

2018

Prison Rape Elimination Act Annual Report



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Background

The Prison Rape Elimination Act of 2003 (PREA) was enacted to address sexual abuse and sexual harassment in federal, state and local institutions. The goal of PREA is to prevent, detect and respond to sexual abuse and sexual harassment within confinement settings, by establishing a zero-tolerance policy for sexual abuse and sexual harassment. PREA also includes a focus on data collection and analysis of PREA incidents that assists the agency in identifying problem areas, taking corrective action on an ongoing basis, and providing an assessment of the agency's progress in addressing sexual abuse and sexual harassment within its facilities.

The PREA standards were finalized in 2012. On August 20, 2013, all correctional agencies were required to be compliant with the PREA standards. The Department of Corrections began its initial efforts to comply with the finalized PREA standards in 2013 by implementing policies and procedures, training employees, and educating offenders.

Agencies must demonstrate zero tolerance of sexual abuse and sexual harassment not merely by words and written policy, but through their actions, including what they do to prevent sexual abuse and sexual harassment and to comply with the PREA standards. Compliance is demonstrated through PREA audits. Over a three-year period, one-third of an agency's facilities must be audited each year. The final PREA Audit Compliance Tool was officially released in 2014. During the first three-year audit cycle, which ended in August 2016, all facilities within the Montana Department of Corrections completed federal PREA audits and were determined to be compliant with the PREA standards. The second three-year audit cycle ends in August 2019. The Department has completed all audits for this cycle and will be certifying full compliance at the end of the second audit cycle. The agency continues to audit one-third of its facilities each year; the final reports for these audits can be found on the Department's website at cor.mt.gov/PREA.

Purpose

The Prison Rape Elimination Act of 2003 requires data be collected and aggregated on sexual abuse incidents for Department facilities and Department-contracted secure facilities (*28 CFR §115.87*).

The standards require the Department to review data collected and produce an annual report of its findings from its data review and any corrective actions for each facility, as well as the agency as a whole (*28 CFR §115.88*). The annual report includes the current year's data and corrective action, data from prior years for comparison, and an assessment of the Department's progress in addressing sexual abuse. This report is the Department's formal report as it relates to this PREA standard. The Department makes this report readily available to the public annually through its website at <http://cor.mt.gov/PREA>.

Additionally, the U.S. Bureau of Justice Statistics (BJS) requires that correctional agencies collect and report detailed information regarding the sexual victimization of offenders. This report includes a summary of the information that is submitted to the BJS for the annual Survey of Sexual Victimization.

This report focuses on a review of the data collected from January 1, 2018, through December 31, 2018.

Definitions

Data collected for the annual report is reflective of the data required for the Bureau of Justice Statistics Survey of Sexual Victimization. The survey utilizes the definitions as provided in *28 CFR §115.5 and 28 CFR §115.6*, disaggregated into the following categories:

Inmate-on-inmate:

Nonconsensual sexual acts – 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 penetrating, 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 – 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, excluding incidents in which the contact was incidental to a physical altercation.

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 directed toward another.

Staff-on-inmate:

Staff sexual misconduct – Any behavior or act of a sexual nature directed toward an inmate by an employee, volunteer, contractor, official visitor or other agency representative including 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 for reasons unrelated to official duties or for sexual gratification.

Staff sexual harassment – Repeated verbal comments or gestures of a sexual nature to an inmate by an employee, volunteer, contractor, official visitor, or other agency representative including demeaning references to gender; or sexually suggestive or derogatory comments about body or clothing; or repeated profane or obscene language or gestures.

Other definitions provided in *28 CFR §115.5 and 28 CFR §115.6*:

Substantiated – An allegation that was investigated and determined to have occurred.

Unfounded – An allegation that was investigated and determined not to have occurred.

Unsubstantiated – An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether the event occurred.

Voyeurism - An invasion of privacy of an inmate by a staff member or service provider for reasons unrelated to official duties.

Agency Achievements in 2018

The Department of Corrections continues its efforts to maintain compliance with the PREA standards. Some of these efforts include, but are not limited to, updating policies as needed, updating PREA training with current information and materials, and appointing PREA Compliance Managers in each facility. Under the guidance of the Department's PREA Coordinator, PREA Compliance Managers direct their facility's efforts to comply with the standards and Department PREA policies and procedures. The list below highlights specific Department efforts in 2018:

- The following facilities received final federal audit reports within the 2018 calendar year: Montana Women's Prison, Crossroads Correctional Center, Riverside Correctional Facility, Montana State Prison and Pine Hills Correctional Facility.
- Montana Women's Prison and Montana State Prison hired new PREA Compliance Managers whose primary duty is PREA compliance.
- DOC Policy 1.1.17 Prison Rape Elimination Act was updated.
- PREA Administrative Investigations Training was provided at three locations state-wide with 44 staff completing their certification to conduct PREA administrative investigations. This training also received Public Safety Officer Standards and Training (POST) certification for future classes.
- The PREA Coordinator developed and facilitated an eight-hour PREA Standards for Compliance Managers training which PCMs and contract monitors attended in March 2018.
- The Department continues to work with the Western States Auditing Consortium. The PREA Coordinator, who is a U.S. Department of Justice Certified Auditor, completed two audits for this consortium.
- The Department hired several victim liaisons. These liaisons work in the Victim Services Program and their primary duty is to assist the victims of crime within the community. However, they also act as victim advocates for inmates who may have experienced sexual abuse in a Department facility. These dedicated individuals respond to Department facilities when needed and provide guidance and advocacy throughout forensic exams, investigative interviews and other steps following an allegation of sexual abuse.
- A new Department criminal investigator position was created. The new investigator started in September 2018. Located at the Montana Women's Prison and serving the Eastern side of the state, this position allows the Department to respond to and initiate criminal investigations in a more timely manner.
- A three-day PREA Inservice was held in December with facility administrators and PREA Compliance Managers.

Areas to Improve Prevention, Detection and Response

On an ongoing basis, during regular reviews of compliance and during incident reviews, facilities assess areas where they can improve sexual abuse and sexual harassment prevention, detection and response. Most improvements, such as staff training, adding mirrors to blind spots, and updating procedures are easily implemented. However, some improvements would require additional funding. Since there is no budget specifically for PREA compliance, these items are

often left unaddressed. The following is a list of suggested improvements facilities have identified but are unable to address at this time:

- Due to the high volume of PREA allegations on the close custody pod, Montana Women's Prison would benefit from another officer, for a total of two, on that pod on day and night shift. Currently they have one officer for this pod. Other positions that would increase the security of MWP have been identified as: a second control officer, a second 3rd floor officer, a second front desk officer, and a second medical officer for day shift and on night shift a second control officer and a second 3rd floor officer.
- Montana Women's Prison would benefit from updated cameras in the larger pods that would allow staff reviewing the cameras to see incidents in more detail. Additional cameras in the high security areas and close custody pods near the showers, the elevator, and in blind spots near the gym and visiting hall would also help prevent, detect, and respond to allegations of sexual abuse and sexual harassment.
- Montana State Prison has identified increased staffing in the low side units as an area that would improve sexual safety in the prison. While they have an identified staffing plan, they are commonly unable to meet the staffing plan numbers in those areas.
- Montana State Prison has identified a need for 216 cameras to improve supervision and monitoring of inmates. Additional cameras also provide valuable information in sexual abuse investigations. These cameras would be placed throughout the prison in areas that currently have no cameras, to replace old cameras, and to add to the current cameras.

Facilities

The Montana Department of Corrections facilities at the beginning of 2018 consisted of five total facilities, including one youth facility and one facility housing both youth and adults. By the end of 2018, Department facilities consisted of three total facilities, including two adult facilities and one facility housing both youth and adults. The Department also contracts with five secure facilities, four adult and one youth, for the confinement of offenders.

Montana State Prison

Montana State Prison (MSP) in Deer Lodge is the largest correctional facility in the state, housing approximately 1,650 male inmates in a 68-acre compound designed to handle all custody levels: maximum, close, medium and minimum. Montana State Prison and its staff of about 640 uniformed and non-uniformed employees serve the citizens of Montana by providing a secure correctional environment that supports public safety by encouraging positive offender change.

The prison is divided into three compounds: low side, high side and locked housing. Within those custody levels are different types of supervision. Inmates range from general and special management populations to inmates housed for pre-hearing confinement, detention, or those in restricted housing due to ongoing or serious behavior management problems.

Montana State Prison uses a unit management structure that is ultimately managed by a warden, three associate wardens and two bureau chiefs. Outside the fenced perimeter is a 192-bed Work and Reentry Center, which houses minimum-custody inmates who work on the 35,000-acre ranch and dairy program operated by Montana Correctional Enterprises (MCE). Montana State Correctional Treatment Center, a separate unit of MSP, houses up

to 56 minimum custody male inmates. These inmates participate in intensive chemical dependency and cognitive behavioral programming. Auxiliary programs are included to ensure all aspects of an inmate's rehabilitative needs are addressed in this setting.

Montana State Prison also includes the Lewistown Infirmary, which is a 25-bed unit for aging inmates and inmates who require extensive health care. The inmates in this unit typically range in age from 45 to 90 years. In late 2018, the Lewistown Infirmary was in the process of being closed and moved to Boulder.

Montana Women's Prison

Montana Women's Prison (MWP) transferred to Billings in 1994 from Warm Springs. It is a 218-bed secure facility that operates consistently at or over capacity. Montana Women's Prison has a staff of about 92, including 20 contract personnel. The main prison building has an intake area and eight housing units with varying levels of security for different classifications of inmates. Another building within the secure, fenced perimeter is used for programming and work activities. Five low-security units at MWP house minimum- and medium-custody inmates. The units have capacities ranging from 24 to 40 inmates. Inmates needing a higher level of custody are held in another unit. The prison also has two restricted units, where inmates have fewer privileges and are generally confined to their cells because of disciplinary or behavioral problems. The restricted units can each house up to 11 inmates.

Riverside Correctional Facility

Riverside Correctional Facility in Boulder was a 32-bed prison diversion program for adult women which focused on trauma-informed services. Riverside had one housing unit which housed minimum custody offenders. Riverside closed in October 2018.

Pine Hills Correctional Facility

Pine Hills Correctional Facility (PHCF) in Miles City is a 120-bed facility. It is Montana's only long-term state-operated facility for adjudicated male youthful offenders (ages 10-17) committed by district youth courts. The facility also houses minimum- and medium-custody adult male offenders. Pine Hills has six housing units. Pine Hills programming includes chemical dependency treatment, sex offender treatment, intake and reentry planning, education, restitution and vocational training.

Great Falls Youth Transition Center

The Youth Transition Center (YTC) was a 7-bed facility in Great Falls for delinquent male youth between the ages of 10 and 17. The youth in the program were low, medium and high risk. Youth in the program were placed in education and work programming that met each youth's individual needs, as well as counseling for mental health, chemical dependency, or sexual offenses. YTC closed in May 2018.

Contract Facilities

Cascade County Regional Prison

Cascade County Regional Prison in Great Falls opened in March 1998 and has the capacity of housing 156 minimum- and medium-custody state inmates. Available programming

includes HiSet/Education, Chemical Dependency Primary Care (Relapse Prevention), anger management, Cognitive Principles & Restructuring, Parenting and Mental Health.

Crossroads Correctional Center

Crossroads Correctional Center in Shelby opened in September 1999 and is operated by CoreCivic. It has an operational capacity of 601 Montana State inmates and 98 United States Marshal Federal inmates. The custody levels in this facility are minimum, medium and close. Available programming includes HiSet/Education, Life Skills (anger management), canine program, mental health, chemical dependency, continuing chemical dependency care, Chemical Dependency Intensive Treatment Unit, Cognitive Restructuring Program, computer education (art and math), vocational training, and Transitional Assistance Program.

Dawson County Correctional Facility

Dawson County Correctional Facility in Glendive opened in November 1998 and has the capacity of housing 144 minimum- and medium- custody state inmates. Available programming includes HiSet/Education, Chemical Dependency Primary Care (Relapse Prevention), Eagala Horse Therapy, Cognitive Principles & Restructuring, parenting, anger management, Life Skills, New Freedom Self Study Programs, mental health groups and AA meetings.

Five County Detention & Youth Rehabilitation Center

The Montana Department of Corrections contracts with the Five County Detention & Youth Rehabilitation Center in St. Anthony, ID, for secure residential treatment of female juvenile offenders committed to the custody of the Department. It is a county owned and operated perimeter secure facility operating under the Balanced Approach of Restorative Justice principles, providing community protection, accountability and competency development. The facility has a total of 56 beds. This contract has been in place since October 2016.

Missoula Assessment and Sanction Center

The Missoula Assessment and Sanction Center (MASC) is a 144-bed correctional assessment facility for male offenders located in the Missoula County Detention Facility. The program operates under a cooperative agreement between the Department of Corrections and the Missoula County Detention Facility. MASC's purpose is to determine the most appropriate placement for offenders through clear, accurate and impartial assessments. MASC provides these assessments to community corrections programs that screen offenders for potential placement rather than sending them directly to prison. Offenders committed to the Department of Corrections are given mental health, chemical dependency and sex offender assessments as needed. Offenders may be placed in treatment programming while at MASC prior to being considered for placement in a community program. MASC also houses offenders who are being sanctioned for violating the conditions of community supervision.

Agency Aggregate Data

Comparison Data 2014-2018: Agency Facilities Only

Allegation Type	2014	2015	2016	2017	2018
Total Inmate on inmate	25	60	34	39	142
Substantiated	3	10	6	3	19
Unsubstantiated	7	28	5	4	63
Unfounded	15	22	23	23	22
Investigation ongoing	0	0	0	9	38
Total Staff on inmate	22	84	36	42	94
Substantiated	1	2	1	2	8
Unsubstantiated	1	20	3	6	40
Unfounded	20	62	32	32	28
Investigation ongoing	0	0	0	2	18

Aggregate Data: Agency Facilities Only

Allegation Type		2017*	2018
	Inmate on inmate non-consensual sexual acts	23	27
Finding	Substantiated	0	1
	Unsubstantiated	3	13
	Unfounded	16	4
	Investigation ongoing	4	9
	Inmate on inmate abusive sexual contact	10	61
Finding	Substantiated	3	4
	Unsubstantiated	4	30
	Unfounded	2	12
	Investigation ongoing	1	15
	Inmate on inmate sexual harassment	18	54
Finding	Substantiated	1	14
	Unsubstantiated	5	20
	Unfounded	12	6
	Investigation ongoing	0	14
	Staff sexual misconduct	16	45
Finding	Substantiated	0	4
	Unsubstantiated	1	18
	Unfounded	15	14
	Investigation ongoing	0	9
	Staff sexual harassment	29	49
Finding	Substantiated	0	4
	Unsubstantiated	6	22
	Unfounded	23	14
	Investigation ongoing	0	9

* Agency aggregate data for 2017 differs from the 2017 annual report. Due to audit findings, MSP 2017 cases were reviewed, revealing a change in data. The 2017 data reflected in this report is consistent with the data reported in the 2017 Survey of Sexual Victimization.

2018 Data by Facility: Agency Facilities

Agency Facility Populations as of December 31, 2018

Montana State Prison	1611
Montana Women's Prison	223
Riverside Correctional Facility	0
Pine Hills Correctional Facility	97
Youth Transition Center	0
Total	1931

2018 Sexual Abuse and Sexual Harassment Allegation Data

Allegation Type		Montana State Prison	Montana Women's Prison	Riverside Correctional	Pine Hills Correctional	Youth Transition Center	Agency Total
Inmate on inmate nonconsensual sexual acts		21	5	0	1	0	27
Finding	Substantiated	1	0	0	0	0	1
	Unsubstantiated	9	3	0	1	0	13
	Unfounded	3	1	0	0	0	4
	Investigation ongoing	8	1	0	0	0	9
Inmate on inmate abusive sexual contact		13	39	1	8	0	61
Finding	Substantiated	2	0	1	1	0	4
	Unsubstantiated	4	26	0	0	0	30
	Unfounded	2	9	0	1	0	12
	Investigation ongoing	5	4	0	6	0	15
Inmate on inmate sexual harassment		32	20	1	1	0	54
Finding	Substantiated	8	5	1	0	0	14
	Unsubstantiated	8	12	0	0	0	20
	Unfounded	3	3	0	0	0	6
	Investigation ongoing	13	0	0	1	0	14
Staff sexual misconduct		28	16	0	1	0	45
Finding	Substantiated	3	1	0	0	0	4
	Unsubstantiated	14	4	0	0	0	18
	Unfounded	7	6	0	1	0	14
	Investigation ongoing	4	5	0	0	0	9
Staff sexual harassment		39	8	2	0	0	49
Finding	Substantiated	2	2	0	0	0	4
	Unsubstantiated	17	3	2	0	0	22
	Unfounded	11	3	0	0	0	14
	Investigation ongoing	9	0	0	0	0	9
Total Allegations		133	88	4	11	0	236

2018 Data by Facility: Contract Facilities

DOC Inmate Populations in Contract Facilities as of December 31, 2018

Cascade County Regional Prison	150
Crossroads Correctional Center	569
Dawson County Correctional Facility	143
5 Co. Detention/Youth Rehabilitation Center	5
MASC	134
Total	1001

2018 Sexual Abuse and Sexual Harassment Allegation Data

	Allegation Type	Cascade County Regional Prison	Crossroads Correctional Center	Dawson County Correctional Facility	5 Co. Detention/Youth Rehabilitation	MASC	Contractor Total
	Inmate on inmate nonconsensual sexual acts	2	4	0	0	0	6
Finding	Substantiated	0	0	0	0	0	0
	Unsubstantiated	0	2	0	0	0	2
	Unfounded	2	2	0	0	0	4
	Inmate on inmate abusive sexual contact	4	0	0	0	0	4
Finding	Substantiated	0	0	0	0	0	0
	Unsubstantiated	0	0	0	0	0	0
	Unfounded	4	0	0	0	0	4
	Inmate on inmate sexual harassment	2	2	0	1	0	5
Finding	Substantiated	0	0	0	0	0	0
	Unsubstantiated	0	0	0	0	0	0
	Unfounded	2	2	0	1	0	5
	Staff sexual misconduct	1	2	2	0	0	5
Finding	Substantiated	0	0	0	0	0	0
	Unsubstantiated	0	1	0	0	0	1
	Unfounded	1	1	2	0	0	4
	Staff sexual harassment	1	2	0	0	0	3
Finding	Substantiated	0	0	0	0	0	0
	Unsubstantiated	0	0	0	0	0	0
	Unfounded	1	2	0	0	0	3

Approved by:

/s/ Reginald D. Michael
Reginald D. Michael, Director

5/30/19
Date