Minnesota Department of Corrections

Prison Rape Elimination Act (PREA) 2020 Annual Report
The Prison Rape Elimination Act of 2003 (PREA) was signed into federal law with the purpose to provide for the analysis of incidence and effects of prison rape in federal, state, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape. In 2012, the Bureau of Prisons published standardized guidelines promulgated by the Attorney General of the United States. PREA applies to all public and private institutions that house adult or juvenile Incarcerated Persons.

§ 115.87 Data collection

The purpose of this 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.

The Minnesota Department of Corrections (MNDOC) maintains a zero-tolerance policy regarding sexual abuse and harassment of Incarcerated Persons within the agency’s 11 state prison facilities, 11 contracted transitional centers, 5 ICWC locations and 19 jails.

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. Allegations can also be criminally investigated by our Office of Special Investigations, [OSI] Special Investigators depending on the nature of the alleged incident. The Statewide PREA Coordinator tracks the progress of the investigations through constant contact with the facility Compliance Manager. The Compliance Manager’s funnel the investigation through the PREA Sexual Harassment investigators who have specialized training to handle these sensitive investigations. Upon completion of each investigation, appropriate disciplinary action is taken against the perpetrator; where criminal intent is discovered, the case is presented to the District Attorney for prosecution through the Office of Special Investigations, Special Investigators who also have specific and specialized training to conduct sexual abuse investigations.

It is important to note that the Minnesota Department of Corrections is continually improving the reporting and investigation methods to ensure the highest level of compliance, as well as swift corrective action when needed. The agency’s zero-tolerance policy not only aims to protect all Incarcerated Persons under MNDOC jurisdiction from sexual harassment and abuse, but also protect anyone who reports or cooperates with an on-going investigation, from retaliation.
This report summarizes all 2019 PREA allegations that were 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: 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 Definitions:**

Sexual Abuse is categorized into two areas of sexual violence. These reflect the definitions provided on the Survey of Sexual Violence provided by the U.S. Department of Justice, Bureau of Justice Statistics.

**A. Offender on Offender 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. Offender on Offender 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.
Excludes incidents in which the intent of the sexual contact is to harm or debilitate rather than to sexually exploit

**C. Staff Sexual Misconduct:**

This definition is provided by the National Institute of Corrections. Staff Sexual Misconduct includes behaviors or acts of a sexual nature directed toward an offender by an employee, volunteer, contractor, official visitor, or other agency representative, excluding an offender’s family, friends, or visitors. Sexual relationships of a romantic nature between an offender 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.

Upon completion of the investigation, all allegations will be deemed one of the four dispositions:

Substantiated: determined the event did occur.

Unsubstantiated: evidence was insufficient to make a final determination as to whether the event did or not occur.

Unfounded: determined the event to have not occurred.

Not PREA: determined to not meet the definition of a PREA allegation.

**Total Allegations**

During calendar year 2019, there were 46 PREA allegations reported at our DOC operated facilities. Of those 46 allegations, 32 were unsubstantiated; 2 were unfounded; 8 were substantiated; and four were pending disposition in the courts. At this point we have not been compiling any statistics coming from our community contracts. A goal has been established to identify a Compliance Manger to oversee the contracts and investigations cases coming from
field services who would then funnel the data into the database and to the Compliance Manager just as the facility Compliance Managers do.

**Total Allegations by Type**

During calendar year 2019, there were 46 PREA allegations reported at our DOC operated facilities. Of those 46 allegations, 2 were Staff-to-Incarcerated Person Harassment; 13 were Staff-to-Incarcerated Person Abuse; 0 were Incarcerated Person-to-Incarcerated Person Harassment; and 31 were Incarcerated Person-to-Incarcerated Person Abuse.
2019 Substantiated Allegations

During calendar year 2019, there were 46 PREA allegations reported at our DOC operated facilities. Of those 46 allegations, 8 were deemed substantiated; 2 were Staff-to-Incarcerated Person Harassment; 3 were Staff-to-Incarcerated Person Abuse; and 3 were Incarcerated Person-to-Incarcerated Person Abuse.

![2019 Substantiated Allegations](image)

- Staff to Incarcerated Person Sexual Harassment
- Staff to Incarcerated Person Sexual Abuse
- Incarcerated Person to Incarcerated Person Sexual Harassment
- Incarcerated Person to Incarcerated Person Sexual Abuse

Staff to IP Abuse Incidents

In all three substantiated cases of Staff-to-Incarcerated Person Abuse, both administrative and criminal investigations were conducted. All criminal investigations are forwarded to the appropriate District Attorney (DA) for review/prosecution.

**Staff-to-Incarcerated Person Sexual Harassment**

In 2020, there were two substantiated cases of Staff-to-Incarcerated Person Harassment.

**Incarcerated Person-to-Incarcerated Person Sexual Harassment**

There were no reported cases of Incarcerated Person-to-Incarcerated Person Sexual Harassment.
Incarcerated Person-to-Incarcerated Person Sexual Abuse

In all 31 cases of Incarcerated Person-to-Incarcerated Person abuse, both an administrative and criminal investigation was conducted. Those Incarcerated Persons found guilty of Incarcerated Person-to-Incarcerated Person abuse were not only subject to administrative disciplinary sanctions, but those whose cases had enough evidence for prosecution were forwarded to the appropriate District Attorney for review.

Aggregated Data: 2013 – 2019

Statewide Total Allegations of all Sexual Abuse Combined
NONCONSENSUAL SEXUAL ACTS

IP/IP Nonconsensual Sexual Acts

- 22% (2019)
- 13% (2018)
- 20% (2017)
- 10% (2016)
- 8% (2015)
- 27% (2014)
- 22% (2013)

Legend:
- 2019
- 2018
- 2017
- 2016
- 2015
- 2014
- 2013
Abusive Sexual Contact Incarcerated Person to Incarcerated Person

Total IP to IP Abusive Sexual Contact Allegations

- 2019: 12%
- 2018: 14%
- 2017: 17%
- 2016: 24%
- 2015: 14%
- 2014: 14%
- 2013: 7%

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Sexual Misconduct by Staff to Incarcerated Person

Total Allegations Sexual Misconduct by Staff to Incarcerated Person

- 2019: 26%
- 2018: 15%
- 2017: 29%
- 2016: 9%
- 2015: 13%
- 2014: 8%
Allegation Statistics by Facility – State Prisons

Total Allegations

Allegation Statistics by Contracted Halfway Houses
TBD

Allegation Statistics by ICWC/Contracted Services
TBD
DOC Overall Totals

Please see above Facility Totals.

Audits:

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 DOC operating under an assurance of compliance with the PREA Standards. Since that time the DOC has been operating as certified in full compliance with the PREA Standards.

3rd Cycle, Year 2: The second year of cycle 3 audits will begin August 20, 2020.

The MN DOC continues utilizing several training and education tools. Upon intake and transfer, all Incarcerated Persons are receiving information on their rights to be free from Sexual Abuse while incarcerated. Included is information on how/where to report, the availability of assistance, advocacy services, and the agency’s behavioral health and medical staff. An agency staff currently supports the PREA advocacy efforts. Work with the community advocacy is continually being pursued as an ongoing effort to bring them on board has continued over the last several years. Offender video and information used in the offender’s Reception and Orientation is suggested by the PREA resource center. Information and telephone numbers are posted in the facilities for reminders. Additional informational posters have been added.

The agency conducts intake screenings on all offender intakes, transfers, and those returning from court appearances. The screenings allow for a private conversation with competent medical staff for reporting any past abuse. The screening provides information to other staff, on a need-to-know basis, as to an offender’s risk factors for vulnerability or likely abusiveness. Timely, private follow-ups are conducted to assist in having a safe and secure environment.

All staff have training to understand the PREA Standards and their responsibilities in prevention, detection and response to sexual abuse and harassment. All staff, volunteers and contractors receive training. A specific PREA training component has been implemented in the pre-service academy. The agency has developed a PREA Refresher course which is offered every other year online. The agency continues initiatives to foster a safe and secure environment, while working toward transition from confinement.
Policies and Discipline regulations reflect the PREA requirements. Both Incarcerated Persons and staff accountability for sexual abuse and harassment are outlined.

The agency’s database system ImageTrend has provided for 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 response to an allegation. There have been concerns regarding updates to the system to include all aspects of the documentation for the Standards which are not currently being met by the contractor. Efforts continue toward a better product.

All new Investigators, Health Services/Behavioral Health staff continue to receive specialized training in working with victims of sexual abuse. Ongoing, proactive efforts are being done to reduce the number of unsubstantiated allegations and facilitate timelier reporting. The new staff training is aimed at ongoing efforts to create an environment of reporting.

Corrective Actions Taken/Auditor Recommendations:

In calendar year 2019, five audits were conducted. Only two of the facilities audited in accordance with PREA Standard 115.88 had recommendations for improvement. The following facilities made improvements in conjunction with the Federal PREA Audit recommendations:

St. Cloud:

A review of the sexual harassment allegations found that the allegations were investigated by staff of the rank of Lieutenant or higher. The investigations include interviews with victims, witnesses, and perpetrator. The investigations were timely and thorough. However, the investigations did not include a finding. The agency has a policy that provides directives on how facilities should manage Incarcerated Person on Incarcerated Person allegations of sexual abuse that would provide guidance on compliance with the standard. The auditor discussed with the facility of complying with agency policy and retrain investigators. Minnesota Department of Corrections PREA coordinator, Deb Wienand provided guidance for PREA compliance manager and facility wardens on Minnesota Department of Corrections 202.057 Sexual Abuse/Harassment Prevention, Reporting, and Response section “Responding to reports of sexual harassment or staff sexual misconduct.” Deb Wienand provided support in email indicating compliance with this standard.

B-Annex – the urinal stall area needs to have the partition wall extended 1 foot. North Dining Room – No PREA poster (framed poster) located in the dining room; this was removed during construction of the bubble and never replaced. Intake Shakedown Area – the swing doors leading into the shakedown area need to be raised to be even with the brick wall. An additional doorbell needs to be installed at both doors leading to the intake area. Intake Post Orders need to be updated to note that the staff will ensure that the doors to the shakedown room are closed.
Mason Shop – the partition in the offender restroom needs to be extended between the toilets and the urinal. Auditor noted that the partition should be 1 block by 6 blocks high. All modifications were completed.

**Lino Lakes:**

A review of the sexual harassment allegations found that the allegations were investigated by staff of the rank of Lieutenant or higher. The investigations include interviews with victims, witnesses, and perpetrator. The investigations were timely and thorough. However, the investigations did not include a finding. The agency has a policy that provides directives on how facilities should manage Incarcerated Person on Incarcerated Person allegations of sexual abuse that would provide guidance on compliance with the standard. The auditor discussed with the facility of complying with agency policy and retrain investigators. Minnesota Department of Corrections PREA coordinator, Deb Wienand provided guidance for PREA compliance manager and facility wardens on Minnesota Department of Corrections 202.057 Sexual Abuse/Harassment Prevention, Reporting, and Response section “Responding to reports of sexual harassment or staff sexual misconduct.” Deb Wienand provided support in email indicating compliance with this standard.

The facility has placed cameras in some bathroom areas. Apart from J-1 which had a urinal in view of camera. The facility removed the urinal during the review period.

**Red Wing Minimum Adult:** No issues

**Togo:** No issues

**Stillwater:** No issues

**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 efficient manner possible the DOC continues to improve the processes of how PREA allegations are interpreted, reported, and tracked. Investigations, coupled with our prevention trainings, have greatly assisted our efforts to maintain consistent application of the standards and has created a safer environment for our Incarcerate People by general reduction of incidents of sexual abuse and harassment.

2019 marks the seventh year since DOC adopted and implemented PREA standards for our facilities. Through various trainings, staff can better interpret definitions for allegation types, as well as allegation dispositions. Accurate application of allegation definitions leads to better accountability since cases once counted as PREA allegations were identified and eliminated for
not meeting the definitions found in the PREA standards. This accounts for some of the difference in the number of total allegations compared to previous years. Our dedication to constant improvement and continual monitoring will allow the agency to continue to achieve its goal of protecting all Incarcerated Persons from sexual harassment and sexual abuse.

**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 are showing a concern with the quality of our sexual harassment investigations. A comprehensive training on meaningful investigations is in development.

**Victim/Aggressor Screenings:**

30-Day follow-up screenings: Inconsistencies have been identified in facilities with conducting follow-up screenings within 30 days of arrival to the facility. There is currently no consistency with accountability to those responsible. This has been communicated to the Compliance Managers to prioritize at each facility.

**Outside Advocacy:**

Outside advocacy continues to be a concern with our facilities as our internal Victim Advocacy Unit was dismantled leaving one staff to manage all advocacy statewide. Community Partners have been contacted repeatedly for integration into a partnership for advocacy, yet this has yet to be established statewide.