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ANNUAL REPORT

TO: Cecely A. Reardon, Acting Commissioner
FROM: The Investigations Unit
SUBJECT: PREA Annual Report for January 2022 - December 2022
DATE: March 27, 2024

The Prison Rape Elimination Act (PREA) enacted in 2003, prohibits sexual misconduct in correctional settings such as prisons, jails, lockups, and includes juvenile facilities. Pursuant to 28 C.F. R. Part 115, the *National PREA Standards to Prevent, Detect, and Respond to Prison Rape* took effect on August 20, 2012; however, the Department of Youth Services (DYS) began implementing the standards in 2005, while they were still in draft form, and has been an active participant in the development and modifications of the standards.

The purpose of this report is to provide an accounting of the PREA related incidents processed by DHS in 2022, including corrective action undertaken to improve the effectiveness of our response policies and practices. This is the eleventh annual PREA report by DHS. It includes a summary of new incidents and proposed corrective actions as well as an assessment of progress made toward any corrective actions identified in last year's report. This allows us to continually gauge our progress and improve the effectiveness of our prevention, detection and response policies, practices, and training.

As there were no policy or programmatic issues requiring corrective action identified in the 2021 report, DHS has continued its training and monitoring regarding PREA and the reporting process.

The definitions relied on in the report are from PREA, 28 C.F.R. Part 115, and the Survey of Sexual Victimization prepared by the U.S. Department of Justice, Bureau of Justice Statistics ("the Survey").

Sexual abuse by staff is comprised of two categories under 28 C.F.R. §115.6: staff sexual misconduct and staff sexual harassment.

Staff sexual misconduct by program staff under 28 C.F.R. §115.6 is defined as:

Any behavior or act of a sexual nature directed toward a youth by an employee, volunteer, contractor, official visitor, or other agency representative (exclude family or other visitor).

Sexual relationships of a romantic nature between staff and youths are included in this

definition. Consensual or nonconsensual sexual acts include-

- Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks that is unrelated to official duties or with the intent to abuse, arouse, or gratify sexual desire;

OR

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

OR

- Occurrences of indecent exposure, invasion of privacy, or staff voyeurism reasons unrelated to official duties or for sexual gratification.

Staff sexual harassment under 28 C.F.R. §115.6 is defined as:

Repeated verbal comments or gestures of a sexual nature to a youth by an employee, contractor, official visitor, volunteer, or other agency representative (exclude family, friend, or other visitors) including:

- Demeaning references to gender, sexually suggestive or derogatory comments about body or clothing;
- Repeated profane or obscene language or gestures.

The Survey defines sexual abuse by other youths as comprising three categories: nonconsensual sexual acts, abusive sexual contact, and sexual harassment.

Nonconsensual sexual acts are defined as:

Sexual 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 vulva or the penis and the anus, including penetration, however slight;

OR

Contact between the mouth and the penis, vulva, or anus;

OR

Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument.

Abusive sexual contact by one youth against another youth is defined by the Survey as:

Sexual 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.

EXCLUDE incidents in which the contact was incidental to a physical altercation.

Finally, the Survey defines **sexual harassment of a youth by another youth** as:

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

Reportable Incidents Involving Staff and Youth

In 2022, DYS received six reports from youths alleging sexual abuse by program staff and eight reports from youths alleging sexual abuse by other youths, for a total of fourteen (14) reports implicating PREA.

With respect to the specific types of incidents reported involving staff, there were five allegations of staff sexual misconduct reported: three were unsubstantiated¹ and two were determined to be unfounded.² There was one allegations of staff sexual harassment reported; it was unfounded.

The following section is a summary of investigation activity regarding the five allegations³ of staff sexual abuse.

Staff Sexual Misconduct Allegations

Hardware Secure Detention Programs – 4 reported allegations

Response Description #1: The youth reported an allegation of staff sexual misconduct by a staff member to staff, who in turn, reported an allegation to the Department of Children and Families (DCF) pursuant to M.G.L. c. 119, section 51A (“51A”). The report was investigated by the DYS Investigations Unit.

Findings: DCF screened in the report and the 51B report did not support the allegations. The Investigation Report was submitted to and reviewed by the Director of Investigations who determined that the allegation was unfounded and closed the matter administratively.

Corrective Actions: No policy or programmatic issues requiring corrective action were identified.

Response Description #2: The youth reported an allegation of staff sexual misconduct by a staff member to staff, who in turn, reported an allegation to the Department of Children and Families (DCF) pursuant to M.G.L. c. 119, section 51A (“51A”).

Findings: DCF screened out the report. The incident report and DCF screening decision were reviewed by the Director of Investigations who determined that the allegation was unfounded and closed the incident administratively.

Corrective Actions: No policy or programmatic issues requiring corrective action were identified.

¹ An unsubstantiated allegation means an allegation that was investigated, and the investigation produced insufficient evidence to make a final determination as to whether the event occurred. *Id.*

² An unfounded allegation means an allegation that was investigated and determined not to have occurred. *Id.*

³ Program name and location have been redacted to preserve the confidentiality of the involved parties as well as maintain safety and security of the specific facility.

Response Description #3: The youth reported an allegation of staff sexual misconduct by a staff member to staff, who in turn, reported an allegation to the Department of Children and Families (DCF) pursuant to M.G.L. c. 119, section 51A (“51A”).

Findings: DCF screened out the report. An Internal Review was submitted by the program and reviewed by the Director of Investigations who determined that the allegation was unsubstantiated.

Corrective Actions: No policy or programmatic issues requiring corrective action were identified.

Response Description #4: The youth reported an allegation of staff sexual misconduct by a staff member to staff, who in turn, reported an allegation to the Department of Children and Families (DCF) pursuant to M.G.L. c. 119, section 51A (“51A”).

Findings: DCF screened out the report. An Internal Review was submitted by the program and reviewed by the Director of Investigations who determined that the allegation was unsubstantiated.

Corrective Actions: No policy or programmatic issues requiring corrective action were identified.

Staff Sexual Misconduct Allegations

Hardware Secure Assessment/Treatment Program – 1 reported allegation

Response Description #1: The youth reported an allegation of staff sexual misconduct by a staff member to staff, who in turn, consulted the PREA Coordinator and Director of Investigations.

Findings: An allegation of abuse was reported by a program staff member to PREA Coordinator and Director of Investigations. An Internal Review was submitted by the program and reviewed by the Director of Investigations who determined that the allegation was unsubstantiated.

Corrective Actions: Staff and Youth were reminded that the main bathroom door was to remain open to allow staff to monitor youth in the bathroom to ensure continued safety and security. o

Staff Sexual Misconduct Allegations

Staff Secure Detention Program – 0 reported allegations

Staff Sexual Misconduct Allegations

Staff Secure Assessment/Treatment Program – 0 reported allegation

Staff Sexual Harassment Allegations

Hardware Secure Detention Program – 1 reported allegation

Response Description #1: A youth reported an allegation of sexual harassment by a staff member to staff. The Director of Investigations requested that the program complete an Internal Review of the allegation.

Findings: An Internal Review was submitted by the program and reviewed by the Director of Investigations who determined that the allegation was unfounded.

Corrective Actions: No policy or programmatic issues requiring corrective action were identified.

Staff Sexual Harassment Allegations

Hardware Secure Assessment/Treatment Program – 0 reported allegations

Staff Sexual Harassment Allegations

Independent Living Program – 0 reported allegations

Staff Sexual Harassment Allegations

Staff Secure Detention Program – 0 reported allegations

Reportable Incidents Involving Youth Only

With respect to the specific types of incidents reported involving youth and other youth, no allegations of nonconsensual sexual acts or abusive sexual contact were reported. There were eight allegations of youth initiated sexual harassment reported: one was substantiated, two were unfounded and four were determined to be unsubstantiated.

The following section is a summary of investigation activity regarding the eight reports of youth upon youth sexual harassment.

Allegations of Youth on Youth Abusive Sexual Contact

Hardware Secure Revocation Program – 0 reported allegations

Allegations of Youth on Youth Abusive Sexual Contact

Hardware Secure Detention Program – 0 reported allegations

Allegations of Youth on Youth Sexual Harassment

Staff Secure Treatment Programs – 2 reported allegations

Response Description #1: The allegation of sexual harassment by a youth was reported by a youth to a staff member. The allegation was reviewed by the DYS Director of Investigations.

Findings: The incident report was reviewed by the Director of Investigations who determined that the allegation was unfounded and closed the matter administratively.

Corrective Actions: No other policy or programmatic issues requiring corrective action were identified.

Response Description #2: The allegation of sexual harassment by a youth was reported by a youth to a staff member. The allegation was reviewed by the DYS Director of Investigations.

Findings: The incident report was reviewed by the Director of Investigations who determined that the allegation was unfounded and closed the matter administratively.

Corrective Actions: No other policy or programmatic issues requiring corrective action were identified.

Allegations of Youth on Youth Sexual Harassment

Hardware Secure Assessment/Treatment Program – 0 reported allegations

Allegations of Youth on Youth Sexual Harassment

Hardware Secure Detention Program – 6 reported allegations

Response Description #1: A youth reported the allegation of sexual harassment by a youth to a staff member. The report was investigated by the DYS Investigations Unit.

Findings: The DYS Investigator submitted an Administrative Memorandum, which was reviewed by the Director of Investigations. The DYS Director of Investigations determined that the allegation was unsubstantiated and closed the matter administratively.

Corrective Actions: No other policy or programmatic issues requiring corrective action were identified.

Response Description #2: A youth reported the allegation of sexual harassment by a youth to a staff member. The report was investigated by the DYS Investigations Unit.

Findings: DYS Investigator submitted an Administrative Memorandum, which was reviewed by the Director of Investigations. The DYS Director of Investigations determined that the allegation was unfounded and closed the matter administratively.

Corrective Actions: No other policy or programmatic issues requiring corrective action were identified.

Response Description #3: A youth reported the allegation of sexual harassment by a youth to a staff member. The Director of Investigations requested that the program complete an Internal Review of the allegation.

Findings: An Internal Review was submitted by the program and reviewed by the Director of Investigations who determined that the allegation was unsubstantiated and closed the matter administratively.

Corrective Actions: Staff need to be positioned in the room to ensure proper monitoring of youth. When activities are planned, all items/materials will be set up before youth engage in the activities.

Response Description #4: A youth reported the allegation of sexual harassment by a youth to a staff member. The Director of Investigations requested that the program complete an Internal Review of the allegation.

Findings: An Internal Review was submitted by the program and reviewed by the Director of Investigations who determined that the allegation was unsubstantiated and closed the matter administratively.

Corrective Actions: Staff need to be positioned in the room to ensure proper monitoring of youth.. When activities are planned, all items/materials will be set up before youth engage in the activities.

Response Description #5: A youth reported the allegation of sexual harassment by a youth to a staff member. The report was investigated by the DYS Investigations Unit.


Findings: DYS Investigator submitted an Administrative Memorandum, which was reviewed by the Director of Investigations. The DYS Director of Investigations determined that the allegation was unsubstantiated and closed the matter administratively.

Corrective Actions: No other policy or programmatic issues requiring corrective action were identified.

Response Description #6: A youth reported the allegation of sexual harassment by a youth to a staff member. The Director of Investigations requested that the program complete an Internal Review of the allegation.

The program submitted an Internal Review of the allegation.

Findings: The Internal Review was submitted by the program and reviewed by the Director of Investigations who determined that the allegation was substantiated.

Corrective Actions: Staff that they are able to observe youth and that the view of bedrooms is not obscured by obstacles placed by youth.  sound. All community lights in programs are to remain on after youth go to bed for the evening; only youth bedroom lights are to be extinguished.

DEPARTMENT OF YOUTH SERVICES-PREA INVESTIGATION SUMMARY

Report for: January 2022-December 2022

*see legend

Date	Method of Report*	Type of Program	Status
January	Y, V	HWS	Closed
March	Y, V	HWS	Closed
April	S, V	HWS	Closed
April	Y, V	SS	Closed
May	Y, V	SS	Closed
August	Y, V	HWS	Closed
September	Y, GB	HWS	Closed
September	Y, V	HWS	Closed
October	Y, V	HWS	Closed

December	Y, V	SS	Closed
December	Y, V	HWS	Closed
December	Y, V	HWS	Closed
December	Y, V	HWS	Closed
December	Y, V	HWS	Closed

Legend for Method of Report
Y: resident reported
S: staff reported
P: parent
W: written
V: verbal
GB: grievance box
A: anonymous report, other than via grievance box

Legend for Type of Program
HWS: Hardware Secure
SS: Staff Secure
ONA: Overnight Arrest
RC: Reception Center
TP: Transition to Independent Living