



Corrections and Community Supervision

KATHY HOCHUL
Governor

DANIEL F. MARTUSCELLO III
Acting Commissioner

JASON D. EFFMAN
Associate Commissioner
PREA Coordinator

ANNUAL REPORT ON SEXUAL VICTIMIZATION

AN ANALYSIS OF 2016 – 2020
SEXUAL ABUSE AND SEXUAL HARASSMENT DATA
PUBLISHED JUNE 2023

DOCCS VISION AND MISSION

The New York State Department of Corrections and Community Supervision, guided by the Departmental Mission, is responsible for the confinement and rehabilitation of approximately 32,000 incarcerated individuals at 44 state facilities, and the supervision of approximately 18,000 releasees, throughout seven regional offices statewide. Our mission is to ensure public safety by operating safe and secure facilities, preparing individuals for release, and then supervising them to be successful when they return home from prison.

DOCCS' vision is to enhance public safety by having incarcerated persons return home under supportive supervision less likely to revert to criminal behavior.

The Harriman State Campus, 1220 Washington Avenue, Albany, NY 12226-2050 | www.doccs.ny.gov

TABLE OF CONTENTS

	<u>Page</u>
Introduction.....	1
<u>Section:</u>	
1. Allegations of Sexual Abuse and Sexual Harassment.....	2
2. Resulting Determinations.....	7
3. Substantiated Allegations.....	9
4. Review for Corrective Action.....	10
Conclusion.....	14
Appendix A: Allegations of Sexual Victimization by Facility.....	15
Appendix B: Allegations of Sexual Victimization Reported in CY 2021 and 2022...	18
Appendix C: Data Collection and Review § 115.87 and § 115.88.....	20
Appendix D: Definitions of Sexual Victimization.....	21

INTRODUCTION

Establishment of the Prison Rape Elimination Act

The Prison Rape Elimination Act of 2003 (PREA Public Law 108-79) established federal mandates to identify and prevent prison rape in correctional facilities within the jurisdictions of federal, state, local, and native territories across the United States. Public Law 108-79 was signed into law on September 4, 2003.

The United States Department of Justice adopted the National Standards to Prevent, Detect, and Respond to Prison Rape (the PREA Standards) effective August 20, 2012. In addition to establishing mandatory standards for prevention, detection and response to prison sexual abuse and sexual harassment, the PREA Standards require all correctional facilities to conduct sexual abuse incident reviews and collect uniform data using standardized definitions. Agencies must ensure that data collection includes allegations of sexual abuse and sexual harassment at facilities under its direct control. This incident-based sexual abuse information must be aggregated and made readily available to the public at least annually.

The New York State Department of Corrections and Community Supervision (DOCCS) publishes this report in compliance with PREA Standards §115.87 Data Collection and § 115.88 Data Review for Corrective Action (see Appendix C).

This report provides a comparison of allegations of sexual abuse and sexual harassment as reported to the Bureau of Justice Statistics (BJS) for calendar years 2016 – 2020, as well as corrective actions taken at facilities and the agency as a whole. This annual report includes allegations of sexual abuse of incarcerated individuals within correctional facilities under the jurisdiction of DOCCS. Allegations of sexual abuse and sexual harassment are preliminary and subject to change as these cases develop. The allegation categories are not final for cases that are ongoing or pending resolution. Data used in this report reflects the most current information available at the time of publication.

In accordance with PREA Standard 115.89 (b), the most recently reported aggregated sexual abuse data from facilities under DOCCS direct control and private facilities with which DOCCS contracts, is attached to this report as Appendix B.

Categorizations of allegations of sexual abuse and sexual harassment are based on the most recent definitions provided by BJS and reporting requirements as specified in the National Standards to Prevent, Detect, and Respond to Prison Rape, under 28 CFR part 115 (see Appendix D). Reports include comparisons of previous years' data where appropriate.

Section One

ALLEGATIONS OF SEXUAL ABUSE AND SEXUAL HARASSMENT

The following section contains data on sexual abuse and sexual harassment allegations reported over a five-year period. These allegations represent complaints, which became investigative cases from January 2016 through December 2020. This section is intended to provide an informed overview of these allegations statewide. In accordance with the National PREA Standards, DOCCS reviews the data collected and aggregated pursuant to §115.87, in order to assess and improve the effectiveness of its sexual abuse prevention, detection, response policies, practices, and training, in an effort to understand and eliminate sexual abuse and sexual harassment within New York State correctional facilities.

Type of Allegation

Uniform definitions provided by the Bureau of Justice Statistics (BJS) and the Prison Rape Elimination Act of 2003 are used in order to categorize allegations of sexual abuse and sexual harassment within DOCCS correctional facilities. These categories separate allegations by perpetrator type (staff or incarcerated population) as shown in Table 1.

Table 1
Allegations of Sexual Victimization, 2016 - 2020

Category type by year

2016 - 2020

Category Type	2016	2017	2018	2019	2020
Total Allegations	450	383	511	592	631
Staff					
Staff sexual misconduct	236	225	295	329	318
Staff sexual harassment	95	71	105	153	164
Sub-Total	331	296	400	482	482
Incarcerated Population					
Non-Consensual Sexual Acts	71	58	73	64	84
Abusive Sexual Contacts	24	18	17	7	20
Sexual Harassment	24	11	21	39	45
Sub-Total	119	87	111	110	149

Data accurate as of file date 12/30/2022.

Overview

The New York State Department of Corrections and Community Supervision (DOCCS) utilizes uniform definitions as described in this section, pursuant to 28 C.F.R §115.6 in the National Standards to prevent, Detect, and Respond to prison Rape (under the Prison Rape Elimination Act of 2003). These titled definitions are used to categorize allegations of sexual abuse and sexual harassment within New York State correctional facilities and to separate allegations by perpetrator type (staff or incarcerated individual) and type of abuse (see Appendix D for complete definitions).

The number of reported allegations includes attempted as well as completed allegations of sexual abuse and sexual harassment. The total number of sexual abuse and sexual harassment allegations increased by 7% from 2019 to 2020 (592 and 631, respectively). Increased reporting was expected, in light of the implementation of a number of new PREA-based initiatives in recent years, including the Statewide Rape Crisis Hotline (see previous Annual Report¹) and the impact of implementation efforts. Starting in April 2020, incarcerated individuals in disciplinary confinement settings were provided with access to telephone-enabled tablets. This provided direct access to both the 444 OSI reporting line and the 777 rape crisis hotline. This direct telephone access drove an increase in reporting, including bad faith reports.

It is also noted that 2020 saw a number of PREA-related allegations that were substantiated for non-PREA categorized related forms of misconduct. The number of substantiated allegations of misconduct during the height of the pandemic is consistent with increased reporting. It also appears that a number of factors directly attributed to the pandemic response influenced reporting. This included the pause in programs, increased feelings of isolation, and general stress related to COVID-19.

Staff Sexual Misconduct

Staff Sexual Misconduct includes a wide range of behaviors such as attempted or requested sexual acts, indecent exposure, invasion of privacy and staff voyeurism, as well as completed sexual acts and unwanted touching for sexual gratification. Under New York State Penal Law § 130.05 (3)(e), incarcerated individuals are unable to consent to sexual acts with Department employees. In 2020, this category represented 50% of all allegations. There were 318 staff sexual misconduct allegations reported in 2020, down 11 (3%) from 329 in 2019 (see Table 1).

¹ New York State Department of Corrections and Community Supervision. (2022, April). *Annual Report on Sexual Victimization: An Analysis of 2015 – 2019 Data*. Author. <https://doccs.ny.gov/system/files/documents/2022/04/annual-report-on-sexual-victimization-2015-2019-with-2020-aggregated-data-final.pdf>.

Staff Sexual Harassment

Staff sexual harassment includes repeated verbal statements, and comments or gestures of a sexual nature, to an incarcerated individual or incarcerated releasee by a staff member. Staff sexual harassment allegations represented 26% of all allegations in 2020. Staff sexual harassment allegations increased by 7% between 2019 and 2020 (153 and 164, respectively).

Incarcerated Individual Nonconsensual Act

Nonconsensual acts are defined as sexual contact or penetration of any person without their consent, or of a person who is unable to consent or refuse. The number of cases in this category increased by 31% from 2019 to 2020 (64 and 84, respectively) and represented 13% of all allegations reported in 2020.

Incarcerated Individual Abusive Act

Incarcerated individual abusive acts are defined as unwanted intentional touching of an incarcerated individual without his or her consent, or of an incarcerated individual who is unable to consent or refuse, by another incarcerated individual. Incarcerated individual abusive acts represented 3% of total allegations reported to DOCCS in 2020. The number of allegations of incarcerated individual abusive acts increased by 13 from 2019 to 2020 (7 and 20, respectively).

Incarcerated Individual Sexual Harassment

In 2013, the Bureau of Justice Statistics added *Incarcerated individual Sexual Harassment* to the definitions of sexual victimization. *Incarcerated individual Sexual Harassment* is defined as repeated and unwanted sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one incarcerated individual or incarcerated releasee directed toward another. There were 45 incarcerated individual sexual harassment allegations reported in 2020 compared to 39 in 2019, an increase of 15%.

Rate of Reported Allegations

The rate of reported allegations of sexual victimization increased from 12.8 per 1,000 individuals under custody in 2019 to 16.1 per 1,000 individuals under custody in 2020. The rate of allegations concerning staff increased from 10.5 per 1,000 individuals in 2019 to 12.3 per 1,000 individuals in 2020. The rates of allegations among the incarcerated population increased from 2.4 per 1,000 individuals in 2019 to 3.8 per 1,000 individuals in 2020.

It is generally expected that victimization among incarcerated individuals has been historically under-reported. As a result, strategic measures have been implemented to promote their willingness to report.

Ongoing implementation efforts have also increased familiarity with sexual victimization prevention and response procedures. Further, overall compliance efforts, together with increasingly focused investigative responses, have increased confidence in the system to address complaints appropriately. Conversely, the agency continues to experience significant numbers of unfounded and bad faith reports (see Section 2). While DOCCS cannot fully explain the driving forces behind the knowing bad faith reports, many may relate to efforts to avoid responsibility for other behavior or are part of a misguided effort to expedite an investigative response for an incident that may have occurred but did not involve any form of sexual victimization.

The issue of bad faith reporting has become a national concern. Over the past year, partners of the U.S. Department of Justice PREA Management Office have begun discussing the issue in workshops at American Correctional Association conferences, and it has also been a topic of discussion at national PREA Coordinator conferences. In March 2023, the PREA Resource Center has engaged a partner through their cooperative agreement to develop resources to better understand the problem and to explore how to mitigate and address such issues. DOCCS has been invited to be a part of the advisory workgroup supporting these efforts.

Table 2
Rate of allegations of sexual victimization, 2016 - 2020

Category type by year

2016 - 2020

Category Type	2016	2017	2018	2019	2020
Annual Rate	8.7	7.5	10.4	12.8	16.1
Staff Type					
Staff sexual misconduct	4.5	4.4	6.0	7.1	8.1
Staff sexual harassment	1.8	1.4	2.1	3.3	4.2
Staff Rate	6.4	5.8	8.1	10.5	12.3
Incarcerated Population					
Non-Consensual Sexual Acts	1.4	1.1	1.5	1.4	2.1
Abusive Sexual Contacts	0.5	0.4	0.3	0.2	0.5
Sexual Harassment	0.5	0.2	0.4	0.8	1.1
Incarcerated Rate	2.3	1.7	2.3	2.4	3.8

Rate per 1,000 custody population

Section Two

RESULTING DETERMINATIONS

Resulting determinations from completed investigations are classified as Substantiated, Unsubstantiated, or Unfounded as defined by the PREA Standards (28 C.F.R. § 115). Resulting determinations are fully defined in Appendix D (p. 18).

Among completed investigations between 2016 and 2020, a number of resulting determinations concluded that there was sufficient evidence to confirm a report of sexual abuse or sexual harassment. These cases are referred to as *substantiated*. The number of substantiated cases ranged from a low of 13 in 2016 (2.9% of reported incidents) to 26 in 2018 (5.1% of reported incidents). In 2020, 2.7% of allegations (17 cases) were substantiated. It is also noted that cases with multiple types of allegations that are substantiated for non-PREA defined forms of misconduct are reflected as unsubstantiated.

When a report is substantiated for sexual abuse, sexual harassment or another form of misconduct, criminal prosecution and disciplinary action will be pursued commensurate with the nature and circumstances of the acts committed.

Among completed investigations between 2016 and 2020, most resulting determinations concluded that evidence was insufficient to determine whether the event occurred. These cases are referred to as *unsubstantiated*. In 2020, 67.8% of allegations were determined to be unsubstantiated.

Unfounded determinations are reports submitted that are proved to be false. All allegations of sexual abuse and sexual harassment are taken seriously and investigated thoroughly. Between 2016 and 2020, the rate of false reports ranged from 18.2% of reported incidents in 2020 to 28.7% of reported incidents in 2017.

Of the sexual abuse and sexual harassment allegations reported in 2020, 115 were determined to be *unfounded* (18.2% of reported incidents). In these cases, the Office of Special Investigations determined that the event did not occur by, for example, the presence of evidence contradictory to the allegation or an incarcerated individual's self-admission to falsifying the allegation. Some of these cases resulted in a determination that the complaint was made in bad faith, that is, that it was a knowingly false complaint made with malice. In others, incarcerated individuals, who have reported experiencing physical violence, have admitted making a false sexual violence claim believing that doing so would expedite the investigative process.

The number of open cases (classified as “Ongoing”) represent more recent allegations which were still ongoing at the time of data collection. In 2020, 11.3% percent (71 of 631) of the sexual victimization investigations were ongoing at the time of data collection.

Table 3
Distribution of determinations of sexual victimization, 2016 - 2020

Resulting determination by year

	2016		2017		2018		2019		2020	
Completed	450	100.0%	383	100.0%	511	100.0%	592	100.0%	560	88.7%
Substantiated	13	2.9%	20	5.2%	26	5.1%	24	4.1%	17	2.7%
Unsubstantiated	329	73.1%	252	65.8%	362	70.8%	455	76.9%	428	67.8%
Unfounded	108	24.0%	110	28.7%	123	24.1%	110	18.6%	115	18.2%
Other	0	0.0%	1	0.3%	0	0.0%	3	0.5%	0	0.0%
Ongoing	0	0.0%	0	0.0%	0	0.0%	0	0.0%	71	11.3%
Total allegations	450	100.0%	383	100.0%	511	100.0%	592	100.0%	631	100.0%

Cases with multiple types of allegations that are substantiated for non-PREA defined forms of misconduct are reflected as unsubstantiated.

Resulting determinations classified as "Other" represent cases which may have been administratively closed, or may have resulted in multiple determinations.

Section Three

SUBSTANTIATED ALLEGATIONS

Allegations of sexual abuse or sexual harassment are substantiated after an event is investigated and determined to have occurred based on a preponderance of evidence.

The percentage of substantiated cases decreased from 5.2% in 2017 to 2.7% in 2020. In most years, the majority of these allegations were staff related, as shown in Table 4. In 2020, 82% of the substantiated cases involved staff.

Table 4
Substantiated Allegations of Sexual Victimization 2016 - 2020

Category type by year

2016 - 2020

Category Type	2016	2017	2018	2019	2020
Total Substantiated	13	20	26	24	17
Percent of total allegations	2.9%	5.2%	5.1%	4.1%	2.7%
Staff Type					
Staff sexual misconduct	7	15	17	9	9
Staff sexual harassment	0	2	2	2	5
Sub-Total	7	17	19	11	14
Percent of total staff allegations	2.1%	5.7%	4.8%	2.3%	2.9%
Incarcerated Individuals					
Non-Consensual Sexual Acts	2	1	4	1	0
Abusive Sexual Contacts	3	2	2	2	1
Sexual Harassment	1	0	1	10	2
Sub-Total	6	3	7	13	3
Percent of total incarcerated individual allegations	5.0%	3.4%	6.3%	11.9%	2.0%

Section Four

REVIEW FOR CORRECTIVE ACTION

Pursuant to PREA Standard § 115.88, DOCCS continues to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training. This includes (1) identifying problem areas; (2) taking corrective action on an ongoing basis; and (3) preparation of this annual report.

To this end, this report includes a comparison of the current year's data and corrective actions with those from prior years and provides an assessment of the agency's progress in addressing sexual abuse. As previously referenced in this report, strategic measures have been implemented to promote an incarcerated individual or incarcerated releasee's willingness to report. DOCCS Office of Special Investigations (OSI) expanded access to the "444" reporting line in October 2019. This telephone reporting line is available to all incarcerated individuals and incarcerated releasees during regular business hours.

Expanding on the existing partnership established with the New York State Coalition Against Sexual Assault (NYSCASA), DOCCS has entered into a partnership with the New York State Office of Victim Services and the Office for the Prevention of Domestic Violence. The Enhanced Victim Services program now provides hotline and victim advocacy services at facilities statewide.

In 2019, DOCCS leveraged funding from a 2017 PREA Reallocation of Byrne-JAG funding to provide a total of fifty (50) Office of Special Investigations (OSI), Sex Crimes Division (SCD) investigative staff, Assistant Deputy Superintendent PREA Compliance Managers and Central Office staff with Forensic Experiential Trauma Interview (FETI) training. "Certified FETI" is a science and practice-based interviewing methodology informed by the latest research on the neurobiology of trauma and memory. It is a "participant-centered" methodology that allows the interviewer to help the participant (a victim, witness, or other involved person) remember as many details as they are able about a potentially traumatic event in a sensitive, non-confrontational manner.

By adopting cutting edge investigative techniques into the work of the OSI SCD, DOCCS expects to continue improving on the quality of its investigations and the reliability of investigative determinations. Ensuring appropriate disciplinary action or criminal prosecution of abusers is key to protecting all incarcerated individuals and incarcerated releasees from sexual victimization.

DOCCS implemented a pair of trainings in the 1st quarter of 2020 which included “Ensuring Professional Interactions with LGBTIQ+ People” and an updated version of the biennial PREA Refresher Training. DOCCS completed work with outside partners on a grant project to develop a new staff refresher training for calendar year 2022. This training relied on data from 2019-2020, staff focus groups, and incarcerated individual focus groups as its foundation. The training, “Preventing Sexual Misconduct and Saving Careers,” uses a new bystander intervention approach and is intended to 1) empower staff to intervene when they observe coworkers displaying poor professional boundaries; 2) encourage reporting of signs of boundary violations, even if the staff person does not observe signs of sexual misconduct; and 3) improve overall awareness with messaging that is intended to resonate with the target audience.

In recent years, DOCCS has been aggressively increasing the use of video surveillance within the Department’s Correctional Facilities. This includes the implementation of fixed video surveillance systems in a growing number of facilities, as well as the use of body-worn cameras to monitor operations in nine facilities.

DOCCS used a multidisciplinary team to examine where cameras would be placed within facilities on future projects and included an eye toward the prevention and detection of sexual victimization. A number of multimillion-dollar camera projects are in various stages across the system.

DOCCS is continuing to supplement its use of data to inform policy decisions by collecting information from impacted individuals to improve policy and practice. This includes structured interviews of former employees facing conviction for crimes related to sexual victimization in prison, interviewing recently released individuals, and having formal and informal conversations with current staff and incarcerated individuals. The information is being compiled for use by various working groups to inform a number of initiatives that address training and policy improvements.

A number of new proactive measures have been adopted and others are being pursued. Investigators make unannounced inspections at correctional facilities, which include searches of employees and their workspaces where evidence of misconduct may be uncovered. DOCCS Office of Special Investigations (OSI) is collaborating with the Law Enforcement Psychological Services (LEPS), which is a national psychological screening firm, to potentially develop a sexual abuser psychological profile to improve the psychological exams for correction officer candidates. Further, in 2022, OSI added a new analysis unit, which will provide case support to OSI’s increasingly complex investigations, including analysis of information to identify evidence that could then be used for disciplinary proceedings and criminal prosecutions.

Recognizing that successful implementation of sexual victimization prevention policies requires the support of prosecuting authorities, DOCCS has increased its outreach and education efforts towards those who ultimately decide what cases will be pursued. It is important that prosecutors are informed about the PREA Standards and the Department's implementation efforts. Supervisors from OSI SCD will often meet with representatives of a District Attorney to present cases for prosecution, and to emphasize the importance of pursuing cases not only for the individual victim, but to advance public integrity and safety. Where appropriate, OSI also works with other prosecuting authorities, including the Office of the New York Attorney General and the U.S. Attorneys' Offices within New York.

Facility-specific corrective actions taken are reflected in Table 5 (p. 13).

Table 5
Facility Specific Corrective Actions Taken for Calendar Year 2021

ALBION	Ensured OMH referrals are timely; completed re-training.
	Identified locations for cameras upon system upgrade.
	Reinforced need for prompt medical assessment per policy.
	Laundry folding tables/chairs removed from laundry rooms and placed in view of camera.
	Noted organized system for camera reviews conducted by ET.
	Reinforced need for increased supervisory rounds.
ATTICA	Identified need for camera facing the draft holding cell.
	Coordinated response training for WC.
AUBURN	Notified WC to complete checklist; reiterated need for an updated risk assessment after every allegation of abuse.
BEDFORD HILLS	Installed camera system.
	Addition of a vision panel for the storage closet in the mess hall kitchen.
	Identified locations for cameras upon system upgrade.
CLINTON	Added vision panels to all solid doors, as appropriate.
	Requested addition of cameras in stairwells.
	Implemented procedures for early retrieval of medical/mental health records to facilitate review.
	Reinforced with pertinent staff the requirement to notify OSI in a timely manner.
	Reinforced training on investigations for Security Supervisors, particularly as it pertains to submitting OMH Referrals.
	Encouraged communication between Security Supervisors and Watch Commanders as it pertains to the use of body worn cameras on trips.
	Reinforced with staff the proper completion of the Watch Commander Checklist.
COLLINS	Implemented steps to improve communication with OSI.
	Reinforced procedures to preserve video relative to reports.
EASTERN	Conducted security supervisor training regarding notification procedures and documentation.
ELMIRA	Training conducted with medical regarding assessments and proper documentation.
	Requested expansion of CCTV system.
	DSH conducted training with medical staff to review HSPM 1.60.
GREAT MEADOW	Medical Dept continues to review/discuss staff boundaries/familiarization.
	Security assessment done regarding protocols/procedure for area. Reviewed findings at Security Supervisors meeting.
GREENE	Collect records required to complete an Incident Review within 30 days following an allegation.
	Implemented tracking system to ensure all incarcerated individuals receive PREA Risk screening, receive orientations materials and watch the PREA education video.
	Memo to draft officers to issue pamphlets in primary language and to document such.
MARCY	Reminded supervisors that pat frisk memos need to include whether or not body worn camera was in use.
	Reminder provided to appropriate staff to ensure video footage is preserved, when available.
MID-STATE	Retraining for security and medical staff; documented via memo.
SHAWANGUNK	Staff training and supervision of employees.
SULLIVAN	Requested expansion of CCTV system facility wide.
	Requested Body Worn Camera system and facility wide CCTV. Body worn camera pilot system initiated.
UPSTATE	Reviewed FOM 602 PREA Risk Screening with Guidance Staff
	Review HSPM1.60 with Medical to ensure proper documentation is received.
WASHINGTON	Collect records required to complete an Incident Review within 30 days following an allegation.
	Continued efforts to improve timely communication to the facility when allegations are reported to offices outside the facility.
WENDE	Identified failure to properly complete Watch Commander's Sexual Abuse Response Sheet; addressed with staff.
	OMH referral not completed in timely manner. Addressed with staff.
WOODBOURNE	Issued memorandum to staff about misgendering.

CONCLUSION

A comparison of data from 2016 to 2020 shows an increase in reports of sexual abuse and sexual harassment beginning in 2018. DOCCS is working to develop new strategies to address all forms of sexual victimization within the agency's facilities, with a focus on staff sexual misconduct and reinforcing professional boundaries. DOCCS ensures that multi-disciplinary teams participate in national conferences with an eye toward identifying promising practices for potential implementation and collaborating with others, to develop new strategies to address sexual victimization.

The Department is continuing its current efforts to educate staff and all those under custody, to conduct thorough and reliable investigations into reports of sexual victimization, and to pursue prosecution and discipline commensurate with the nature and circumstances of the misconduct. These efforts include specialized trainings for persons in key roles including Assistant Deputy Superintendent PREA Compliance Managers, PREA Point Persons, Medical Staff and Office of Special Investigations (OSI) Sex Crimes Investigators. e Department will also continue on the path of expanding the use of technology to dissuade and detect misconduct, including the installation of fixed video surveillance systems at a number of facilities, and increasing the use of body-worn cameras in growing numbers of facilities.

Such efforts have shifted the culture of the Department and continue to reinforce the message that the Department of Corrections and Community Supervision has zero tolerance for sexual abuse and sexual harassment.

APPENDIX A

Allegations of sexual victimization - facility by resulting determination, rate per 1,000 custody population
2018 - 2020

Facility	2018									2019						2020								
	substantiated		unsubstantiated		unfounded		substantiated		unsubstantiated		unfounded		substantiated		unsubstantiated		unfounded							
	Total	Rate	No.	Rate	No.	Rate	No.	Rate	No.	Rate	No.	Rate	No.	Rate	No.	Rate	No.	Rate	No.	Rate	No.	Rate		
Adirondack	0	0.0	0	0.0	0	0.0	0	0.0	6	290.3	2	96.8	2	96.8	2	96.8	3	52.9	0	0.0	1	17.6	2	35.3
a Albion	19	19.0	3	3.0	13	13.0	3	3.0	16	17.8	3	3.3	10	11.1	3	3.3	20	29.7	1	1.5	14	20.8	5	7.4
Altona	2	4.4	0	0.0	2	4.4	0	0.0	2	5.0	0	0.0	2	5.0	0	0.0	1	3.2	0	0.0	1	3.2	0	0.0
Attica	19	9.4	1	0.5	12	6.0	6	3.0	22	11.5	0	0.0	14	7.3	8	4.2	18	10.1	0	0.0	12	6.7	6	3.4
Auburn	20	13.6	0	0.0	13	8.8	7	4.7	25	18.6	1	0.7	21	15.7	3	2.2	23	20.0	0	0.0	20	17.4	3	2.6
Bare Hill	8	6.0	0	0.0	6	4.5	2	1.5	9	7.1	1	0.8	8	6.3	0	0.0	5	5.2	0	0.0	5	5.2	0	0.0
a Bedford Hills	35	46.0	5	6.6	23	30.2	7	9.2	39	53.4	0	0.0	31	42.4	8	11.0	29	48.8	3	5.1	22	37.1	4	6.7
Cape Vincent	1	1.2	0	0.0	0	0.0	1	1.2	7	9.0	0	0.0	7	9.0	0	0.0	6	9.8	0	0.0	3	4.9	3	4.9
c Cayuga	2	2.3	0	0.0	2	2.3	0	0.0	7	8.3	0	0.0	6	7.1	1	1.2	3	4.0	0	0.0	3	4.0	0	0.0
Clinton	28	10.8	0	0.0	23	8.9	5	1.9	20	8.5	1	0.4	14	5.9	5	2.1	23	10.6	1	0.5	18	8.3	4	1.8
c Collins	12	12.0	0	0.0	10	10.0	2	2.0	17	17.0	0	0.0	10	10.0	7	7.0	18	19.2	0	0.0	13	13.9	5	5.3
Coxsackie	10	11.7	0	0.0	9	10.5	1	1.2	6	7.8	1	1.3	4	5.2	1	1.3	8	10.7	0	0.0	7	9.4	1	1.3
Downstate	13	11.7	1	0.9	9	8.1	3	2.7	6	5.9	0	0.0	6	5.9	0	0.0	5	6.7	0	0.0	4	5.4	1	1.3
Eastern	8	8.6	2	2.2	6	6.5	0	0.0	6	6.5	0	0.0	6	6.5	0	0.0	7	7.8	0	0.0	5	5.6	2	2.2
b Edgecombe	1	8.3	0	0.0	0	0.0	1	8.3	1	9.1	0	0.0	1	9.1	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Elmira	6	3.8	0	0.0	6	3.8	0	0.0	13	8.4	0	0.0	9	5.8	4	2.6	19	13.5	0	0.0	13	9.2	6	4.3
c Fishkill	21	13.1	0	0.0	17	10.6	4	2.5	24	14.8	1	0.6	20	12.3	3	1.9	27	18.9	1	0.7	18	12.6	8	5.6
Five Points	18	13.7	0	0.0	11	8.4	7	5.3	17	14.2	0	0.0	15	12.5	2	1.7	17	16.0	0	0.0	13	12.3	4	3.8
Franklin	11	8.3	0	0.0	10	7.6	1	0.8	3	2.4	0	0.0	3	2.4	0	0.0	14	13.4	1	1.0	12	11.5	1	1.0

a Female correctional facility.

b Includes one or more female housing units.

c Medium security population includes specialized housing units designated with higher security levels.

Note: Rate of victimization equals the number of substantiated, unsubstantiated or unfounded incidents divided by the average custody population multiplied by 1,000. See Appendix C for full description.

APPENDIX A (continued)

Allegations of sexual victimization - facility by resulting determination, rate per 1,000 custody population
2018 - 2020

Facility	2018									2019									2020								
	substantiated			unsubstantiated			unfounded			substantiated			unsubstantiated			unfounded			substantiated			unsubstantiated			unfounded		
	Total	Rate	No.	Rate	No.	Rate	No.	Rate	Total	Rate	No.	Rate	No.	Rate	No.	Rate	Total	Rate	No.	Rate	No.	Rate	No.	Rate			
c Gouverneur	4	4.1	0	0.0	1	1.0	3	3.1	14	16.2	0	0.0	13	15.0	1	1.2	6	7.7	0	0.0	4	5.1	2	2.6			
Gowanda	5	3.7	0	0.0	1	0.7	4	2.9	11	8.0	0	0.0	7	5.1	4	2.9	7	6.8	0	0.0	5	4.8	2	1.9			
Great Meadow	26	18.1	0	0.0	23	16.0	3	2.1	40	28.3	1	0.7	36	25.5	3	2.1	34	24.8	1	0.7	29	21.1	4	2.9			
Green Haven	34	18.1	2	1.1	22	11.7	10	5.3	26	14.1	1	0.5	20	10.8	5	2.7	31	18.0	1	0.6	23	13.4	7	4.1			
c Greene	14	8.5	0	0.0	12	7.2	2	1.2	13	8.4	1	0.6	9	5.8	3	1.9	12	9.6	0	0.0	11	8.8	1	0.8			
Groveland	7	7.3	0	0.0	5	5.2	2	2.1	12	12.9	2	2.2	5	5.4	5	5.4	9	12.0	0	0.0	4	5.3	5	6.6			
Hale Creek	2	5.0	0	0.0	2	5.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	4	11.1	2	5.6	2	5.6	0	0.0			
c Hudson	1	6.9	1	6.9	0	0.0	0	0.0	9	89.3	2	19.8	7	69.4	0	0.0	1	8.5	0	0.0	1	8.5	0	0.0			
b,c Lakeview	3	4.1	0	0.0	3	4.1	0	0.0	3	4.9	0	0.0	1	1.6	2	3.3	2	4.4	0	0.0	1	2.2	1	2.2			
Lincoln	0	0.0	0	0.0	0	0.0	0	0.0	1	8.5	0	0.0	0	0.0	1	8.5	0	0.0	0	0.0	0	0.0	0	0.0			
Livingston	5	6.2	0	0.0	4	5.0	1	1.2	2	3.1	0	0.0	1	1.6	1	1.6	0	0.0	0	0.0	0	0.0	0	0.0			
c Marcy	18	15.9	1	0.9	11	9.7	6	5.3	28	25.2	0	0.0	21	18.9	7	6.3	27	27.2	0	0.0	22	22.2	5	5.0			
c Mid-State	27	18.7	0	0.0	17	11.8	10	6.9	33	23.3	1	0.7	27	19.1	5	3.5	33	27.0	1	0.8	26	21.3	6	4.9			
c Mohawk/Walsh	6	4.3	1	0.7	4	2.9	1	0.7	17	12.4	0	0.0	12	8.8	5	3.7	8	6.9	0	0.0	6	5.2	2	1.7			
Moriah Shock	1	5.4	1	5.4	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0			
Ogdensburg	1	2.5	0	0.0	0	0.0	1	2.5	1	2.7	0	0.0	1	2.7	0	0.0	2	6.4	0	0.0	1	3.2	1	3.2			
c Orleans	8	9.2	1	1.2	5	5.8	2	2.3	10	11.7	1	1.2	7	8.2	2	2.3	3	4.5	0	0.0	3	4.5	0	0.0			
Otisville	2	3.7	0	0.0	2	3.7	0	0.0	6	10.5	1	1.7	4	7.0	1	1.7	5	9.6	0	0.0	4	7.6	1	1.9			
Queensboro	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0			

a Female correctional facility.

b Includes one or more female housing units.

c Medium security population includes specialized housing units designated with higher security levels.

Note: Rate of victimization equals the number of substantiated, unsubstantiated or unfounded incidents divided by the average custody population multiplied by 1,000. See Appendix C for full description.

APPENDIX A (continued)

Allegations of sexual victimization - facility by resulting determination, rate per 1,000 custody population
2018 - 2020

Facility	2018									2019									2020								
	substantiated			unsubstantiated			unfounded			substantiated			unsubstantiated			unfounded			substantiated			unsubstantiated			unfounded		
	Total	Rate	No.	Rate	No.	Rate	No.	Rate	Total	Rate	No.	Rate	No.	Rate	No.	Rate	Total	Rate	No.	Rate	No.	Rate	No.	Rate			
Riverview	4	5.0	0	0.0	4	5.0	0	0.0	3	4.3	0	0.0	2	2.8	1	1.4	4	7.0	0	0.0	2	3.5	2	3.5			
Rochester	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0			
Shawangunk	4	8.2	0	0.0	1	2.1	3	6.2	4	8.3	0	0.0	3	6.2	1	2.1	9	20.4	0	0.0	8	18.1	1	2.3			
Sing Sing	18	11.4	2	1.3	11	7.0	5	3.2	21	14.0	2	1.3	15	10.0	4	2.7	11	8.4	1	0.8	8	6.1	2	1.5			
Southport	6	16.3	0	0.0	3	8.1	3	8.1	5	12.2	0	0.0	2	4.9	3	7.3	5	12.1	0	0.0	3	7.3	2	4.8			
Sullivan	10	22.0	0	0.0	9	19.8	1	2.2	20	43.5	0	0.0	18	39.1	2	4.3	23	50.2	0	0.0	18	39.3	5	10.9			
a Taconic	5	15.3	0	0.0	5	15.3	0	0.0	6	19.7	0	0.0	4	13.1	2	6.6	5	22.8	0	0.0	4	18.3	1	4.6			
Ulster	3	4.6	1	1.5	1	1.5	1	1.5	2	3.4	1	1.7	1	1.7	0	0.0	2	4.8	0	0.0	2	4.8	0	0.0			
Upstate	18	19.2	0	0.0	13	13.9	5	5.3	11	13.3	0	0.0	10	12.1	1	1.2	12	20.8	0	0.0	11	19.1	1	1.7			
Wallkill	1	1.9	0	0.0	1	1.9	0	0.0	3	5.4	0	0.0	2	3.6	1	1.8	0	0.0	0	0.0	0	0.0	0	0.0			
Washington	7	8.4	1	1.2	6	7.2	0	0.0	5	6.1	0	0.0	5	6.1	0	0.0	13	18.8	1	1.4	12	17.4	0	0.0			
Waterown	1	2.0	0	0.0	1	2.0	0	0.0	3	6.5	0	0.0	3	6.5	0	0.0	7	21.2	0	0.0	5	15.2	2	6.1			
Wende	14	17.7	1	1.3	9	11.4	4	5.1	18	23.5	0	0.0	17	22.2	1	1.3	12	17.0	0	0.0	8	11.3	4	5.7			
b Willard	10	16.8	0	0.0	6	10.1	4	6.7	7	11.9	0	0.0	7	11.9	0	0.0	5	16.0	0	0.0	5	16.0	0	0.0			
Woodbourne	6	7.6	2	2.5	4	5.1	0	0.0	6	7.6	1	1.3	5	6.3	0	0.0	11	15.0	3	4.1	7	9.6	1	1.4			
Wyoming	6	4.6	0	0.0	4	3.0	2	1.5	4	3.2	0	0.0	2	1.6	2	1.6	9	8.5	0	0.0	8	7.6	1	0.9			
Outside Hospital	0	n/a	0	n/a	0	n/a	0	n/a	1	n/a	0	n/a	1	n/a	0	n/a	0	n/a	0	n/a	0	n/a	0	n/a			
Other	0	n/a	0	n/a	0	n/a	0	n/a	1	n/a	0	n/a	1	n/a	0	n/a	2	n/a	0	n/a	1	n/a	1	n/a			

a Female correctional facility.

b Includes one or more female housing units.

c Medium security population includes specialized housing units designated with higher security levels.

Note: Rate of victimization equals the number of substantiated, unsubstantiated or unfounded incidents divided by the average custody population multiplied by 1,000. See Appendix C for full description.

APPENDIX B**Incident frequency by category type: Calendar year 2021**
Reported Allegations of Sexual Abuse and Sexual Harassment
Created in compliance with PREA Standard 115.89 (b)**State-operated confinement facilities**

Incarcerated Population	Nonconsensual Acts	Abusive Sexual Contact	Sexual Harassment	Total
Substantiated	0	2	1	3
Unsubstantiated	50	6	18	74
Unfounded	12	3	2	17
Ongoing	25	3	5	33
Total allegations reported	87	14	26	127

Staff	Sexual Misconduct	Sexual Harassment	Total
Substantiated	3	3	6
Unsubstantiated	187	56	243
Unfounded	42	17	59
Ongoing	110	23	133
Total allegations reported	342	99	441

State Operated confinement facilities excludes outside hospital allegations and other non-facility locations.

Community-based residential program sites

Releasees	Nonconsensual Acts	Abusive Sexual Contact	Sexual Harassment	Total
Substantiated	0	0	0	0
Unsubstantiated	1	0	1	2
Unfounded	0	0	0	0
Ongoing	0	0	0	0
Total allegations reported	1	0	1	2

Staff	Sexual Misconduct	Sexual Harassment	Total
Substantiated	0	0	0
Unsubstantiated	1	0	1
Unfounded	0	0	0
Ongoing	0	0	0
Total allegations reported	1	0	1

Data accurate as of file date 12/30/2022.

Excludes cases closed out to another case# where an investigation already exists for an associated complaint.

Uniform definitions provided by the Bureau of Justice Statistics (BJS) and the Prison Rape Elimination Act of 2003 are used in order to categorize allegations of sexual abuse and sexual harassment within DOCCS correctional facilities. These categories separate allegations by perpetrator type (staff type, incarcerated individual or releasee).

APPENDIX B

Incident frequency by category type: Calendar year 2022
 Reported Allegations of Sexual Abuse and Sexual Harassment
 Created in compliance with PREA Standard 115.89 (b)

State-operated confinement facilities

Incarcerated Population	Nonconsensual Acts	Abusive Sexual Contact	Sexual Harassment	Total
Substantiated	0	0	1	1
Unsubstantiated	16	2	5	23
Unfounded	5	1	0	6
Ongoing	69	5	16	90
Total allegations reported	90	8	22	120

Staff	Sexual Misconduct	Sexual Harassment	Total
Substantiated	3	4	7
Unsubstantiated	56	14	70
Unfounded	14	1	15
Ongoing	314	88	402
Total allegations reported	387	107	494

State Operated confinement facilities excludes outside hospital allegations and other non-facility locations.

Community-based residential program sites

Releasees	Nonconsensual Acts	Abusive Sexual Contact	Sexual Harassment	Total
Substantiated	0	0	0	0
Unsubstantiated	0	0	0	0
Unfounded	0	0	0	0
Ongoing	0	0	0	0
Total allegations reported	0	0	0	0

Staff	Sexual Misconduct	Sexual Harassment	Total
Substantiated	0	0	0
Unsubstantiated	0	0	0
Unfounded	0	0	0
Ongoing	0	0	0
Total allegations reported	0	0	0

Data accurate as of file date 12/30/2022.

Excludes cases closed out to another case# where an investigation already exists for an associated complaint.

Uniform definitions provided by the Bureau of Justice Statistics (BJS) and the Prison Rape Elimination Act of 2003 are used in order to categorize allegations of sexual abuse and sexual harassment within DOCCS correctional facilities. These categories separate allegations by perpetrator type (staff type, incarcerated individual or releasee).

APPENDIX C

Title 28 - Judicial Administration

Volume: 2

Date: 2012-07-01

Original Date: 2012-07-01

Title: Subpart A - Standards for Adult Prisons and Jails

Context: Title 28 - Judicial Administration.

CHAPTER I - DEPARTMENT OF JUSTICE (CONTINUED).

PART 115 - PRISON RAPE ELIMINATION ACT NATIONAL STANDARDS.

Subpart A—Standards for Adult Prisons and Jails

§ 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.

APPENDIX D

DEFINITIONS OF SEXUAL VICTIMIZATION

The New York State Department of Corrections and Community Supervision (DOCCS) utilizes uniform definitions as provided by 28 C.F.R. §115.6 in the National Standards to Prevent, Detect, and Respond to Prison Rape (under the Prison Rape Elimination Act of 2003).

These definitions are used to categorize allegations of sexual abuse within New York State correctional facilities and to separate allegations by perpetrator type (staff or incarcerated individual) and type of abuse.

Similar to the Survey on Sexual Victimization (SSV), the following categories of sexual abuse have been disaggregated into five categories as indicated below.

Incarcerated Individual Nonconsensual Act (I₁) - 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.

Incarcerated Individual Abusive Act (I₂) - sexual contact with 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.

Incarcerated Individual Sexual Harassment (I₃) – Repeated and unwanted 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 Sexual Misconduct (S₁) – any act or behavior of a sexual nature directed toward an inmate by an employee, volunteer, contractor or official visitor or other agency representative. Sexual relationships of a romantic nature between staff and inmates are included in this definition. Consensual and nonconsensual 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 for reasons unrelated to official duties or for sexual gratification.

Staff Sexual Harassment (S₂) – Repeated verbal statements, 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.

Repeated profane or obscene language or gestures. **FEDERAL CODE OF REGULATIONS**

Resulting determinations from completed investigations are classified as outlined verbatim in the Code of Federal Regulations Title 28, Chapter 1, subpart A, section 115.5, *General Definitions* (28 C.F.R. § 115.5) as Substantiated, Unsubstantiated, or Unfounded. This standard states that agencies shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

Substantiated – An allegation was investigated and determined to have occurred based on a preponderance of the evidence.

Unsubstantiated – An allegation was investigated, and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

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

DOCCS also recognizes that at the time of reporting, a final resolution may not yet have been determined. Under these circumstances, the matter will be identified as “Investigation Ongoing” indicating that evidence is still being gathered, processed, or evaluated, and a final determination has not yet been made.