



Minnesota Department of Corrections
Prison Rape Elimination Act (PREA)
2021 Annual Report

Background

The Prison Rape Elimination Act of 2003 (PREA) was signed into federal law to require reporting of, and analysis related to incidence and effects of prison rape in federal, state, and local institutions in order to inform prevention efforts. PREA also provides information, resources, recommendations, and funding to protect individuals from sexual violence and harassment while incarcerated. In 2012, the Bureau of Prisons published standardized guidelines promulgated by the U.S. Attorney General to govern PREA. PREA applies to all public and private institutions which house adult, youth, or juvenile incarcerated persons (IPs).

This report outlines PREA data within the 11 prisons (12 when including Red Wing Adult as a separate facility) operated by the Minnesota Department of Corrections for calendar year 2020.

Use and Meaning of Specific Terms

The Minnesota Department of Corrections (DOC) has, by policy, adopted the term *incarcerated person* (IP), in reference to persons serving a sentence under the authority of the Minnesota commissioner of corrections and has no connotations in conflict with the federal definition. Used on its own, IP refers to adults while the terms *youthful*, and *juvenile* are retained for those incarcerated in a juvenile facility.

§ 115.87 Data Collection

PREA § 115.87 states that the purpose of the standard is:

“To ensure that agencies collect uniform data on how many allegations of sexual abuse are made at its facilities, the type of sexual abuse alleged, and how the allegations were resolved. Collecting this data and comparing the data annually can reveal trends or changes in facility sexual safety. The standard envisions sharing of the data annually with the Department of Justice to increase the knowledge of the prevalence of sexual abuse in correctional facilities. Additionally, increasing the available data and information on the incidence of sexual abuse consequently improves the agency and facility management.

To meet these responsibilities the DOC strives to conduct this data collection by using the methods as directed by the standard and within its current capability. The § 115.87 standards are:

- a. 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.
- b. The agency shall aggregate the incident-based sexual abuse data at least annually.
- c. The incident-based data collected shall include, at a minimum, the data necessary to

answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.

- d. The agency shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
- e. The agency also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates.
- f. Upon request, the agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

While the DOC meets many of these data collection goals, it is not yet in full-form and improvements are forthcoming.

Zero-Tolerance

The Minnesota Department of Corrections maintains a zero-tolerance policy regarding sexual abuse, assault, misconduct, or harassment between individuals incarcerated in our facilities. Sexual activity between staff, volunteers, or contract personnel and incarcerated persons is also prohibited and subject to administrative and criminal sanctions.

All employees, contractors, and volunteers are expected to have a clear understanding that the department strictly prohibits any type of sexual relationship with an individual under the department's supervision and considers such a relationship a breach of the employee code of conduct. These relationships are not tolerated. Mandatory staff training and incarcerated population education is provided to convey the expectation.

The DOC has a statewide PREA Coordinator responsible for the development, implementation, and oversight of the agency's efforts to comply with the PREA standards. The department also has PREA compliance managers at each facility.

All sexual abuse and sexual harassment allegations are investigated. Each case is documented on an incident report and sexual misconduct is entered in the ImageTrend database. The originating facility is required to complete an investigation and is required to retain all investigation documents at the local level. The statewide PREA coordinator tracks the progress of the investigations through constant contact with the facility's PREA compliance manager. The compliance managers funnel the investigation through the PREA sexual harassment investigators who have specialized training to handle these sensitive investigations. Allegations can also be criminally investigated by the DOC's Office of Special Investigations (OSI) special investigators depending on the nature of the alleged incident.

When an incarcerated individual reports current or former sexual violence, they are offered an opportunity to work with a PREA advocate. Anyone requesting PREA advocacy services is referred to the DOC's Victim Services and Restorative Justice (VSRJ) Unit. VSRJ makes a connection between the incarcerated individual and community-based sexual violence advocacy services. VSRJ also provides support to those community-based sexual violence advocacy services.

Upon completion of each investigation, appropriate disciplinary action is taken against the perpetrator where criminal violations or intent is discovered. The case is then presented to the county attorney for prosecution through OSI special investigators who have specific and specialized training to conduct sexual abuse investigations.

Where the act violated Minnesota Criminal Statute, the investigation was referred for prosecution. There may have been administrative sanctions imposed where a case was substantiated. Unfounded cases would carry administrative sanctions only if the investigation revealed someone knowingly falsified a written or oral statement with the intent to mislead, misrepresent a fact, or if it was made with malicious intent.

Scope of Report

This report summarizes all 2020 PREA allegations generated from the facilities mentioned in paragraph two of this document. The Minnesota Department of Corrections compiles and investigates PREA allegations in four major categories including equivalents involving youth: 1) staff-to-incarcerated person abuse (S/IP Abuse); 2) staff-to-incarcerated person harassment (S/IP Harassment); 3) incarcerated person-to-incarcerated person abuse (IP/IP Abuse); and 4) incarcerated person-to-incarcerated person harassment (IP/IP Harassment).

Sexual Abuse and Harassment Definitions:

Sexual abuse is categorized into different types of sexual violence.

A. Incarcerated Person-on-Incarcerated Person Non-Consensual Sexual Acts:

- Contact of any person without his or her consent, or of a person who is unable to consent or refuse:
- AND
- Contact between the penis and the vagina or the penis and the anus including penetration, however slight;

OR

- Contact between the mouth and the penis, vagina, or anus;

OR

- Penetration of the anal or genital opening of another person by hand, finger, or other object.

B. Incarcerated Person-on-Incarcerated Person Abusive Sexual Contacts:

- Contact of any person without his or her consent, or of a person who is unable to consent or refuse:

AND

- Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

AND

- Excludes incidents in which the intent of the sexual contact is to harm or debilitate rather than to sexually exploit (such as may occur in a physical altercation).

C. Staff Sexual Misconduct:

Staff sexual misconduct includes behaviors or acts of a sexual nature directed toward an IP by an employee, volunteer, contractor, official visitor, or other agency representative, excluding an IP's family, friends, or visitors. Sexual relationships of a romantic nature between an IP and a staff are included in this definition:

Consensual or non-consensual sexual acts include:

- Intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, gratify sexual desire:

OR

- Completed, attempted, threatened, or requested sexual acts;

OR

- Occurrences of indecent exposure, invasion of privacy, or staff voyeurism for sexual gratifications.

D. Incarcerated Person-on-Incarcerated Person Sexual Harassment

Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another.

E. Staff-on-Incarcerated Person Sexual Harassment

Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

F. Juveniles and Youth

Any person under the jurisdiction of the state juvenile system or youthful authority, regardless of age or reason for placement are defined either as a juvenile, or a youth. The term “youth” is used in reporting PREA violations substituting for the term “incarcerated person” used in reference to incarcerated adults. An example of this that violations reported as “Incarcerated Person-on-Incarcerated Person Abusive Sexual Contacts” in the context of a violation between two juveniles would be documented as “Youth-on-Youth Abusive Sexual Contacts”.

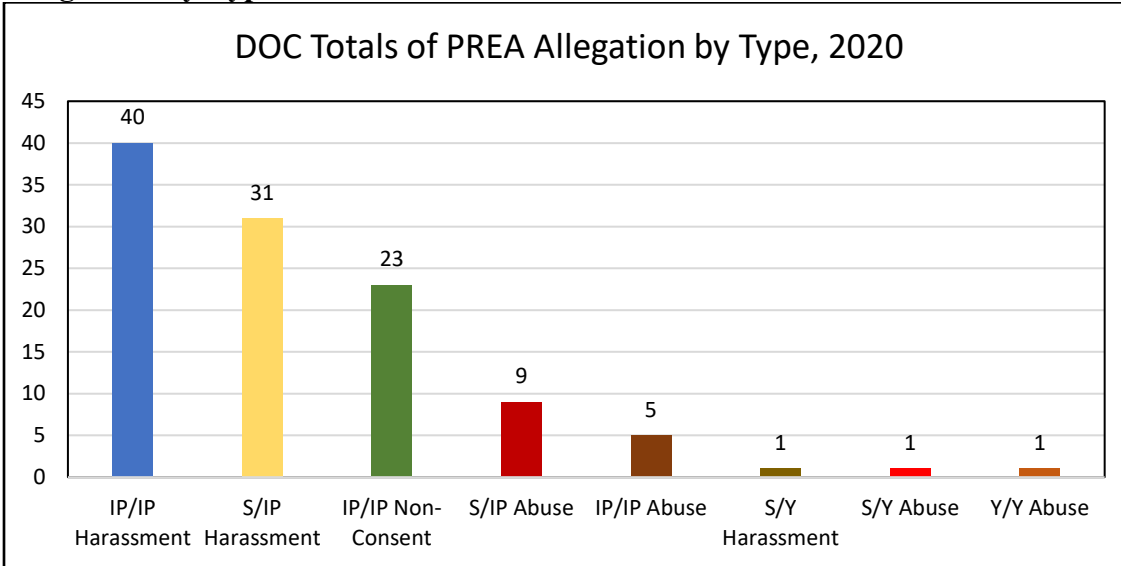
Disposition Definitions

- A. Substantiated:** The event was investigated and determined to have occurred.
- B. Unsubstantiated:** Evidence was insufficient to make a final determination as to whether the event did or did not occur.
- C. Unfounded:** The event was determined to have not occurred.
- D. Investigation ongoing:** A final determination has not yet been made as to whether the event occurred.

Total Allegations

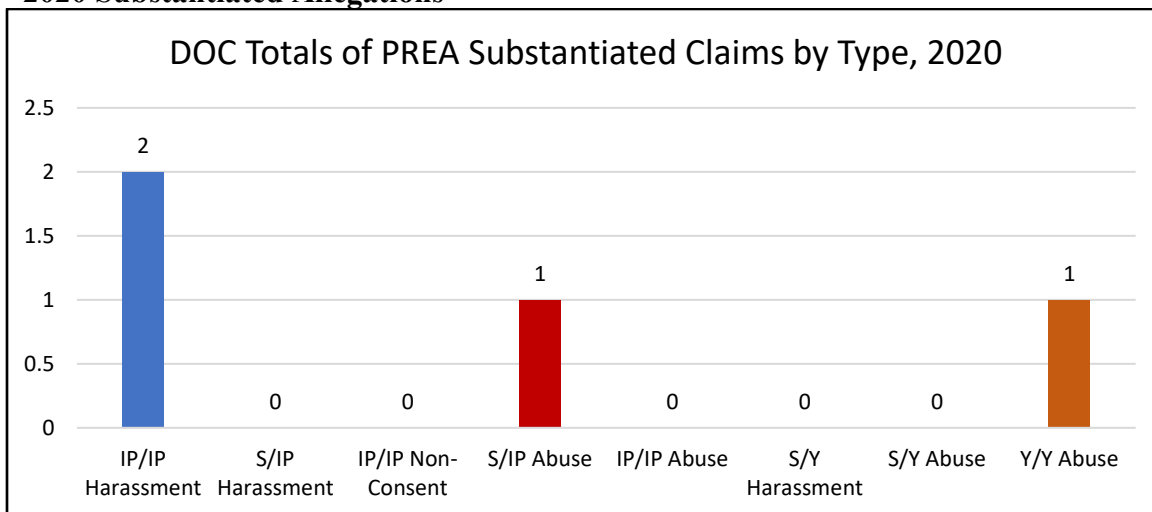
During calendar year 2020, there were 111 PREA allegations reported by the 11 correctional facilities operated by the Minnesota Department of Corrections. Of those 111 allegations, 64 were unsubstantiated, 43 were unfounded, and 4 were substantiated. No cases were actively ongoing at the time the data was collected.

Allegations by Type



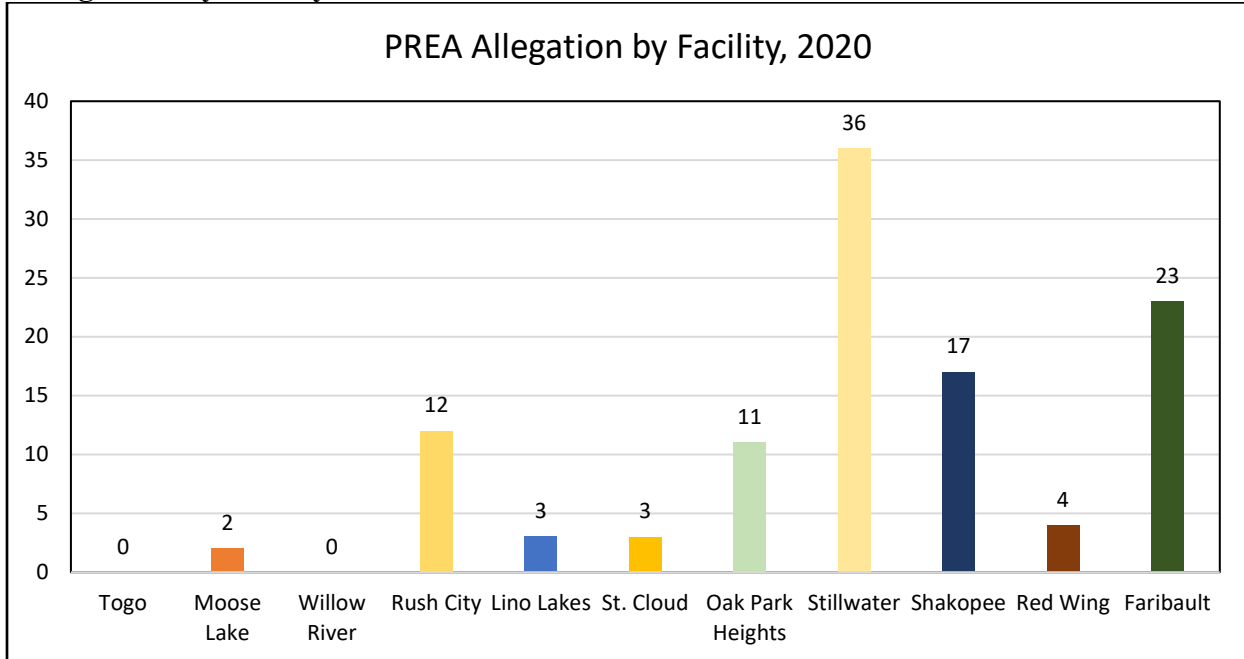
During calendar year 2020, there were 111 known PREA allegations at our DOC operated facilities. Of those allegations, 23 were categorized as incarcerated person-on-incarcerated person non-consensual sexual act; 31 were staff-on-incarcerated person sexual harassment; 9 were staff-on-incarcerated person sexual abuse; 40 were incarcerated person-on-incarcerated person sexual harassment; 5 were incarcerated person-on-incarcerated person abusive sexual contacts; 1 was staff-on-youth abusive sexual contact; 1 was staff-on-youth sexual harassment; and 1 was youth-on-youth abusive sexual contact.

2020 Substantiated Allegations



Of the 111 allegations of PREA violations reported at our DOC operated prisons in calendar year 2020, 4 were substantiated. Of those incidents, 2 were incarcerated person-on-incarcerated person harassment; 1 was youth-on-youth abuse; and 1 was staff-on-incarcerated person abuse.

Allegations by Facility



Within the 2020 calendar year, reporting at Minnesota DOC facilities was not evenly distributed across the system. This is an expected outcome due to the diversity of the 11 prisons overseen by the DOC. Each prison within the department holds different numbers of incarcerated people, have different physical characteristics that lead to varying safety levels, and have different custody levels holding IPs with different histories of violence.

Staff-on-IP Abuse Incident

In the one substantiated case of staff-on-incarcerated person abuse, both administrative and criminal investigations were conducted. Because criminal investigations and administrative investigations review different aspects of the alleged sexual abuse (suspected criminal activity and suspected agency policy violations, respectively), these were circumstances where both a criminal and administrative investigation were required. Criminal investigations must be completed any time criminal activity has been suspected of taking place regarding sexual abuse or harassment allegations. All criminal investigations were forwarded to the appropriate prosecutorial authority for review and/or prosecution.

Youth-on-Youth Abuse Incident

In the one substantiated case of youth-on-youth abuse, both administrative and criminal investigations were conducted, and the youth had their Extended Juvenile Jurisdiction revoked for committing a new offense and were transferred to an adult facility.

IP-on-IP Sexual Harassment

In 2020, there were two substantiated cases of IP-on-IP sexual harassment in which administrative investigations were conducted. These cases resulted in administrative remedies including sanctions (IE: discipline).

Sanctions for Violations

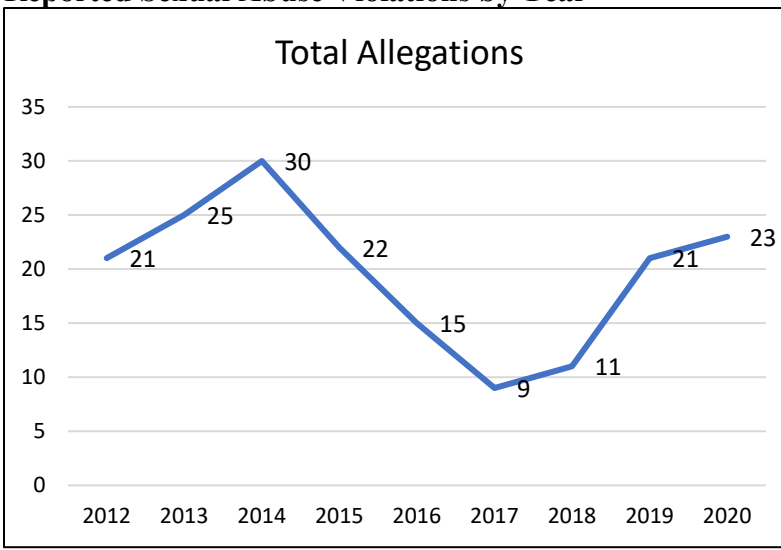
To ensure Incarcerated persons are held accountable for IP-on-IP sexual abuse and harassment through a balanced and considered formal disciplinary process. IP disciplinary history and sanctions are imposed in line with comparable offenses by IP with similar histories. Imposing consistent disciplinary sanctions demonstrates agency and facility commitment to sexual safety and helps deter sexual abuse. The disciplinary process considers factors such as mental capacity, intent, and what resources or supports can be offered to the IP abuser to support rehabilitation.

Staff who are determined to violate law or policy are also subject to consequence. Appropriate and judicious disciplinary sanctions for staff demonstrate the DOC's commitment to sexual safety. Uniform and consistently applied discipline that is commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and sanctions imposed for comparable offenses are crucial for deterrence and a safe environment.

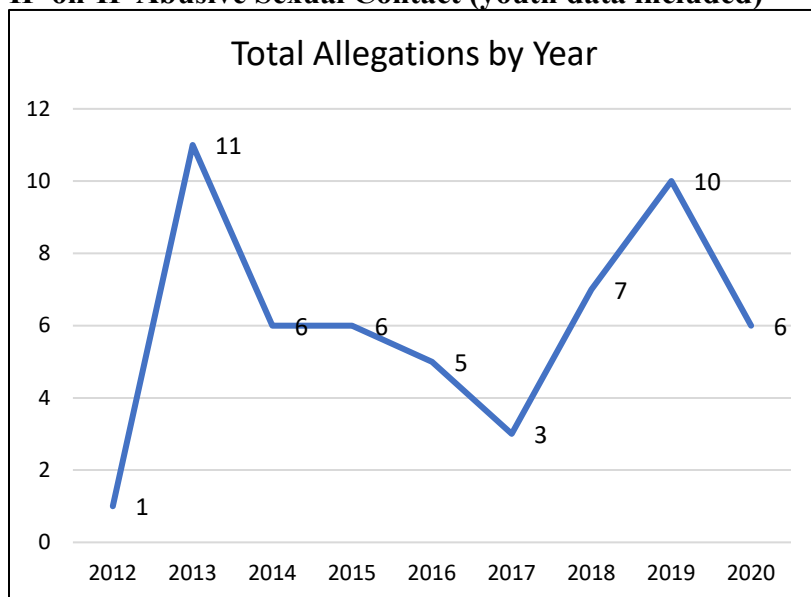
Aggregated Reporting Data: 2012-2020

Statewide total allegations of all sexual abuse and harassment combined over a multi-year period of time.

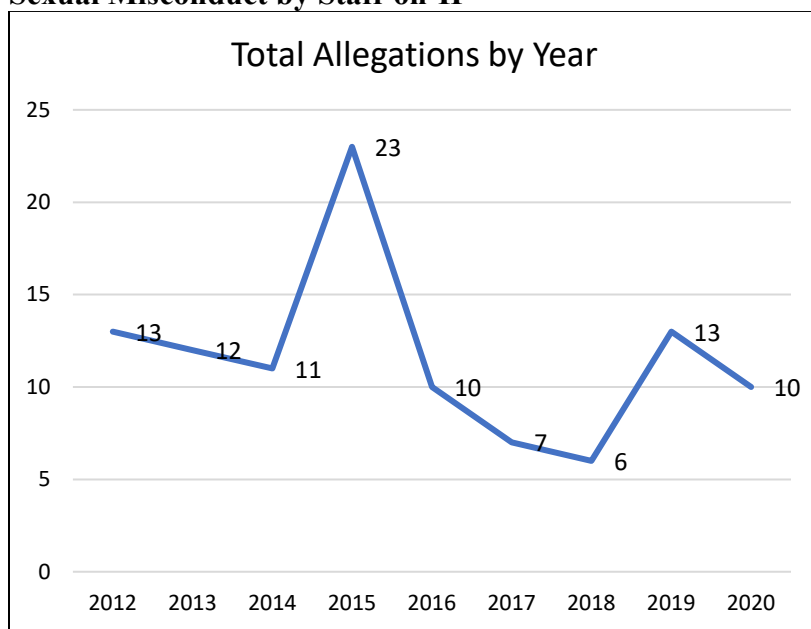
Reported Sexual Abuse Violations by Year



IP-on-IP Abusive Sexual Contact (youth data included)



Sexual Misconduct by Staff-on-IP



Overall Data Totals

When studying this report, it is important to take into consideration the Department of Corrections collects data every fall which reports the data facilities share from the previous calendar year. This, along with other factors such as consistency of facility-level knowledge of definitions and methods, late documentation and occasional staff changes has led to discrepancy between the historic facility report numbers and the annual department totals reflected in this report.

Audit Cycles

The Minnesota DOC continues to maintain compliance in accordance with § 115.401 *Frequency and Scope of Audits*, by contracting with a Federal PREA auditor to audit all facilities in a 3-year cycle. Each year, one-third of DOC facilities with similar missions are audited.

2nd Cycle, Year 3: The third year of cycle two audits began on August 20, 2018. Federal PREA audits were conducted for 3/12 state sites, [there is no data for the contracts]. Year 3 ended August 19, 2019, and resulted in certification of full compliance with the PREA standards.

3rd Cycle, Year 1: The first year of cycle 3 audits began on August 20, 2019. Federal PREA audits were conducted for 5/12 state sites. Year 1 ended August 19, 2020, and resulted in the certification of full compliance with the PREA standards.

3rd Cycle, Year 2: The second year of cycle 3 audits began August 19, 2020. Federal PREA Audits were conducted for 3/12 state sites. Year 2 ended August 20, 2021, and resulted in assurances with the PREA standards as we were out of compliance by the end of 2021.

Proactive Action

The DOC continues utilizing several training and education tools. Upon intake and transfer, all IPs receive information on their rights to be free from sexual abuse while incarcerated. Information on how and where to report, multiple resources including the availability of advocacy services, behavioral health and medical staff is provided. DOC staff from the Discussion between DOC staff and community-based advocacy programs have begun with the goal of shifting the PREA advocacy services to community-based organizations.

The agency conducts intake screenings on all IP intakes, transfers, and those returning from court appearances. The screenings allow for a private conversation with medical staff for reporting any past abuse. The screening provides information to other staff, on a need-to-know basis, on an

IP's risk factors for vulnerability or propensity toward likely abusiveness. Timely, private follow-ups are conducted to assist in having a safe and secure environment.

The agency continues initiatives to foster a safe and secure environment. All staff have mandatory training to understand PREA standards and their responsibilities in prevention, detection and response to sexual abuse and harassment. All incoming staff, volunteers and contractors receive specific PREA training in the pre-service academy. The agency has implemented a PREA refresher course which, in 2020, was offered every other year online and now is required annually.

DOC policies, as well as staff and incarcerated individuals' discipline regulations, reflect the federal requirements. Both IP and staff accountability for sexual abuse and harassment are outlined.

All new investigators, health services, and behavioral health staff continue to receive specialized training in working with victims of sexual abuse. Ongoing, proactive efforts are being implemented to reduce the number of unsubstantiated allegations and facilitate more timely reporting. The new staff training is aimed at ongoing efforts to create an environment which fosters a culture of reporting.

DOC funding and staffing issues along with the stresses and interruptions created by COVID significantly limited these discussions and partnerships including advocacy and community partnerships.

Database

The agency's original PREA database system ImageTrend provides tracking the care of victims and the management of abusers. The information is available for the designated Sexual Abuse Response Team members. This provides a manner for facilities to monitor progress and respond to an allegation. There have been concerns regarding updates to the system to include all aspects of the documentation for the PREA standards which are not currently being met by the contractor. Efforts continue toward a better product.

PREA Coordinator Recommendations and Actions

Through audit processes, site visits, and electronic monitoring, the PREA coordinator recommends improvement in the following areas:

Investigations:

Systematically, audits have shown a need for improvement in investigations. A comprehensive training on meaningful investigations is in development. As of the date of publication, training has been increased in duration and frequency allowing more investigators to be available. Additionally, the database ImageTrend was previously not being utilized to its capabilities and is under recommendations for enhancements to address the standards more thoroughly.

Victim/Aggressor Screenings:

Inconsistencies have been identified in facilities with conducting follow-up screenings within 30 days of arrival to the facility. The need for consistency has been reenforced with compliance managers at each facility.

Conclusion

The Minnesota Department of Corrections enforces a zero-tolerance policy of sexual harassment and sexual abuse. To ensure this policy is implemented in the most effective way, the DOC continues to improve the processes of how sexual assault, sexual abuse, and sexual harassment allegations are interpreted, reported, and tracked. Investigations, coupled with prevention trainings, greatly assist our efforts to maintain consistent application of the standards and create a safer environment for the incarcerated population.

2020 marks the eighth year since DOC adopted and implemented PREA standards for our facilities. In the years since adoption the number of reported allegations and investigations completed each year has grown significantly and understanding of what is needed to comply with the law has also increased. These facts pose real challenges but will in time make the department's commitment to sexual safety for the confined stronger.

The DOC continues to prioritize PREA compliance and preventing prison sexual abuse and harassment.

Further Information

For clarification of any information, or to report a PREA allegation, the Statewide PREA coordinator can be contacted on the DOC public website's PREA page, <https://mn.gov/doc/about/prea-policy> or correspondence may be sent addressed to Minnesota Statewide PREA Coordinator Diana Magaard, Office of Special Investigations, MCF- Lino Lakes 7525 Fourth Avenue Lino Lakes, MN 55014; Or via the Sexual abuse PREA Hotline (651) 603-6798.