.

Upon notification that a client is physically separated from the rest of the population, a qualified health professional reviews the client’s medical and behavioral health record to determine whether existing medical or mental health needs contraindicate the placement or require accommodations. The review is documented in the health record.

There is a room in the medical area where a resident can be held. Medical and administrative staff said that the room is rarely used except when a resident is at risk to harm himself or herself.

Medical, mental health and facility administration employees said that no residents have been isolated during the past 12 months. Policy 5.24 B, PREA Compliant – Client Education and Advocacy Section 6.1 outlines that the information that employees collect during the resident’s intake drives housing and programming assignments with the goal of optimizing rehabilitation and education services while keeping all residents safe from sexual abuse.

Policy 5.24 B, Section 6.2 requires that residents cannot be assigned special housing solely because of LGBTI status. During interviews with residents and staff, there was no indication that this was in practice at CNYC.

Policy 5.24 B, Section 6.3 - 6.4 states that housing assignments of transgender and intersex residents be considered on a case-by-case basis. An executive multi-disciplinary team will consider the residents’ needs and preferences, potential vulnerability, rehabilitation and education when recommending housing assignments. The executive multi-disciplinary team must review the initial housing assignment of transgender and intersex residents at least once a week until the multi-disciplinary team determines housing assignment. Thereafter, the unit multidisciplinary team reviews the housing assignment at least twice each year.

Interviews with staff indicated compliance with this subsection of the standard.

There were no residents that identified as transgender or intersex to be interviewed.

Residents are able to shower individually and have the opportunity to shower at different times, according to staff reports. There was an ongoing investigation that resulted in some residents showering by themselves at different times. Recommendation: Add this option to policy. On July 12, 2016, the JJS Policy & Procedure Manager provided documentation that the directive was updated. Directive 16-004, Clients Rights and Services states that transgender and intersex clients must be able to shower separately from other clients. All clients may request to shower separately from other clients. All clients may have the opportunity to wear under clothing and groom themselves according

to the gender identity. Additionally, provided hygiene products (make-up, nail-polish) and permitted grooming process (leg, underarm, face shaving) may be available to clients regardless of their assigned sex at birth or their housing assignments.

Attire and grooming requests are considered on a case-by-case basis. An executive multidisciplinary team will give the client's preference and potential vulnerability serious consideration.

During the on-site tour, the auditor reviewed every shower in the facility. They are all individual showers in which residents can shower privately.

#### **Policy, Materials, Interviews and Other Evidence Reviewed**

Policy 5.24 B, PREA Compliant – Client Education and Advocacy

Pre-audit questionnaire completed by CNYC

Procedure P.21.9, 10, 12, 13, 14 Classification

Procedure P.21.18, room confinement

Procedure P.4.13, special needs and services

On-site tour

Interviews with staff

Interviews with residents

Updated Directive 16-004

Interview with Policy & Procedure Manager

#### **Standard 115.351 Resident reporting**

- 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)

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

Residents at CNYC are provided multiple avenues to report sexual misconduct and retaliation. Upon intake, they are taught about reporting via a resident handbook and comprehensive PREA education that they receive within 10 days of their arrival, a brochure and via posters displayed throughout the facility. The reporting methods are also outlined in policy 5.24 C, PREA Compliant – Responding to Allegations, Section 4.1 encourages clients who are victims of or witnesses to any sexual misconduct to make a report. Residents can make reports several ways:

Notifying any employee, contractor, volunteer or student intern

Calling the toll-free reporting number

Writing a confidential letter to the PREA Reporting Office

Calling the statewide central intake hot line

Emailing and/or calling the PREA Coordinator

Requesting a medical or behavioral health service

Submitting a grievance

Anyone can report an allegation of sexual misconduct using any of these methods.

Information about how to report is outlined in the handbook, on posters, in the PREA brochure and in policy 5.24 C.

Residents must get permission to use the telephone. According to interviews, a staff member must dial the telephone number for the resident. The staff member can remain in the room if the resident requests it, otherwise, the staff member waits outside the door.

If a resident calls the toll-free reporting number and the individual who staffs the line is not in, the resident can leave a voice message. If the resident leaves a name and contact information, the reporting line staff returns the call. The reporting line staff member must ask to speak to the resident and then staff must make an office available for the resident to receive the call.

Residents also can file written reports of sexual abuse or sexual harassment to Protective Services. Forms and self-addressed envelopes are available in every living unit. Offenders can fill out the form and submit it in the grievance box. The grievance officer is responsible to collect envelopes addressed to CYFD Protective Services, put a stamp on them and mail them out. Using this option, a resident can report sexual abuse or sexual harassment anonymously.

Ensure residents are informed in the youth handbook, posters and/or brochure the ways CYFD provides to privately report sexual abuse and sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. The word “retaliation” is mentioned in the brochure and on the anonymous reporting form. It wasn’t included in the 2010 version of the youth handbook. However, the youth handbook is currently in the process of being updated. JJS is committed to providing a safe and secure environment, free from all forms of sexual misconduct and retaliation. Therefore, it is important to notify residents and staff that retaliation for reporting sexual abuse or sexual harassment is not tolerated, and adding it to policy as well as the new versions of the youth handbook, brochures and posters is strongly recommended. On July 12, 2016, the JJS Policy & Program Manager made changes to both the draft youthful handbook and policy 5.24 C. Policy 5.24 C Section 13.2 now states that to protect from retaliation, JJS employs multiple measures that can include housing transfers for clients, nonclient contact assignments for employees, and additional support services for anyone who fears retaliation for reporting sexual misconduct and/or participating in investigations. In addition, the Client and Family Handbook was updated under the “Did you know?” section now includes, “You have the right to be free from retaliation.”

For best practice, consider how residents can receive return calls from the PS Screener with limited staff or resident knowledge, and how residents can gain access to call the toll-free reporting number, statewide central intake hot line or PREA Coordinator, if applicable.

The agency makes a form and envelope addressed to the CYFD Protective Services available to residents. Residents can make reports anonymously by not including their name. The envelope can be placed in the grievance box for the grievance officer to mail. JJS and Protective Services are under the same parent agency, CYFD. As a result, this makes the standard non-compliant. The standard requires the agency to provide at least one way for residents to report abuse or harassment to a public or private entity or office that is not part of the agency.

The residents can remain anonymous using this method. However, Protective Services is under the same agency as JJS.

**Required Corrective Action:**

1. Develop a process for residents to report anonymously that is not associated with the agency.

**Verification of Corrective Action since the Audit:**

On July 12, 2016, the JJS Policy & Program Manager provided updated changes to Policy 5.24 C. Section 5.2 and 5.4 now state: 5.2 Additionally, all employees must immediately report and document any allegations received by third parties made verbally, in writing, or anonymously. 5.3 To report any allegations of sexual misconduct, employees, contractors, volunteers, and student interns must notify the Office in Charge (OIC) immediately. 5.4 These are additional methods to report allegations of sexual misconduct:

Notify a supervisor

Write a confidential letter to the PREA Reporting Office in Las Cruces, New Mexico

Call the toll-free JJS Facility Confidential Reporting Number

Call the Statewide Central Intake Hotline’ and/or Email

and/or call the JJS PREA Coordinator

CYFD does not detain residents solely for immigration purposes.

Offenders who are held for civil immigration or are Mexican citizens are provided with information on how to contact the Consulate of Mexico in Albuquerque. There is a Memorandum of Understanding between the agency and the consulate general. There are no residents in CNYC detained solely for civil immigration purposes.

During the on-site visit, the auditor saw PREA posters that outline several reporting options. The posters are visible in every living unit and elsewhere throughout the facility. The residents also are given a handbook and brochure with reporting information. Interviews with residents also indicated that they were aware of how to report a PREA allegation. There were concerns expressed by staff and residents concerning the privacy of phone calls, since residents have to request to use the telephone and because staff have to dial the number.

Policy 5.24 C, PREA Compliance Responding to Allegations, Section 5.1 and 5.2 - 5.1 states that all employees must immediately report abuse and neglect, including any and all substantial risk, suspicion, information, or knowledge of sexual misconduct. 5.2 states that additionally, all employees must immediately report any allegations received by third parties made verbally, in writing or anonymously.

The auditor recommended adding language in policy that requires staff to promptly document any verbal reports and immediately and confidentially report to their supervisor, duty officer or office in charge. The agency changed Policy 5.24 C Section 5 to the following: 5.1 all employees, contractors, volunteers, and student intern must immediately report abuse and neglect, including any and all substantiated risk, suspicion, information, or knowledge of sexual misconduct. 5.2 Additionally, all employees must immediately report and document any allegation received by third parties made verbally, in writing, or anonymously. 5.3 To report any allegations of sexual misconduct, employees, contractors, volunteers, and student interns must notify the officer in charge immediately. 5.4 These are additional methods to report allegations of sexual misconduct: Notify a supervisor, Call the toll-free JJS Facility Confidential Reporting Number, Call the Statewide Central Intake Hotline and/or Email and/or call the JJS PREA Coordinator.

Interviews with staff at the facility indicated they understood the need to accept a report, no matter how that report comes to them. Staff said that they would have the residents make the report to the SAP 02 line. Some said they would call the SAP 02 line and/or inform a supervisor or officer in charge. PREA standard 115.351 C requires that staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports. Once a resident reports sexual misconduct, it is the staff's responsibility to immediately report it, not the resident's. CNYC must ensure that employees are trained in this process.

Policy requires employees to immediately report abuse and neglect by notifying their supervisor, calling the toll-free confidential reporting number, writing a confidential letter to CYFD Protective Services, calling the statewide central intake hot line or via email/call to the PREA Coordinator.

**Required Corrective Action:**

1. Policy 5.24 C, requires all employees to immediately report abuse and neglect, including any substantial risk, suspicion, information or knowledge of sexual misconduct.
2. Specify in policy a uniform protocol on how employees report and document incidents. Currently, employees can report several different ways. Refer to Section 5.3.

**Verification of Corrective Action since the Audit:**

On July 12, 2016, the JJS Policy & Procedure Manager provided documentation that the policy 5.24 C was changed. The auditor recommended adding language in policy that requires staff to promptly document any verbal reports and immediately and confidentially report to their supervisor, duty officer or office in charge. The agency changed Policy 5.24 C Section 5 to the following: 5.1 All employees, contractors, volunteers, and student intern must immediately report abuse and neglect, including any and all substantiated risk, suspicion, information, or knowledge of sexual misconduct. 5.2 Additionally, all employees must immediately report and document any allegation received by third parties made verbally, in writing, or anonymously. 5.3 To report any allegations of sexual misconduct, employees, contractors, volunteers, and student interns must notify the officer in charge immediately. 5.4 These are additional methods to report allegations of sexual misconduct: Notify a supervisor, Call the toll-free JJS Facility Confidential Reporting Number, Call the Statewide Central Intake Hotline and/or Email and/or call the JJS PREA Coordinator.

The option of calling the SAP 02 line that is answered Monday – Friday 8:00 am – 5:00 pm excluding weekends and holidays was removed. The JJS Policy & Program Manager provided the updated policy on 5.24 C on July 12, 2016. The corrective action has been completed.

If staff report to the SAP 02 line over the weekend, it will not be reported until the next working day. Staff need to comply with section 7.1 by reporting to the officer in charge. On July 12, 2016, the Policy & Procedure Manager provided these changes to Policy 5.24 C Section 5.3 to report any allegations of sexual misconduct, employees, contractors, volunteers, and student interns must notify the officer in charge (OIC) immediately, as verification that the changes were made.

Staff can privately report using the same methods as the residents which are:

- Notify their supervisor
- Call the toll free JJS facility confidential reporting number
- Write a confidential letter to the PREA Reporting Office in Las Cruces, New Mexico
- Call the statewide central intake hotline
- Email and/or call the JJS PREA Coordinator

Interviews with staff indicated they understood how to access these reporting options, if needed.

**Policy, Materials, Interviews and Other Evidence Reviewed**

- Policy 5.24 C, PREA Compliant – Responding to allegations
- Final draft PREA brochure

Final draft PREA poster  
Third-party reporting MOU  
MOU client's right to contact Mexican consulate  
Verbal report documentation  
Pre-audit questionnaire completed by CNYC  
Updated 5.24 C, PREA Compliant-Responding to allegations  
Interview with Policy & Procedure Manager

**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)

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

The agency has a formal grievance policy. The youth handbook informs residents of the grievance process. The agency has administrative procedures to address grievances that include sexual abuse and sexual exploitation. Rights of Grievance Complaint and Appeal P.20.15, Section 8.1.1 states that the JJS grievance process shall: provide a trackable way for client or the client's parents/guardian to voice grievances about a client's care and treatment, provide a written and oral orientation upon intake for clients and clients' families/guardians describing policies and procedures, and promptly update orally and in writing all clients and clients families/guardians about changes. The grievance definitions include sexual abuse and sexual exploitation.

Directive 16-003 states that grievances that allege sexual misconduct must be investigated regardless of any previously identified time limits for other types of grievances. A resident is never expected to resolve an allegation of sexual abuse informally with a JJS employee.

The facility recently hired a grievance officer whose job is to investigate sexual misconduct grievances.

Per P.20.15, Right of Grievance Complaint and Appeal, grievances must be filed within 30 days of the incident. However, grievances that allege sexual misconduct must be investigated regardless of any previously identified time limits for other types of grievances.

Directive 16-003 states that grievances, including those for sexual misconduct, are never referred to an employee who is the subject of the complaint.

Procedure P.20.15, Right of Grievance Complaint and Appeal, requires that all grievances shall be filed within five business days. In the past 12 months, there were three grievances filed that alleged sexual abuse. A final decision in all three reportedly was reached within 90 days.

The policy states that for a good cause request by the grievance officer, the JJS Deputy Director of Facilities or the JJS director may extend, in writing, the time limit for recommending a resolution if he or she determines that an extension is necessary or in the best interest of the grievant. The grievance officer shall immediately provide a copy of the extension to the grievant.

Procedure P.20.15 states that clients and their families/guardians may submit grievances in writing by placing them in the grievance box, by delivering them directly to the grievance officer, or by giving them to any JJS staff member. Directive 16-003 states that a grievant need not write his/her grievance or appeal, but rather can tell any employee or call the toll-free JJS facility confidential reporting number.

The auditor was told that there have been no grievances filed by CNYC residents alleging substantial risk of imminent sexual abuse within the past 12 months. Therefore, no emergency grievances were available for review. Interviews with staff and offenders indicated that no emergency grievances had been filed.

The facility provided policy 5.24, which states that all employees must immediately report abuse and neglect, including any and all substantial risk, suspicion, information or knowledge of sexual misconduct.

Procedure P.20.15 states that if a parent or legal guardian files such a request on behalf of a resident, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.

- (3) If the resident declines to have the request processed on his or her behalf, the agency shall document the resident's decision.
- (4) A parent or legal guardian of a juvenile shall be allowed to file a grievance regarding allegations of sexual abuse, including appeals, on behalf of the juvenile. Such a grievance shall not be conditional upon the juvenile agreeing to have the request filed on his or her behalf.

The pre-audit questionnaire indicated there have been no emergency grievances filed at CNYC alleging substantial risk of imminent sexual abuse within the past 12 months. Interviews with staff and offenders indicated no offender has been disciplined for this purpose.

Policy 5.24 B, Section 10.2 states that residents who knowingly make false allegations of sexual misconduct, file grievances in bad faith, and/or engage in retaliation are subject to criminal prosecution and/or disciplinary actions. In the past 12 months, there haven't been any grievances filed that alleged sexual abuse resulting in disciplinary action against residents for having filed a grievance in bad faith.

#### **Policy, Materials, Interviews and Other Evidence Reviewed**

Pre-audit questionnaire completed by CNYC  
Right of Grievance Complaint and Appeal procedure P.20.15  
Directive 16-003 PREA Compliant Searches  
5.24 B, PREA Compliance – Client Education and Advocacy  
5.24 C, PREA Compliance – Responding to Allegations  
Interview with Grievance Officer

#### **Standard 115.353 Resident access to outside confidential support services**

- 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)

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

Policy 5.24 B, PREA Compliant Responding to Allegations, Section 8.5 and 8.6 8.5 states that residents may also call or write letters to outside advocacy groups, including victim support and rape crisis organization. Such communications are privileged and shall not be monitored. Clients are permitted to make such calls in a location that preserves confidentiality. Section 8.6 states that in addition to evaluating and supporting client victims of sexual misconduct, behavioral health clinicians evaluate client perpetrators and may recommend that they participate in offender counseling and treatment.

The pre-audit questionnaire states that the facility provides residents a handbook and brochure. These materials outline the ways to report sexual misconduct. Information on outside advocacy, including victim support and rape crisis organization information was not provided.

#### **Required Corrective Action:**

1. Add a process describing the methods whereby residents can access outside victim advocates for emotional support services related to sexual abuse by providing, posting or otherwise making accessible mailing addresses and telephone numbers, including toll free hotline numbers, where available, of local, state, or national victim advocacy or rape crisis organizations, and, for persons detained solely for civil immigration purposes, immigrant services agencies.
2. The facility must develop a way to enable reasonable communication between residents and these agencies in a confidential manner. The facility shall inform residents, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.
3. Document that all current residents have received the information.

**Verified Corrective Action:**

On July 28, 2016, the Performance/Policy Bureau Chief provided verification that the posters with rape crisis advocacy lists in New Mexico and one outlining the role of sexual assault advocates were in the process of being printed. The Sexual Assault Advocacy in Detention states that advocates are provided to support the rights and wishes of the survivor. The services are confidential unless a survivor gives permission, or if there is an indication that a child or vulnerable adult is being abused or the survivor indicates he/she intends to harm him/herself. Advocacy services are provided via mail, hotline calls and in person at SANE exams.

The advocacy list outlines the specific sexual assault program for the facility and contact information. Hotline, main office phone number, e-mail and SANE exam location are included.

The PREA Coordinator said that posters will be given to residents, posted in the unit and in visiting areas for families to see, and will be provided to victims of sexual abuse/sexual assault.

Policy 5.24 B, Section 9.3 provides for an advocate to accompany and support the victim throughout the forensic medical exam and investigative interview process. The advocates provide emotional support, crisis intervention, information and referrals.

The Agency currently is in the process of signing a Memorandum of Understanding (MOU) with a rape crisis center. There is a Draft Advocacy MOU between CYFD & New Mexico Sexual Assault Coalition. On July 25, 2016, the Performance/Policy Bureau Chief provided verification of the signed MOU with statewide rape crisis organizations.

The auditor recommended that the agency obtain a signed MOU with New Mexico Sexual Assault Coalition and disseminate information to staff and residents on advocacy responsibilities to provide emotional support services, thereby enabling reasonable communication between residents and the advocates. The MOU was signed on July 22, 2016 by the CYFD Cabinet Secretary. The agency updated brochures, posters client handbook. On October 25, 2016, the PREA Coordinator provided documentation that the residents were educated about these options and how to contact the advocates. In addition, policy 5.24 B was updated and allows for confidentiality between the resident and advocate.

P.20.11 allows opportunities to communicate with attorneys, parents, guardians in Section 8.3.1, same section and information in P.20.12. The facility provides residents with reasonable and confidential access to their attorneys or other legal representation and reasonable access to parents or legal guardians in person, by phone and via written correspondence. This was confirmed in interviews with staff and residents. According to facility staff, residents are permitted to make confidential phone calls to their attorneys, parents or legal guardians. Staff members dial the number and wait outside the door while residents speak with these individuals. Residents also have opportunities to visit personally with their attorneys, parents or legal guardians.

**Policy, Materials, Interviews and Other Evidence Reviewed**

- Pre-audit questionnaire submitted by CNYC
- Interviews with residents
- Interviews with staff
- Interview with PREA Coordinator
- Policy 5.24 B, PREA Compliant – Client Education and Advocacy
- Final Draft – PREA Brochure
- Draft - PREA Handbook
- Youth Handbook
- Draft – MOU between CYFD and Rape Crisis Center
- Directive P.20.11 – Client Right to Telephone Use
- Directive P.20.12 – Client Right to Correspondence

**Standard 115.354 Third-party reporting**

- 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)

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

CNYC demonstrated compliance in this standard. There are multiple methods that can be utilized for third-party reporting. They are provided in resident written resource information, in brochures and on posters. Policy provides visitors with information on how to report, as well as the website on ways to report sexual misconduct. PREA posters with reporting information are available at the entrance of the facility as well as in the visiting room. During the site tour, the PREA Coordinator said he to make the brochures available to visitors at the entrance of the facility since reports can be made by a third-party on behalf of a resident.

CNYC provides brochures in English and Spanish. The PREA brochure outlines the agency’s zero-tolerance policy and reporting options. A review of agency’s public website was completed. The website published the following ways to report sexual abuse or sexual harassment on behalf of offenders:

- Call the JJS PREA Coordinator
- Email the JJS PREA Coordinator
- Call the confidential reporting number

**Policy, Materials, Interviews and Other Evidence Reviewed**

- Pre-audit questionnaire completed by CNYC
- Website
- PREA Brochures

**Standard 115.361 Staff and agency reporting duties**

- 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)

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

All CYFD staff are required to report any suspicion of alleged abuse or neglect. Policy 5.24, C, PREA Compliance – Responding to Allegations, Section 5.1 states that all employees must immediately report abuse and neglect, including any and all substantial risk, suspicion, information, or knowledge of sexual misconduct. Section 5.2 states that all employees must immediately report any allegation by third-parties made verbally, in writing, or anonymously.

In addition to policy, staff training includes the duty to report such incidents. Interviews with staff during the audit indicated they understood their duty to immediately report. New Mexico State Law 32-4-3, New Mexico’s Children’s Code, requires every person who has information that is not prohibited as a matter of law, who knows or has a reasonable suspicion that a child is an abused or a neglected child shall report that matter immediately to:

1. Law enforcement,
2. The department (CYFD)
3. A tribal law enforcement or social services agency for any Indian child residing in Indian Country.

The pre-audit questionnaire says that apart from reporting to designated supervisors or officials and designated state or local services agencies, staff shall be prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, as specified, in agency policy, to make treatment, investigation, and other security and management decisions. The pre-audit questionnaire refers Section 5.1 as requiring this information. The information was not in this section.

The auditor recommended adding to policy that staff (volunteers, contractors, student interns) shall be prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, as specified, in agency policy, to make treatment,

investigation and other security management decisions because information to support this standard was not provided. On July 12, 2016, the JJS Policy & Procedure Manager provided the following to support compliance: The Code of Conduct, Section 2.1.1.7 Breach of Confidentiality: Integral to CYFD's success is the protection of confidential information entrusted to us by employees, clients and other community partners. Unauthorized disclosure, misuse or mishandling of information obtained in the course of or conducted on behalf of CYFD related business activities, including unauthorized disclosure or use of protected health information is strictly prohibited. Section 2.1.1.9, Duty to Cooperate with Investigations: allegations of violations of policies and procedures set forth by CYFD and/or state or federal law may require employees to participate as witnesses or potential witnesses in a variety of investigations. CYFD employees have a duty to cooperate in an investigation and are required to do so in good faith. During the investigative process, witnesses or potential witnesses who are interviewed are responsible to maintain confidentiality about the content of their interviews.

In addition, Procedure P.16.11 Contractors, Volunteers and Student Interns was provided. Section 11.6.2.1 states standard CYFD confidentiality agreement that includes HIPA responsibilities. Level two contractors, volunteers or interns shall be provided with training on the following topics, and sign a receipt of understanding and agreement for several areas including but not limited to code of conduct and standard CYFD confidentiality agreement.

Policy 5.24 C states that all employees must immediately report abuse and neglect including any and all substantial risk, suspicion, information, or knowledge of sexual misconduct.

Policy 5.24 C, PREA Compliance – Responding to Allegations, Section 12.6 states that the PREA Coordinator notifies the client victim's parent/guardians within 14 days of the allegation of sexual abuse. Recommendation was made to the JJS Policy & Program Manager to change "within 14 days" to "promptly". The standard requires that upon receiving any allegation of sexual abuse, the facility or his or her designee shall promptly report the allegation to the appropriate agency office and to the alleged victim's parents or legal guardian, unless the facility has official documentation showing the parent's or legal guardians should not be notified. The agency determined that the PREA Coordinator is the facility head's designee. The PREA coordinator is notified on all allegations of sexual misconduct and is responsible to initiate a PREA case file checklist and PREA incident log; confirm that law enforcement and the JJS Facility Confidential Reporting Number have been notified/called; and notify Employee Relations Bureau (ERB), if an employee is involved. The PREA Coordinator is also responsible to monitor all allegations, including third-party and anonymous allegations, to ensure prompt, thorough, objective investigations by the appropriate investigative body. Additionally, the PREA Coordinator is required to monitor victims of sexual abuse for retaliation as well as provide them information on the status of their case. For these reasons, the agency determined that the PREA Coordinator was the appropriate designee to notify parents or legal guardians as well as continue to be able to provide on-going status updates.

The standard requires that medical and mental health practitioners shall be required to report sexual abuse to designated supervisors and officials pursuant to paragraph (a) in the standard of this section as well as to the designated state or local services agency where required by mandatory reporting laws.

**Required Corrective Action:**

1. Add to medical and mental health process that medical and mental health practitioners shall be required to inform residents at the initiation of services of their duty to report and the limits of confidentiality. According to the New Mexico State Children's Code, everyone has a duty to report all information regarding abuse and neglect. Consent is obtained from the resident prior to notifying parents or guardians regarding prior victimization.

**Verification of Corrective Action:**

On October 24, 2016, documentation that residents of CNYC were informed of medical and mental health practitioners duty to report and limits of confidentiality. Policy 5.24 C requires that employees, contractors, volunteers and student interns report abuse and neglect including sexual misconduct.

The PREA Coordinator provided documentation that the clients are informed of what abuse, sexual abuse, and sexual misconduct are via the client handbook, PREA brochure, and the PREA poster. The Client Handbook defines what abuse, sexual abuse, and sexual misconduct are. Additionally, the clients have an opportunity to ask questions when given the client handbook.

Interviews with medical and mental health employees indicated they understood the requirements under this standard. They verified that they are required to report knowledge, information, and suspicion of sexual abuse or sexual harassment.

The facility staff reports all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports which are referred for investigation.

Standard 115.361 (e) (1) requires that in any allegation of sexual abuse the facility head or designee promptly report the allegation to appropriate agency office and to the alleged victim's parents or legal guardian, unless the facility has official documentation showing the parents or legal guardian should not be notified. Policy 5.24 C, PREA Compliance – Responding to Allegations, Section 12.6 requires that that PREA Coordinator notify the client's parents or legal guardian.

**Policy, Materials, Interviews and Other Evidence Reviewed**

Policy 5.24 C, PREA Compliance – Responding to Allegations

New Mexico 32A-4-3, Children's Code

Policy 5.24 B, PREA Compliance – Client Education and Advocacy

Interviews with medical and mental health staff

Pre-audit questionnaire completed by CNYC

**Standard 115.362 Agency protection duties**

- 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)

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

CNYC reports that there have been no situations in the past 12 months in which a resident was subject to substantial risk of imminent sexual abuse. Policy 5.24 C, PREA Compliance – Responding to Allegations, Section 5.1 states that all employees must immediately report abuse and neglect, including any and all substantial risk, suspicion, information, or knowledge of sexual misconduct. Section 5.4 states that if a client victim is reporting directly to an employee, that the employee's first responsibility is to keep the client safe by following the first responder protocols. The first responder duties must ensure the victim is safe and separated from the alleged perpetrator.

Policies sometimes state "employees" and in other places include "contractors and volunteers". Consider reviewing all policies to determine if a contractor, volunteer or student intern needs to be added to ensure compliance with the requirement. For this standard, to make sure they notify the officer in charge and document all information. On July 12, 2016, the policy & procedures manager provided the following changes to Policy 5.24 C for verification that recommended changes were made: Section 5.2 all employees, contractors, volunteers, and student interns must immediately report abuse and neglect, including any and all substantial risk, suspicion, information, or knowledge of sexual misconduct.

The agency made the following change to Policy 5.24 C, Section 5.1 – All employees, contractors, volunteers, and student interns must immediately report abuse and neglect, including any and all substantial risk, suspicion, information, or knowledge of sexual misconduct.

Policy as well as interviews with staff confirm the requirements of this standard.

The training curriculum shows that staff are trained in this standard. Interviews with staff indicated they understood the requirements for immediate action to protect residents.

Policy, Materials, Interviews and Other Evidence Reviewed

New Mexico Children's Code

Policy 5.24 C, PREA Compliance - Responding to Allegations

Pre-audit questionnaire completed by CNYC

PREA training curriculum

Interviews with random staff

Updated Policy 5.24 C PREA Compliance-Responding to Allegations

Interview with Policy & Procedure Manager

**Standard 115.363 Reporting to other confinement facilities**

- 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)

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

Policy 5.24 B, Section 5.4 states that if a client alleges that he/she was sexually abused at a non-CYFD facility, the intake employee notifies the officer in charge (OIC). The OIC initiates a PHPC (which includes JJS PREA Coordinator notification). The facility Superintendent or Deputy Superintendent notifies the non-CYFD facility administrator as soon as possible and no longer than 72 hours after the allegation was received. Additionally, the Superintendent notifies the PREA Coordinator who documents the notification, per a PREA case file checklist and PREA Incident log.

Policy 5.24 C, Responding to Allegations, Section 5.4 states that if a client alleges that he/she was sexually abused at a non-CYFD facility, the intake employee should notify the OIC. The OIC initiates a PHPC which includes JJS PREA Coordinator notification. The facility Superintendent or Deputy Superintendent should notify that non-CYFD facility administrator as soon as possible, and no longer than 72 hours after the allegation was received. Additionally, the Superintendent should notify the PREA Coordinator who documents the notification per a PREA case file checklist and PREA incident log. Section 5.5 states that if a client alleges he/she was sexually abused at another CYFD facility, the intake employee notifies the OIC. The OIC initiates a PHPC, which includes JJS PREA Coordinator notification. The JJS PREA Coordinator must notify the facility PREA Compliance Manager and initiate a PREA case file checklist and PREA incident log.

One report was made and documentation was provided to the auditor for review. The notification was made within 72 hours. However, the facility PREA Coordinator made the notification, not the superintendent.

**Required Corrective Action:**

1. Policy states that the Superintendent or Deputy Superintendent should notify the non-CYFD facility's administrator as soon as possible and not longer than 72 hours after the allegation was received.
2. Change policy to indicate that the Superintendent notifies the head of the facility, including another CYFD facility or appropriate office of the agency where the alleged abuse occurred, and notifies the appropriate investigating agency.
3. Provide updated policy for review.

**Verified Corrective Action:**

On July 12, 2016, the auditor received updates to policy 5.24 B Section 5.4 – 5.5 for review. On September 1, 2016, the policy updates went into effect. The following changes were made to Section 5.4. If a client alleges he/she was sexually abused at a non-CYFD facility, the intake employee notifies the OIC. The OIC initiates a PHPC (which includes JJS PREA Coordinator notification). The facility Superintendent notifies that non-CYFD facility's administrator as soon as possible, and no longer than 72 hours after the allegation was received. Additionally, the PREA Coordinator documents the notification, per a PREA case file checklist and PREA incident log.

5.5 If a client alleges he/she was sexually abused at another CYFD facility, the intake employee notifies the OIC. The OIC initiates a PHPC (which includes JJS PREA Coordinator notification). The facility Superintendent notifies that other CYFD facility's Superintendent as soon as possible, and no longer than 72 hours after the allegation was received. Additionally, the PREA Coordinator documents the notification, per a PREA case file checklist and PREA incident log.

5.6 Only when the facility Superintendent is unavailable does the Deputy Superintendent make this notification.

Interviews with the facility investigator indicated all allegations would be investigated no matter how the information is received. The auditor was told that there was one allegation that was received from another facility. Additionally, information on the report was requested. After review of the incident report, it was determined that it did not meet the requirements of this standard. The reported incident did not occur at CNYC.

**Policy, Materials, Interviews and Other Evidence Reviewed**

Policy 5.24 C, PREA Compliance-Responding to Allegations  
Policy 5.24 B, PREA Compliance – Client Education and Advocacy  
Report that was sent to another agency  
Report of allegation that occurred in the community

Completed Pre-audit questionnaire by CNYC  
Updated Policy 5.24 C, PREA Compliance-Responding to Allegations  
Interview with Policy & Procedure Manager

**Standard 115.364 Staff first responder duties**

- 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)

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

Policy 5.24 C, PREA Compliance – Responding to Allegations, outlines a process for first responders. The response covers all elements of the standard including:

- Separation of the alleged victim and abuser, preservation and protection of the crime scene until appropriate steps can be taken to collect evidence.
- If the abuse occurred within a time period that still allows for the collection of physical evidence, request the alleged victim and alleged perpetrator not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

The first responder is required to follow the same first responder duties if they are security or non-security, including notifying the officer in charge and the preservation of evidence.

The facility recently issued laminated first responder cards to all staff. It is recommended that the facility develop a checklist that identifies all required steps that a first responder should take.

A review of the staff training curriculum was completed. It outlines first responder duties. Interviews with staff indicated that they know and understood their responsibilities to respond.

CNYC states in the past 12 months there was one allegation of sexual abuse. First responder action was not required for the report of sexual abuse.

**Policy, Materials, Interviews and Other Evidence Reviewed**

Interview with random staff  
PREA Coordinator  
Laminated Card  
Policy 5.24 C, PREA Compliance – Responding to Allegations

**Standard 115.365 Coordinated response**

- 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)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action**

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

CNYC states that it does not have a final written institutional plan to coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators and facility leadership. It is currently being finalized.

In interviews with the Superintendent, PREA Coordinator, PREA Compliance Manager and Investigators, they demonstrated knowledge of the standard and its requirement. However, there isn't a final written institutional plan. Therefore, it was strongly recommended that CNYC develop a written institutional plan that coordinates actions for a report of sexual abuse among staff first responders, medical, mental health, investigators and facility leadership. On September 29, 2016, the PREA Coordinator provided verification that a department coordinated response plan was implemented.

On September 29, 2016, the PREA Coordinator provided a coordinated response plan. The plan includes staff first responder requirements and coordinated responses with medical/mental health, investigators and facility leadership.

#### **Policy, Material, Interview and Other Evidence Reviewed**

Interviews with Superintendent, PREA Coordinator, PREA Compliance Manager

Draft institutional Plan

Pre-audit questionnaire completed by CNYC

#### **Standard 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)

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

A union contract was provided. Section B of the contract allows the employer to remove an employee from their unit for an investigation involving the employee. In interviews with the Director, Superintendent and PREA Coordinator, they stated that they have the ability to remove staff sexual abusers from contact with residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted. Staff said that staff abusers will be disciplined and victims will be protected from their abusers. The union contract does not prohibit them from protecting the resident.

#### **Policy, Materials, Interviews and Other Evidence Reviewed Union Contract**

Interview with Director, Superintendent and PREA Coordinator Pre-audit questionnaire completed by CNYC

#### **Standard 115.367 Agency protection against retaliation**

- 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)

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

Policy 5.24 C, PREA Compliance - Responding to Allegations, Section 13.1 states that during the 90 days after an allegation of sexual misconduct, the PREA Coordinator must ensure that the victim, reporters, and any others who cooperated in the investigation (clients, employees, contractors, volunteers, and student interns) are protected from retaliation.

In interviews with the PREA compliance manager and PREA Coordinator, who are charged with monitoring for retaliation, they said they employ multiple protection measures. The PREA compliance manager checks to see if there have been disciplinary reports, program changes, negative performance reviews or reassignments. The PREA compliance manager and PREA Coordinator are responsible to protect the victim, witnesses or reporters from retaliation and to monitor them for 90 days.

**Required Corrective Action:**

1. If the PREA compliance manager is responsible to monitor victims, reporters, witnesses and others who cooperate with an investigation, add these duties to Policy 5.24 C, Section 13.

**Verification of Corrective Action since the Audit:**

On July 12, 2016, the policy & procedure manager provided changes to Policy 5.24 C, Section 13. The policy now states in 13.2, to protect from retaliation, JJS employs multiple measures that may include transfers for clients, non-clients contact assignments for employees, and additional support services for anyone who fears retaliation for reporting sexual misconduct and/or participating in investigations. In 13.3, client monitoring includes periodic client status checks.

Recommend adding to policy – “the agency shall employ multiple protection measures, such as housing changes or transfers for resident victims or abusers, removal of alleged staff or resident abusers from contact with victims, and emotional support services for residents or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.” On July 12, 2016, the policy & procedure manager provided the verification that the recommendation was added to policy. Policy 5.24 C, Section 13.2 reads, to protect from retaliation, JJS employs multiple measures that may include housing transfers for clients, non-client contact assignments for employees, and additional support services for anyone who fear relation for reporting sexual misconduct and/or participating in investigations.

Both the PREA Coordinator and the PREA Compliance Manager monitor for retaliation.

During the site visit, the facility PREA Compliance Manager and PREA Coordinator were interviewed. Both verified the process as it is outlined in policy. Documentation and monitoring was reviewed on-site, which indicated compliance with this standard. The PREA Coordinator provided examples of retaliation monitoring for both residents and staff.

Policy 5.24 C, Section 13.2 states that periodic, documented welfare checks take place when the PREA Coordinator is monitoring a client, that monitoring includes periodic, documented status checks. Section 13.3 states that the monitoring may continue after 90 days if the PREA Coordinator believes there is a continued risk of retaliation. Interviews with the PREA Coordinator confirmed that this is the policy. The PREA Coordinator states that in the past 12 months CNYC has had no incidents of retaliation by other residents or staff.

If any individual who cooperates with an investigation expresses fear of retaliation, the PREA Coordinator stated that the agency takes appropriate measures to protect the individual. Monitoring will continue beyond 90 days if necessary.

**Policy, Materials, Interviews and Other Evidence Reviewed**

- Policy 5.24 C, PREA Compliance – Responding to Allegations
- Interviews with PREA Coordinator and PREA Compliance Manager
- Pre-audit questionnaire completed by CNYC
- Active client victim retaliation monitoring form
- Updated Policy 5.24 C, PREA Compliance-Responding to Allegations
- Interview with Policy & Procedure Manager

**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)

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

CNYC staff stated that they do not use isolation to protect a resident who has reported sexual abuse. Policy P.21.18, Classification and Programs, outlines the process for confinement of residents in their rooms. If any employee, contractor or volunteer who learns that a resident is subject to sexual abuse, that person shall take immediate action to protect the resident. The facility shall assign such residents to their room and separate them from the abuser. CNYC does not have segregated housing.

CNYC indicates that there were no residents who alleged being sexually abused who were held in segregated housing in the past 12 months. No residents were interviewed.

Interviews with the PREA compliance manager, PREA Coordinator and the Superintendent indicated they had a good understanding of the requirements of the standard and that they do not place residents in isolation.

#### **Policy, Materials, Interviews and Other Evidence Reviewed**

Policy P.21.18, Classification and Programs

Standard 115.342

Interviews with PREA compliance manager, PREA Coordinator and Superintendent

Pre-audit questionnaire completed by CNYC

#### **Standard 115.371 Criminal and administrative agency 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)

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

CNYC conducts administrative investigations for staff-on-resident and resident-on-resident reports of abuse, but does not conduct criminal investigations. Criminal investigations are conducted by the New Mexico State Police. The facility reports that in the past 12 months there have been no allegations of staff or residents for criminal sexual abuse or sexual harassment.

The facility provided Policy 5.24 C, PREA Compliance Responding to Allegations, Section 10, to demonstrate compliance with the standard. Policy states that if the incident is referred for criminal prosecution, that law enforcement must conduct the investigation. All other investigations must be suspended until law enforcement releases the case for administrative processing. CYFD employees must not question the clients and employees involved or obtain statements or evidence until the release is authorized by law enforcement via the JJS Director. The New Mexico State Police conduct the investigations for criminal conduct.

The Office of the Inspector General or grievance officer conduct administrative investigations.

During interviews, it was evident that the OIG investigator and grievance officer received training. They also provided certificates to verify attendance at the training.

Policy 5.24 C, Section 10.1, states that if the incident is referred for criminal prosecution, law enforcement must conduct the investigation. Section 10.2 states that all other investigations must be suspended until law enforcement releases the case for administrative processing. Victim, perpetrator and witnesses are separated and the crime scene is preserved. State police follow their procedures for criminal evidence handling that would include gathering and preserving direct and circumstantial evidence, including any available physical and DNA

evidence and any available electronic monitoring data, interviewing alleged victims, suspected perpetrators, and witnesses and reviewing prior complaints and reports involving the suspected perpetrator. Currently the agency is working on an MOU with the New Mexico State Police requiring that they follow the requirements of the PREA standards.

A criminal allegation PREA checklist and documents were provided. They met the requirements of the standard. Interviews with the PREA Coordinator indicate an understanding of this requirement.

This standard also requires that when the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly and objectively for all allegations including third-party and anonymous reports. The agency conducts administrative investigations. Section 5.2 states that all employees must immediately report any allegations received by third parties made verbally, in writing or anonymously.

Recommend adding additional language to the policy. Investigations into allegations of sexual misconduct, sexual abuse and sexual harassment shall be done promptly, thoroughly and objectively for all allegations including third-party and anonymous reports. On July 12, 2016, the policy & procedure manager provided the auditor with changes to Policy 5.24 C for review. On October 20, 2016, the PREA Coordinator provided verification that the changes were made and were effective on September 1, 2016. All staff were trained on the following changes to Policy 5.24 C, Section 4.2. All reports of sexual misconduct are considered credible and must be promptly, thoroughly, and objectively investigated regardless of these possible or any other circumstances: The allegation was made anonymously; The allegation was made by third parties; The employee named is no longer in custody; The client reporter has made false allegations previously; The source of the allegation recants the allegation; The employee receiving the allegation does not believe the allegation is true; and/or The client reporter has developmental and/or cognitive disabilities.

CNYC conducts administrative investigations. Policy 5.24 C, Section 10.1, states that the stand-alone policy, OIG Special Investigator and/or a protective services investigator conducts an investigation of all allegations screened. Section 10.4 states that the grievance officer only investigate allegations and grievances that have been screened out by the PS screener.

Since the OIG investigator conducts staff-on-resident administrative investigations, the auditor recommends adding PREA standard language to their process to ensure that investigations determine whether staff actions or failures to act contributed to the abuse and shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. The policy & procedure manager provided the following to show that sexual abuse and sexual harassment: The OIG investigator conducts staff-on-resident administrative investigations, The stand alone procedure (SAP) Section 5 “abuse” and 7 “neglect” as used in the SAP shall be defined as failing to provide proper subsistence, medical, educational or other care necessary for the client’s well-being and/or failing to protect a client from foreseeable harm. Section 9.3 requires that an investigation include the following components:

1. The interview of the alleged victim(s), if available;
2. The interview of the JJS facility staff person(s), other employee(s), contractor(s), or volunteer(s) alleged to have perpetrated the abuse or neglect;
3. A review of any medical documentation concerning the alleged incident(s) to include interviewing the medical professional who conducted the examination or evaluation;
4. A review of any electronic data, in digital format, on video tape, or otherwise recorded concerning the alleged incident(s);
5. The interview of any JJS facility client, JJS facility staff person, or any other person who witnessed the alleged abuse or neglect, or who may provide additional information.
6. A review of any other pertinent material or documentation that pertains to the alleged incident(s); and
7. Protocols that oblige Department of Justice standards for interviewing victims of sexual abuse
8. Special Investigators do not have authority to impose criminal sanctions or employee disciplinary actions; therefore, they do not cite Miranda or Garrity warnings.

This policy requires investigators to determine whether staff actions or failures to act contributed to the abuse. According to the OIG investigator, investigations are documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

The OIG investigator and grievance officer received specialized training in sexual abuse investigations pursuant to 115.34. The training curriculum was reviewed and met all provisions of 115.34, and rosters/certificates were provided as documentation. An interview with an

OIG investigator indicated that she received and understood the training. An interview with the grievance officer indicated that she received and understood the training. A review was conducted to verify she attended the training.

The investigator said she does not terminate an investigation because the alleged abuser or victim departs or the aggressor recants the allegation. Interviews with the OIG investigator /grievance officer indicated an understanding of this requirement.

State police conduct criminal investigations at CNYC. The agency does not conduct compelled interviews. There were no indications that this ever occurred in the past.

An interview with the OIG investigator confirmed that a resident who alleges sexual abuse is not required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with an investigation.

Substantiated allegations of conduct that appear to be criminal shall be referred for prosecution. CNYC states there were no sustained allegations referred for prosecution since August 20, 2012.

CNYC retains all written reports pertaining to administrative or criminal investigations. CNYC provided the statute regarding retention of public records – management of electronic records which states that permanent, permanent-archival, or long-term records are on electronic media. Permanent public records are either maintained permanently by and at the custodial agency or by the custodial agency in an appropriate environmental setting. Permanent-archival records are scheduled in the custodial agency’s records retention and disposition schedule to be transferred to the SRCA permanently or transferred to the SRCA for review and final disposition. However, since the standard requires specific requirements, the auditor recommends adding to policy that the agency shall retain all written reports referenced in standard 115.317 (g) and (h) for as long as the alleged abuser is incarcerated or employed by the agency, plus five years, unless the abuse was committed by a juvenile resident and applicable law requires a shorter period of retention.

On July 12, 2016, Policy 5.24 C, Section 14.6 was also updated by the JJS policy & procedure manager. Section 14.6 of the policy now states: The PREA Coordinator ensures all documentation relating to PREA violations and allegations are securely and confidentially maintained for as long as the perpetrator is incarcerated or employed by CYFD plus five years.

Policy 5.24 C, Section 4.2, states that all reports of sexual misconduct are considered credible and must be promptly investigated regardless of circumstances. The departure of the suspect or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.

#### **Policy, Material, Interviews and Other Evidence Reviewed**

Policy 5.24 C, PREA Compliance – Responding to Allegations

Pre-audit questionnaire completed by CNYC

Interviews with OIG investigator, Grievance Officer, PREA Coordinator

Review of investigations

Updated Policy 5.24 C, PREA Compliance-Responding to Allegations

Interview with Policy & Procedure Manager

#### **Standard 115.372 Evidentiary standard for administrative investigations**

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

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

A stand-alone procedure for the Office of the Inspector General Investigations in juvenile justice services facilities was provided. In determining whether allegations of sexual abuse or sexual harassment are substantiated, the agency/OIG has had no standard higher than a preponderance of evidence was not included in policy. The standard for determining substantiated sexual abuse or sexual harassment investigations needs to be in policy.

**Required Corrective Action:**

- 1. Finalize the SAP 03 policy. The policy needs to include language that the agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.
- 2. Once signed, it needs to be implemented and put into practice.

**Verified Corrective Action:**

On July 29, 2016 the policy & program manager provided updates to the SAP 03 to review. The SAP 03 definitions were also updated. On October 20, 2016, the PREA Coordinator provided verification that the policy was changed and the changes were effective on September 1, 2016. Verification was also provided that staff were trained on the changes. The following updates were made to Section 5.16 “Substantiated” - Means no higher standard than a preponderance of evidence (51%) is needed to support the conclusion that the alleged abuse or neglect occurred and that the perpetrator was a facility staff member, other employees, contractor, volunteer, or student intern. Credible evidence upon which to base a finding of “substantiated” may include:

- 1. An admission by the accused facility staff member, other employee, contractor, volunteer, or student intern.
- 2. Physical facts or evidence including videos, photographs or documents.
- 3. Collateral witness statements, and
- 4. Disclosures by the alleged victim

During the interview with the OIG investigator, it was evident that she understood this requirement of this standard.

**Policy, Materials, Interviews and Other Evidence Reviewed**

Policy 5.24 C, PREA Compliant – Responding to allegations  
 SAP03 Proposed Revision  
 Interview with OIG investigator  
 Pre-audit questionnaire completed by CNYC

**Standard 115.373 Reporting to 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)

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

Policy 5.24 C, Section 12.2 states that the PREA Coordinator provides the client victim with a letter reporting any criminal and/or administrative findings. Administrative findings may include the outcome of the investigation and any systemic changes JJS made to support greater safety for clients, but the letter does not include any employment action.

The offender is notified in writing whether their allegation has been determined to be substantiated, unsubstantiated, or unfounded. The PREA Coordinator confirmed in an interview that he sends a letter to the victim. An example of a letter sent to a victim who reported sexual misconduct was provided as an example.

There were seven reports of resident sexual abuse. Four were notified. In one there was no victim so no one was notified and two victims were not notified because the process of notifying victims was not yet implemented. Two notifications were reviewed. They met the requirement of the standard.

The PREA Coordinator said that if their agency did not conduct the investigation, he requests the relevant information from that investigative agency in order to inform the resident. CNYC reports there were no incidents so an example was not available.

Policy 5.24 C, Section 12.3, states that regardless of whether an allegation against an employee is substantiated or unsubstantiated, the PREA Coordinator will inform the client victim whenever the following circumstances arise: the perpetrator is no longer working on the

client's living unit, the perpetrator is no longer employed in JJS and/or the perpetrator has been indicted and/or convicted of sexual abuse in the facility.

In the investigative report that was conducted by the PREA Coordinator, the allegation was determined to be unsubstantial. These items were not reported to the resident because the elements in the standard did not occur.

Recommendation: Add “charge related to” policy 5.24 C, Section 12.3: The perpetrator has been indicted and/or convicted of a sexual abuse or charge related to sexual abuse in the facility. On July 12, 2016, the JJS policy & procedure manager provided the auditor changes made to Policy 5.24 C, Section 12.3 regardless of whether an allegation against an employee is substantiated or unsubstantiated, the PREA Coordinator will inform the client victim whenever the following circumstances arise:

The perpetrator is no longer working on the client’s living unit;

The perpetrator is no longer employed in JJS; and/or

The perpetrator has been indicted and/or convicted of a sexual abuse or charges related to sexual abuse in the facility.

CNYC indicates that following a resident’s allegation that he or she has been sexually abused by another resident, the agency shall subsequently inform the alleged victim whenever the agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility or the agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

The pre-audit questionnaire references Policy 5.24 C. There is no reference that this is prohibited in policy or offender handbook. Policy 5.24 C, Section 12.2 states that the outcome of the investigation and any systemic changes JJS made to support greater safety for clients, but the letter does not include any employment action.

Policy 5.24 C, Section 12.7, states that the PREA Coordinator maintains a written confidential record of all follow-up communications and attempted notifications related to PREA incidents for 10 years. This meets the requirements of the standard. CNYC says that there haven’t been any notifications to residents in the past 12 months and therefore no notifications were made.

#### **Policy, Materials, Interviews and Other Evidence Reviewed**

Pre-audit questionnaire completed by CNYC

Policy 5.24 C, PREA Compliance – Responding to Allegations

Interview with PREA Coordinator

Review of reporting form

Review of investigations

Review of complaints

Updated Policy 5.24 C, PREA Compliance-Responding to Allegations

Interview with Policy & Procedure Manager

#### **Standard 115.376 Disciplinary sanctions for staff**

- 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)

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

Policy 5.24 A, Section 8.2, mandates that dismissal is the presumptive disciplinary action for employees engaged in substantiated incidents of sexual abuse. Disciplinary actions for lesser violations may not always result in dismissal. Sanctions for lesser violations include consideration of the following situations: the nature and circumstances of the incidents, the employee’s disciplinary history and the sanctions previously imposed on employees with similar histories who engaged in comparable offenses.

The pre-audit questionnaire completed by CNYC indicated that there have not been any staff members terminated for violating sexual abuse or sexual harassment policies, or have any staff been disciplined for violation of sexual abuse or sexual harassment policies or reported to law enforcement or licensing boards following a termination for violating agency sexual abuse or sexual harassment policies in the past 12 months.

In a discussion with the policy and procedure manager, she confirmed that this is the practice at CYFD.

**Policy, Materials, Interviews and Other Evidence Reviewed**

Pre-audit questionnaire completed by CNYC  
Policy 5.24 A, PREA Compliance – Employee Preparedness  
Interview with Policy and Procedure Manager

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

- 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)

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

Policy 5.24 A, Section 8.5-8.7, Section 8.5 states that JJS may end services with any contractor who refuses to participate in PREA specific training or who is involved in sexual misconduct. JJS is obligated to report all allegations of sexual abuse to law enforcement. JJS reports sexual misconduct of contractors to relevant licensing agencies and oversight boards. Section 8.6 states that JJS may end services of any volunteers who refuse to participate in PREA specific training or who are involved in sexual misconduct. JJS is obligated to report all allegations of sexual abuse to law enforcement. JJS reports sexual misconduct of volunteers to relevant volunteer agencies and oversight boards. Section 8.7 states that JJS may terminate the services of any student intern who refuses to participate in PREA specific training or who is involved in sexual misconduct. JJS is obligated to report all allegations of sexual abuse to law enforcement. JJS reports sexual misconduct of student interns to relevant educational institutions.

CNYC states that in the past 12 months there were no cases that met this requirement.

**Policy, Materials, Interviews and Other Evidence Reviewed**

Pre-audit questionnaire completed by CNYC  
Policy 5.24 A, PREA Compliance – Employee Preparedness  
Interview with Superintendent

**Standard 115.378 Disciplinary sanctions for 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)

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

Policy 5.24 B, section 10.1 states the client perpetrators of sexual misconduct are subject to criminal prosecution and/or disciplinary actions.

Also included was a policy for staff in the Facility Incident Guide – DIR Process that outlines how staff document a JJD facility incident and are provided documentation that notification of charges and hearings were completed.

In the past 12 months, there was one resident-on-resident sexual abuse administrative finding that occurred at the facility. The auditor reviewed an administrative investigation.

The standard requires that residents are subject to disciplinary sanctions only pursuant to a formal disciplinary process that follows the JJD facility incident process. The Superintendent said that disciplinary sanction is commensurate with the nature and circumstances of the abuse committed, the resident’s disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories to policy and disciplinary process. Residents are not isolated.

According to interviews with the CNYC Superintendent, PREA Coordinator and medical staff, residents are not isolated. If a resident is confined to their room, they are not denied daily large-muscle exercise or access to any legally required educational programming or special education services.

CNYC states that there have been no criminal findings of guilt for resident-on-resident sexual abuse, no residents placed in isolation as a disciplinary sanction for resident-on-resident sexual abuse, or who were denied daily access to large muscle exercise, and/or legally required education programming or special education services or who were denied access to other programs and work opportunities at the facility in the past 12 months.

Policy 5.24 B, Section 10.4, states any and all sex is prohibited. Clients who engage in sex, even if participants identify it as consensual, are subject to criminal prosecution and/or disciplinary actions. Disciplinary action will include consideration of the following situations: the mental health and competency of the clients, the nature and circumstances of the incident, the client’s disciplinary history and the sanctions previously imposed on clients with similar histories who engaged in comparable offenses.

Policy 5.24 B, Section 8.2, states that individual treatment plans are developed with clients who are at high risk for being sexually victimized or for abusing others sexually, and specialized housing may be considered for them. CNYC has a specialized unit for residents who are identified as needing specialized treatment for sexually abusing others. CNYC says that they offer therapy, counseling, or other interventions designed to address and correct the underlying reasons or motivations for abuse. Access to general programming or education is not conditional on participation in such interventions.

CNYC disciplines residents for sexual contact with staff only upon finding that the staff member did not consent to such contact. CNYC says that there have been no cases of this kind. Policy 5.24 B, Section 10.4, states that in the JJS facilities, any and all sex is prohibited. Clients who engage in sex, even if participants identify it as consensual sex, are subject to criminal prosecution and/or disciplinary actions. There was no indication that offenders had ever been disciplined for this offense in the past.

Policy 5.24 B, Section 10.3, states that clients will not be subject to disciplinary actions if their reports of sexual abuse were made in good faith. Interviews with staff and investigators indicated they are aware of these requirements.

#### **Policy, Materials, Interviews and Other Evidence Reviewed**

Policy 5.24 B, PREA Compliant – Client Education and Advocacy

Facility DIR Guide

Pre-audit questionnaire completed by CNYC

Interviews with Superintendent, PREA Coordinator and medical staff

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

- 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)

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

The facility stated that 32 residents disclosed prior victimization during screening, and all were offered a follow-up with a medical or mental health practitioner. The auditor reviewed these examples and found that they met the requirements of this standard.

P.4.12, Client Care and Treatment, Section 12.4, states that qualified health care professionals conduct the initial medical screening/examination. Section 20 states all new and transferring clients receive a comprehensive intake behavioral health screening performed by qualified behavioral health care professionals upon arrival at the facility. There were examples of a report of sexual abuse at intake, and as a result the resident received medical and mental health services. CNYC provides the resident with follow-up medical and mental health services within 14 days. In addition, practice demonstrated that residents who have previously perpetrated sexual abuse are seen by mental health within 14 days.

According to the New Mexico State Children’s Code, everyone has a duty to report all information regarding abuse and neglect. The protective services worker will “screen in” or “screen out” the call based upon their criteria. Protective services regards all youth in the legal custody of the CYFD to be subject to this statute even when that youth is over 18. Protective services wants to ensure that the prior abuse has been officially investigated and ensure that no other minor children in the home are at risk. However, consent is obtained from the youth prior to notifying parents or guardians regarding prior victimization. Interviews with medical and mental health staff indicated an understanding of the requirement to report.

**Policy, Materials, Interviews and Other Evidence Reviewed**

- Policy 5.24 C, PREA Compliant – Responding to allegations
- Interviews with medical and mental health staff
- Pre-audit questionnaire completed by CNYC
- P-4.12 Client care and treatment
- Vulnerability Samples
- Medical Behavioral Health Secondary Material
- New Mexico State Statute

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

- 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)

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

CNYC reports that there were no resident victims of sexual abuse in the past 12 months. There were no medical records for this auditor to review for resident victims. Agency policy 5.24 B, PREA compliant client education and advocacy, requires that Section 8.3 states that upon receiving a notification of a sexual abuse allegation, the compliance manager assigns a BH clinician as an in-house advocate to the client. Section 9.1 states that onsite medical employees offer client victims information and access to pregnancy tests, emergency contraceptives, prophylaxis medications, pregnancy related medical services and tests and treatment for sexually transmitted diseases. Services are provided even if the victim names the abuser and/or cooperates with the investigation. Section 9.2, A client requesting a SANE exam, is transported to a clinic and provided services and advocacy at no cost.

During interviews, medical and mental health staff confirmed that residents receive timely, unimpeded access to emergency medical treatment and crisis intervention. Residents receive emergency contraceptives and are not charged for them.

Policy, practice and interviews with medical and mental health staff demonstrate compliance with this standard.

**Policy, Materials, Interviews and Other Evidence Reviewed**

- Policy 5.24 B PREA, Compliance – Client Education and Advocacy
- PREA Audit Report

Pre-audit questionnaire completed by the CNYC  
Interviews with medical and mental health staff

**Standard 115.383 Ongoing medical and mental health care for sexual abuse victims and 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)

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

There have been no victims of sexual abuse in the past 12 months at CNYC. Therefore, the auditor was not able to interview any resident victims or review any corresponding documentation of practice. The facility also houses female residents and pregnancy related services that meet the elements of the standard are provided.

Agency policy requires that the resident victims of sexual abuse receive timely, unimpeded access to emergency medical treatment. Crisis intervention is currently being developed for residents. However, victims of sexual abuse that are brought to Albuquerque SANE

Collaborative to provided advocacy services during the exam. Types of services provided to the victim are:

- Triage and Intake
- Medical forensic history
- Medical exam
- Forensic exam
- Pregnancy prevention
- Sexually Transmitted Infection Prevention
- Referrals
- Follow-up services

Interviews with medical and mental health staff indicated they are aware of this requirement.

**Policy, Materials, Interviews and Other Evidence Reviewed**

Pre-audit questionnaire provided by CNYC  
Interviews with medical and mental health staff  
Policy 5.23 B, PREA Compliance-Client Education and Advocacy  
Information provided by PREA Coordinator  
Albuquerque SANE collaborative website

**Standard 115.386 Sexual abuse incident reviews**

- 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)

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

The facility reports that there have been two administrative investigations within the past 12 months. One investigation was reviewed. The incident reviewed met all the requirements of the standard.

The second investigation is still under investigation.

Interviews with members of the incident review team showed a good understanding of the requirements for the reviews.

Policy 5.24 C, Section 11 states that the PREA Coordinator must debrief any PREA violation and all allegations of sexual misconduct to consider and initiate follow-up actions, review the evidence against the employee, and potentially initiate an ERB investigation. Alert the PREA team of appropriate debriefing and training needs for involved employees at the facility level. Consider physical plant or monitoring technology modifications that might better protect clients from sexual misconduct. CNYC reviews staffing patterns and makes appropriate adjustments to keep employees and clients safe and protect them from sexual misconduct.

The agency's PREA policies do not contain provisions establishing a formalized sexual abuse incident review team or process. It is recommended that the process be added to policy. A formalized sexual abuse incident review process with timeframes should be developed in policy to support practice. However, after review of the form and interviews with the PREA Coordinator, superintendent and PREA compliance manager, the auditor determined that the facility is in compliance with the standard. On July 29, 2016, the policy and program manager provided updates to Policy 5.24 C, Section 11. On October 20, 2016, the PREA Coordinator provided verification that the following changes were made to the policy which was effective on September 1, 2016.

11.1 After OIG conducts an investigation of a screened-in allegation, the investigator conducts an exit staffing. In that staffing, a representative from the JJS Director's Office, the PREA Coordinator, and the Office of Quality Assurance (OQA) Director are present to consider and initiate follow-up actions subsequent to the OIG investigation:

- Review the evidence against the employee, and potentially initiate an ERB investigation;
- Alert the PREA team of appropriate debriefing and training needs for involved employees at the facility level;
- Consider any physical plant or monitoring technology modifications that might better protect clients from sexual misconduct; and  Recommend potential procedure modifications to the P&P Manager that might better protect clients from sexual misconduct.

11.2 The facility Superintendent or program manager and the PREA Compliance Manager must debrief all PREA violations and allegations of sexual misconduct (both substantiated and unsubstantiated). The debriefing team includes YCSs, and medical providers, and BH clinicians. The team considers and initiates follow-up actions:

Assesses the motivation and possible causes of the incident, and considers these factors: race; ethnicity; gender identity; LGBTQI (lesbian, gay, bisexual, transgender, questioning, or intersex) identification, status, or perceived status; gang affiliation; or group dynamics at the facility

- Alert the PREA team of appropriate debriefing and training needs for involved employees at the facility level;
- Consider any physical plant or monitoring technology modifications that might better protect clients from sexual misconduct;
- Review staffing patterns and make appropriate adjustments to keep employees and clients safer;
- Recommend potential procedure modifications to the P&P Manager that might better protect clients from sexual misconduct;  Prepare a report with recommendations for the facility Superintendent, the PREA Coordinator, and JJS administration.

### **Policy, Materials, Interviews and Other Evidence Reviewed**

Pre-audit questionnaire completed by CNYC

Interviews with PREA Coordinator and Superintendent

Review of sexual abuse incident review documents

Policy 5.24 C, PREA Compliance-Responding to Allegations

### **Standard 115.387 Data collection**

- 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)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action**

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

The agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. The agency aggregated the data for 2015 and prepared a report. The policy and practice requires the collection of the data. The PREA management analyst compiles all facility PREA statistics from a variety of sources. The statistics come from a variety of sources, including:

- PREA incident checklist,
- PS Screener documentation,
- PREA reporting log from the hearing officers
- Grievance tracking log from the GOs
- Search Logs
- Unannounced rounds logs
- Serious Incident Reports (SIRs)
- Disciplinary Incident Reports (DIRs)

The PREA Management Analyst is responsible to compile all agency PREA statistics. The PREA Coordinator stated that this is the first annual report required for this standard.

Corrective Action:

1. Provide documentation that CYFD obtains incident-based and aggregated data from the private facility it contracts with for the confinement of its residents.

**Verified Corrective Action:**

The agency was required as part of a corrective action to provide documentation that CYFD obtains incident based and aggregated data from the private facility, San Juan Juvenile Detention Center that it contracts with for the confinement of its residents. On June 30, 2016, the agency provided a copy of the 2015 Survey of Sexual Victimization: San Juan Juvenile Detention Center.

A review of the 2014 Survey of Sexual Victimization (SSV) for CYFD determined compliance and that the agency provides all data to the Department of Justice.

**Policy, Materials, Interviews and Other Evidence Reviewed**

- Policy 8.14.23 Protection from Harm
- Definitions for data collection
- Interview with PREA Coordinator
- 2016 PREA investigation log
- PREA grant for data collection tool
- Pre-audit questionnaire completed by CNYC
- 2014 Survey of Sexual Victimization for CYFD
- 2015 Survey of Sexual Victimization for San Juan Juvenile Detention Center

**Standard 115.388 Data review for corrective action**

- 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)

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

CYFD's PREA Coordinator said that the first annual report was produced May 2016. Interviews with the CYFD's Director and the PREA Coordinator demonstrate compliance with this standard. The auditor verified that the 2015 PREA Annual Report was posted on the agency's website.

Additionally, in February 2014, the agency hired the Performance-Based Standards Learning Institute to provide standards to identify, monitor, and improve conditions and treatment services provided to incarcerated youth using national level standards and outcome measures. Data that supports the agency's zero-tolerance for sexual misconduct is collected twice a year through a confidential client survey.

**Policy, Materials, Interviews and Other Evidence Reviewed**

Annual Report

CYFD website: [https://cyfd.org/docs/2015\\_PREA\\_Annual\\_Report.pdf](https://cyfd.org/docs/2015_PREA_Annual_Report.pdf)

Interview with CYFD Director and PREA Coordinator

Pre-audit questionnaire completed by CNYC

Information obtained from the Performance/Policy Bureau Chief

**Standard 115.389 Data storage, publication, and destruction**

- 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)

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

The CYFD PREA Coordinator reports that the first annual report was produced and posted on its website in May 2016. Interviews with agency director and the PREA Coordinator demonstrate compliance with the standards. State law addresses required records retention periods. An annual report for CYFD can be viewed on the agency's website [https://cyfd.org/docs/2015\\_PREA\\_Annual\\_Report.pdf](https://cyfd.org/docs/2015_PREA_Annual_Report.pdf). The annual report does not include any personal identifiers.

Aggregate sexual abuse data from the private facility the agency contracts with is not available on the website.

**Corrective Action:**

1. Provide aggregated sexual abuse data from the private facility contracted with on CYFDs website.

**Verified Corrective Action:**

The agency was required as part of a corrective action to provide aggregate sexual abuse data from the private facility it contracts with on the CYFD website. On June 30, 2016, the agency provided documentation that the private facility, San Juan Juvenile Detention Center, that it contracts with for the confinement of its residents, aggregated sexual abuse data was on CYFD-JJS website. The 2015 Survey of Sexual Victimization for San Juan Juvenile Detention Center made available to the public on CYFD-JJS PREA website <https://cyfd.org/facilities/prison-rape-elimination-act-prea/> under the Aggregated Data section.

On July 29, 2016, the policy and program manager provided the updates to Policy 5.24 C, Section 14. On October 20, 2016, the PREA Coordinator provided verification that the following changes were made to the policy which was effective on September 1, 2016.

**14 Data Collection and Reports**

- 14.1 The PREA Management Analyst compiles all facility PREA statistics from a variety of sources, including:
  - PS screener documentation;
  - PREA reporting log from the hearing officers;
  - Grievance tracking log from the GOs;
  - Search logs;

Unannounced rounds logs;  
Serious incident reports (SIRs); and  
Disciplinary incident reports (DIRs).

14.2 The PREA Coordinator compiles all agency PREA statistics from a variety of sources, including:  
OIG exit staffing information;  
Office of quality assurance (OQA) quarterly report; and Reports  
generated from the case management system (CMS).

14.3 The PREA Coordinator reports the aggregate data (with personal identifiers removed) in several ways, including: CYFD website; Performance-based standards (PBS) reporting forms; and Department of Justice (DOJ) requests.

14.4 The PREA Coordinator ensures that the agency's PREA statistics and compliance documentation are compiled and published annually.

14.5 In addition to publishing the agency's PREA statistics and compliance documentation, the PREA Coordinator publishes relevant contracts, agreements, and Memoranda of Understanding (MOUs) with rape crisis centers, SANE clinics, law enforcement, and other community partners that ensure PREA compliance, especially as they relate to investigations.

14.6 The PREA Coordinator maintains a confidential record of all follow-up communications and attempted notifications related to PREA incidents and ensures all documentation relating to PREA violations and allegations are securely and confidentially maintained for at least 10 years or as long as a perpetrator is incarcerated or employed by CYFD plus five years.

#### **Policy, Materials, Interviews and Other Evidence Reviewed**

1.13.3 New Mexico Records Retention and Security

Website: [https://cyfd.org/docs/2015\\_PREA\\_Annual\\_Report.pdf](https://cyfd.org/docs/2015_PREA_Annual_Report.pdf)

Pre-audit questionnaire completed by CNYC

Interview with PREA Coordinator and Agency Director

Website <https://cyfd.org/facilities/prison-rape-elimination-act-prea/>

#### **AUDITOR CERTIFICATION**

I certify that:

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

*La Cole Archuletta*

Auditor Signature

*November 4, 2016*

Date