

Massachusetts Department of Correction

Prison Rape Elimination Act (PREA) 2015 Annual Report



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**The Massachusetts Department of Correction
Prison Rape Elimination Act (PREA)
Annual Report – 2015**

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Background

The Prison Rape Elimination Act (PREA) was signed into federal law in September 2014 following unanimous support from both parties in the United States Congress. The purpose of the law was to “provide information, resources, recommendations and funding to protect inmates from prison rape.” PREA seeks to establish a zero-tolerance policy regarding rape, sexual abusive behavior and sexual harassment in federal, state and correctional systems – to include: prisons, jails, police lock-ups and other confinement facilities for adults and juveniles. PREA also mandated the publication of standards to ensure compliance and to improve prevention, detection, and response strategies in addressing rape, sexual abusive behavior and sexual harassment.

In August 2012, the United States Department of Justice (DOJ) issued the final PREA standards for: Prison and Jails, Lock-ups, Community Confinement Facilities and Juvenile Facilities. These standards required DOJ audits of all facilities under the agency’s operational control of the Commonwealth of Massachusetts’ executive branch, to include private facilities operating on behalf of the executive branch to house inmates. Failure to comply with the aforementioned standards would result in a loss of 5 percent of identified federal grant funding.

The Massachusetts Department of Correction (DOC) was an early adopter of the PREA and the subsequent standards. As a result, the DOC has been in the forefront in meeting the standards (Prison and Jails) set-forth by DOJ, and in fact has been looked to and sought-out by many other agencies, not only across the Commonwealth, but across the country, as a model for implementing and meeting those standards.

Agency Achievements in 2015

1. The DOC made history in 2015 when 10 of its correctional facilities underwent and successfully completed their respective DOJ PREA audit. Those facilities included: Old Colony Correctional Center (OCCC), Massachusetts Treatment Center (MTC), MCI-Cedar Junction (MCI-CJ), MCI-Norfolk (MCI-N), Boston Pre-Release Center (BPRC), MCI-Plymouth (MCI-P), Pondville Correctional Center (PCC), South Middlesex Correctional Center (SMCC), Northeastern Correctional Center (NECC), Souza Baranowski Correctional Center (SBCC). All of the aforementioned facilities achieved 100% compliance with no corrective action plans required.
2. The DOC contracted with the Boston Area Rape Crisis Center (BARCC) as a means to provide inmates with access to outside PREA victim advocates for emotional support services related to sexual abuse. The abuse need not have occurred during incarceration in order for an inmate to seek support from BARCC. Inmates can contact BARCC in writing or via the use of a dedicated hotline service provided by BARCC (both English and Spanish services are provided). All communication with BARCC is confidential, unless BARCC determines that the alleged victim is a danger to themselves or a third party. During 2015, BARCC received a total of 31 hotline calls from five different DOC facilities. It should be noted BARCC’s hotline services were not available until late July of 2015.

3. The DOC received a PREA grant for approximately \$129K. These funds were used to pay for 10 DOJ audits and for 129 cameras; to be used at our facilities in their respective efforts to prevent, detect and respond to PREA allegations.
4. The DOC initiated a process to ensure that all current employees, contracted staff and volunteers receive a criminal background records check, at least every four years, to meet the PREA standards.
5. In October of 2015, Michael P. Donaher was named the DOC's PREA Coordinator.
6. Numerous efforts have been taken to continue to train and educate all employees, contract staff, volunteers, vendors and inmates on the DOC's zero tolerance toward all forms of sexual abuse and sexual harassment and the DOC's commitment to prevent, detect and respond to such conduct.
7. On-going efforts continue to prepare for the 2017 New England PREA conference, sponsored by the DOC. As a result of a DOJ grant award to DOC, our agency is spearheading the efforts to provide numerous PREA workshops and trainings which will provide attendees with critical information in support of their efforts to prevent, detect and respond to allegation of rape, sexual harassment and sexual abusive behaviors involving inmates.

Purpose

The DOJ PREA standards require our agency to collect a defined set of data for every allegation of sexual abuse and sexual harassment. These standards further require the DOC to aggregate and review that data in order to assess and improve our effectiveness as an agency at preventing, detecting and responding to PREA allegations. Standards related to the collection of data include: § 115.87 Data Collection, § 115.88 Data Review for Corrective Action and § 115.89 Data Storage, Publication, and Destruction. For reference purposes, they are included within this report.

§ 115.87 Data Collection

- (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.

§ 115.88 Data Review for Corrective Action

- (a) The agency shall review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:
 - (1) Identifying problem areas;
 - (2) Taking corrective action on an ongoing basis; and
 - (3) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.
- (b) Such report shall include a comparison of the current year’s data and corrective actions with those from prior years and shall provide an assessment of the agency’s progress in addressing sexual abuse.
- (c) The agency’s report shall be approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means.
- (d) The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.

§ 115.89 Data Storage, Publication, And Destruction

- (a) The agency shall ensure that data collected pursuant to § 115.87 are securely retained.
- (b) The agency shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means.
- (c) Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers.
- (d) The agency shall maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.

PREA Data Collection Capabilities

Through use of our agency’s intranet, a PREA database was designed to collect and record a uniformed set of data (and definitions) for each allegation investigated at every facility. PREA standard § 115.87 requires collecting, at a minimum, the data necessary to answer questions contained in annual “Survey of Sexual Violence” reports conducted by the DOJ. The DOC’s PREA database was, in part, designed to provide the agency with that capability and, in fact, exceeds those requirements. The PREA database

also provides an ability to draw comparisons on various aspects of sexual assault and harassment incidents. Some of those comparisons will be found in this report on aggregated data.

Aggregated Data on Sexual Abuse Allegations and Comparison to Prior Years

The DOC has a zero tolerance policy for sexual abuse that is covered in detail in policy 103 DOC 519 Sexually Abusive Behavior Prevention and Intervention Policy. As such, every allegation, report and/or discovery of sexual activity is investigated as if a sexual assault or sexual harassment event occurred. Only after a full investigation is completed is an event defined as a PREA violation or otherwise. It should be noted that unauthorized, but consensual sexual activity between inmates does not qualify as a PREA incident.

The PREA Prison & Jails standards provide definitions that guide the DOC in determining the outcome of allegations investigated. The following are a few of those key definitions:

Definitions

Evidentiary Standard:	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.
Substantiated:	Substantiated allegation means an allegation that was investigated and determined to have occurred.
Unsubstantiated:	Unsubstantiated allegation means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
Unfounded:	Unfounded allegation means an allegation that was investigated and determined not to have occurred.

The following charts reflect aggregated data from 2015 absent any events investigated that did not constitute a PREA violation.

Agency Overview for 2015

Category	Investigative Outcome				Line Total
	Substantiated	Unsubstantiated	Unfounded	Pending	
Inmate-Inmate Sex Acts	3	19	1	1	24
Inmate-Inmate Sexual Abuse	6	16	6	2	30
Inmate-Inmate Sexual Harassment	5	11	12	0	28
Staff Sexual Misconduct	0	6	18	2	26
Staff-Inmate Sexual Harassment	0	2	13	0	15
Total	14	54	50	5	123

Agency Overview for 2014 for Comparison

Category	Investigative Outcome				Line Total
	Substantiated	Unsubstantiated	Unfounded	Pending	
Inmate-Inmate Sex Acts	0	10	7	**	17
Inmate-Inmate Sexual Abuse	5	7	5	**	17
Inmate-Inmate Sexual Harassment	6	15	6	**	27
Staff Sexual Misconduct	0	6	14	**	20
Staff-Inmate Sexual Harassment	0	4	7	**	11
Total	11	42	39	0	92

Comparison of PREA Cases Between Years 2015 and 2014

The number of PREA investigations for 2015 increased by 31 in total (25% ^) over 2014. This reflects an increase in allegations for every PREA category. The most notable increases; however, are found in categories pertaining to Inmate-Inmate Sexual Abuse (increase of 17), Inmate-Inmate Sex Acts (increase of 7) and Staff Sexual Misconduct (increase of 6).

Percentage Breakdown for 2015

Category	Investigative Outcome				
	Substantiated	Unsubstantiated	Unfounded	Pending	Line Total
Inmate-Inmate Sex Acts	2.43%	15.44%	.81%	.81%	19.51%
Inmate-Inmate Sexual Abuse	4.87%	13.00%	4.87%	1.62%	24.39%
Inmate-Inmate Sexual Harassment	4.06%	8.94%	9.75%	0%	22.76%
Staff Sexual Misconduct	0%	4.87%	14.63%	1.62%	21.13%
Staff-Inmate Sexual Harassment	0%	1.62%	10.56%	0%	12.19%
					4.06% Pending
Total	11.38%	43.90%	40.65%	4.06%	100%

Percentage Breakdown for 2014 for Comparison

Category	Investigative Outcome				
	Substantiated	Unsubstantiated	Unfounded	Pending	Line Total
Inmate-Inmate Sex Acts	0%	10.86%	7.60%	**	18.47%
Inmate-Inmate Sexual Abuse	5.43%	7.60%	5.43%	**	18.47%
Inmate-Inmate Sexual Harassment	6.52%	16.30%	6.52%	**	29.34%
Staff Sexual Misconduct	0%	6.52%	15.21%	**	21.73%
Staff-Inmate Sexual Harassment	0%	4.34%	7.60%	**	11.95%
Total	11.95%	45.65%	42.39%	0%	100%

Comparison of Investigative Outcomes Between Years 2015 and 2014

PREA Investigative Outcomes for 2015 (not including cases pending) demonstrate variation over the results noted in 2014. From a percentage standpoint, Substantiated, Unsubstantiated and Unfounded outcomes have all decreased. While a definitive explanation for these variations cannot be ascertained, it is probable that they can be attributed to the agency’s continued educational efforts for staff, contractors, volunteers, vendors and inmates. Additionally, better investigative techniques and training and a strict adherence to the definitions established under the PREA standards are also possible contributing factors to the noticeable decreases from the previous year’s data.

Incident Overview by Facility and Type for 2015

Inmate/Inmate Sex Acts: Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
2. Contact between the mouth and the penis, vulva, or anus;
3. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument.

Facility	Investigative Outcome				Total
	Substantiated	Unsubstantiated	Unfounded	Pending	
BSCC*	0	0	0	0	0
BSH**	0	0	0	0	0
BSPRC	0	0	0	0	0
LSH**	0	0	0	0	0
MASAC**	0	1	0	0	1
MCI – Concord	1	7	0	0	8
MCI – Norfolk	0	1	0	0	1
MCI – Plymouth	0	0	0	0	0
MCI – Shirley medium	2	0	1	0	1
MCI – Shirley minimum	0	0	0	0	0
MCI Framingham	0	2	0	0	2
MCI-CJ	0	1	0	0	1
MTC	0	0	0	0	0
NCCI medium	0	4	0	0	4
NCCI minimum	0	0	0	0	0
NECC	0	0	0	0	0
Non-DOC	0	0	0	0	0
OCCC medium	0	0	0	0	0
OCCC minimum	0	0	0	0	0
PCC	0	0	0	0	0
SBCC	0	2	0	1	0
SMCC	0	0	0	0	3
Total	3	18	1	1	21

*Note: In 2015, BSCC was repurposed and no longer houses inmates.

**Note: Because of the facility's mission and inmate classification, these facilities are not subjected to a DOJ audit, but do undergo an agency internal audit by the Policy Development and Compliance Unit (PDCU).

Inmate/Inmate Sex Abuse: 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 genitalia, anus, groin, breast, inner thigh or buttocks of any person.

1. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Facility	Investigative Outcome				Total
	Substantiated	Unsubstantiated	Unfounded	Pending	
BSCC*	0	0	0	0	0
BSH**	0	0	0	0	0
BSPRC	0	0	0	0	0
LSH**	0	0	0	0	0
MASAC**	0	0	0	0	0
MCI – Concord	0	4	0	0	4
MCI – Norfolk	0	2	0	0	2
MCI – Plymouth	0	0	0	0	0
MCI – Shirley medium	0	1	0	0	1
MCI – Shirley minimum	0	0	0	0	0
MCI Framingham	3	3	2	0	8
MCI-CJ	0	0	1	0	1
MTC	2	1	1	0	4
NCCI medium	0	1	1	0	2
NCCI minimum	0	0	0	0	0
NECC	0	0	0	0	0
Non-DOC	0	0	0	0	0
OSCC medium	0	1	0	0	1
OSCC minimum	0	0	0	0	0
PCC	0	1	0	0	1
SBCC	0	2	0	2	6
SMCC	1	0	2	0	1
Total	6	16	7	2	31

*Note: In 2015, BSCC was repurposed and no longer houses inmates.

**Note: Because of the facility's mission and inmate classification, these facilities are not subjected to a DOJ audit, but do undergo an agency internal audit by the Policy Development and Compliance Unit (PDCU).

Inmate-Inmate Sexual Harassment: Sexual Harassment includes— 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.

Written or verbal communication, gestures such as simulated acts of a sexual nature.

Facility	Investigative Outcome				Total
	Substantiated	Unsubstantiated	Unfounded	Pending	
BSCC*	0	0	0	0	0
BSH**	0	0	0	0	0
BSPRC	0	0	0	0	0
LSH**	0	0	0	0	0
MASAC**	0	0	0	0	0
MCI – Concord	0	0	0	0	0
MCI – Norfolk	0	3	0	0	3
MCI – Plymouth	0	0	0	0	0
MCI – Shirley medium	2	1	1	0	4
MCI – Shirley minimum	0	0	0	0	0
MCI Framingham	0	0	0	0	0
MCI-CJ	0	0	0	0	0
MTC	2	2	0	0	4
NCCI medium	1	5	3	0	9
NCCI minimum	0	0	0	0	0
NECC	0	0	0	0	0
Non-DOC	0	0	0	0	0
OCCC medium	0	0	5	0	5
OCCC minimum	0	0	0	0	0
PCC	0	0	0	0	0
SBCC	0	0	3	0	3
SMCC	0	0	0	0	0
Total	5	11	12	0	28

*Note: In 2015, BSCC was repurposed and no longer houses inmates.

**Note: Because of the facility’s mission and inmate classification, these facilities are not subjected to a DOJ audit, but do undergo an agency internal audit by the Policy Development and Compliance Unit (PDCU).

Staff Sexual Misconduct: Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident.

1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
2. Contact between the mouth and the penis, vulva, or anus;
3. Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
4. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
5. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
6. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;
7. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and
8. Voyeurism by a staff member, contractor, or volunteer. Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

Facility	Investigative Outcome				Total
	Substantiated	Unsubstantiated	Unfounded	Pending	
BSCC*	0	0	0	0	0
BSH**	0	2	1	1	4
BSPRC	0	0	0	0	0
LSH**	0	0	0	0	0
MASAC**	0	0	0	0	0
MCI – Concord	0	2	2	1	3
MCI – Norfolk	0	1	0	0	1
MCI – Plymouth	0	0	0	0	0
MCI – Shirley medium	0	0	6	0	0
MCI – Shirley minimum	0	0	0	0	0
MCI Framingham	0	0	1	0	1
MCI-CJ	0	0	0	0	0
MTC	0	0	3	0	3
NCCI medium	0	0	0	0	0
NCCI minimum	0	0	0	0	0
NECC	0	0	0	0	0
Non-DOC	0	0	1	0	1
OCCC medium	0	0	4	0	4
OCCC minimum	0	0	0	0	0
PCC	0	0	1	0	1
SBCC	0	0	1	0	1
SMCC	0	1	0	0	1
Total	0	6	20	2	20

Staff-Inmate 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.

Written or verbal communication, gestures such as simulated acts of a sexual nature.

Facility	Investigative Outcome				Total
	Substantiated	Unsubstantiated	Unfounded	Pending	
BSCC*	0	0	0	0	0
BSH**	0	0	0	0	0
BSPRC	0	0	0	0	0
LSH**	0	0	0	0	0
MASAC**	0	0	0	0	0
MCI – Concord	0	0	2	0	2
MCI – Norfolk	0	2	0	0	2
MCI – Plymouth	0	0	0	0	0
MCI – Shirley medium	0	0	0	0	0
MCI – Shirley minimum	0	0	0	0	0
MCI Framingham	0	0	2	0	2
MCI-CJ	0	0	2	0	2
MTC	0	0	2	0	2
NCCI medium	0	0	1	0	1
NCCI minimum	0	0	0	0	0
NECC	0	0	0	0	0
Non-DOC	0	0	0	0	0
OCCC medium	0	0	0	0	0
OCCC minimum	0	0	0	0	0
PCC	0	0	1	0	1
SBCC	0	0	3	0	3
SMCC	0	0	0	0	0
Total	0	2	13	0	15

*Note: In 2015, BSCC was repurposed and no longer houses inmates.

**Note: Because of the facility’s mission and inmate classification, these facilities are not subjected to a DOJ audit, but do undergo an agency internal audit by the Policy Development and Compliance Unit (PDCU).

Trends

Over a five year period, the DOC averaged approximately 89 PREA allegations investigated annually. A review of the data from the PREA database reveals the number of PREA allegations investigated during 2015 was above the number recorded in the previous four year, (a difference of 31 allegations investigated from 2014). This appears to be primarily due to a rise in the number of cases related to allegations of Inmate-Inmate Sexual Abuse. This increase could be attributed to the educational efforts put-forth by the DOC for all staff and inmates, and/or a greater comfort level in the reporting of such allegations by staff and/or inmates relative those types of allegations.

Department of Correction PREA Database Tracking History and Analysis

Total number of cases investigated per year	2011	2012	2013	2014	2015	Five Year Average
	68	85	79	92	123	89

Statistical data with regard to the DOC’s BJS/SSV reports demonstrate a relatively stable trend over the last five years. This may be attributable to better education and training at all levels of the department towards the goal of prevention, detection and response. Other factor which may have had an impact on this data could be due to the agency use of its Housing Risk Assessment tool.

BJS – SSV Reports submitted by the Massachusetts DOC and Analysis

Total number of SUBSTANTIATED cases per year*	2011	2012	2013	2014	2015	Five Year Average
Inmate-on-inmate nonconsensual sexual acts	0	0	1	0	3	.8
Inmate-on-inmate abusive sexual contacts	1	2	5	5	6	2.8
Staff sexual misconduct	1	2	1	0	0	.6
Staff sexual harassment	0	2	0	0	0	.4
Total	2	6	7	5	9	6.8

*Note: These figures may vary from data reported in other areas of this/previous reports because it reflects a “snap-shot” of resolved cases when those reports were generated. Cases still pending and/or allegations not reported to DOC at the time of the incident may not be reflective in the data.

Identified Problem Areas and Corrective Action

PREA standards require a review of collected data in order to identify problem areas and establish plans of corrective action. Based upon statistical data alone, the Substantiated victimization rate within the DOC relatively is low. There are no obvious problem areas that are not already being addressed through our efforts to achieve compliance with PREA standards and our demonstrated compliance with the Prison and Jails Standard through 10 successful DOJ PREA audits. However, the DOC continues to review, enhance and improve its current policies and procedures throughout the department in an effort to not only to continue to meet the DOJ standards, but to exceed them.

Resolved Problem Areas from 2014

Although there were no specific problem area that were not already being addressed, the DOC continued to provide comprehensive PREA education and training to all staff, contractors, volunteers, vendors and inmates on the Departments zero tolerance on all forms of sexual assaults. Additionally, the DOC continues to work with outside stakeholders, such as the Massachusetts State Police, SANE and BARCC in an effort to work collaboratively to ensure the Department meets and or exceeds the standards set-forth by the DOJ Prison and Jails standards.

Assessment of the Massachusetts Department of Correction's Progress in Addressing Inmate Sexual Abuse Allegations

The DOC continues to improve in all aspects of the PREA process and continues to make great strides in the prevention, detection and response to inmate sexual assaults, abusive behaviors and sexual harassment.

We are confident by the end of the DOJ facility PREA audit cycle (August 2016); the DOC will have all of its facilities accredited through the DOJ PREA audit process. This accomplishment will mean that the DOC will be one of few correctional agencies across the county which has facilities accredited through the American Correctional Association (ACA) and the DOJ PREA audit process.