

# Michigan Department of Health and Human Services— Juvenile Justice Programs

## Prison Rape Elimination Act, 2018 Annual Data and Annual Report

Michigan's State run and private contracted juvenile justice residential facilities are required to adopt and comply with all standards of the federal Prison Rape Elimination Act (PREA). The Michigan Department of Health and Human Services (MDHHS) Juvenile Justice Program's (JJP) policy mandates zero tolerance for sexual abuse and sexual harassment. Facilities must have preventive plans in place and, should allegations regarding sexual abuse or sexual harassment be made, all personnel must be appropriately trained to take action to rapidly restore safety, attend to and support the victim, and promptly initiate a thorough investigative process. Audits of each facility are required every three years to ensure compliance with PREA standards.

### Reporting Sexual Abuse or Harassment

Juvenile justice facility staff must provide youth with orientation training on multiple ways to report sexual abuse and sexual harassment. And ensure that reporting youth and witnesses are protected from retaliation. Facility staff inform youth that they will be protected from retaliation. Reporting options include:

- Verbally to any staff, counselor or administrator.
- In writing to any staff, counselor or administrator.
- In writing through the youth and family grievance process.
- Verbally or in writing to an advocate, parent, legal guardian, or attorney.
- Calling Children's Protective Services at 1-855-444-3911 or other outside reporting option as established by an individual facility.

Youth's family members and the public are also encouraged to report suspected sexual abuse or sexual harassment of youth in custody. Anonymous and third-party reports will be accepted.

### 2018 Sexual Abuse and Harassment Data

PREA Juvenile 28 CFR 115.389 states in part "... (MDHHS) shall make all aggregated sexual abuse data, from facilities under its direct control and from which it contracts, readily available to the public at least annually through its website ...". Aggregated data for the 2018 calendar year on sexual abuse and sexual harassment allegations, as defined in the Bureau of Justice Statistics' Survey of Sexual Victimization, follows:

#### **State Run Facilities**

The following aggregated data was reported for calendar year 2018 from the two state run juvenile justice facilities: Bay Pines Center, and Shawono Center.

#### **Demographic Data**

Number of youths held in these facilities on Dec. 31, 2018 was:

- Male: 61
- Female: 11
- Total: 72

Age of the youth held in these facilities was:

- Age 17 or younger: 58
- Ages 18-20: 14
- Age 21 or older: 0

Number of youth admitted to these facilities and discharged from these facilities was:

- Admitted: 92
- Discharged: 101

### **Private, Contracted Facilities**

The following aggregated data was self-reported for 2018 by private, contracted facilities that provide juvenile justice residential services. This includes the following: Bethany Christian Services, Calumet Center, Crossroads for Youth, Detroit Behavioral Institute, Great Lakes Recovery Centers, Highfields, Inc., Lakes Area Teaching Family Homes, Lakeside Academy, Lincoln Center, Martin Luther King House, Pineview Homes, St. Vincent-Matthew Hall, Starr Commonwealth, Vista Maria, Wolverine Human Services (WHS)-Clarence Fischer Center, WHS-Pioneer Work and Learn Center, WHS-Vassar House, WHS-Wolverine Secure Treatment Center, WHS-Wolverine Growth and Recovery Center, WHS-Wolverine Center, Muskegon River Youth Home (doing business as: Youth Opportunity-Evart Academy) and the Muskegon River Pathways of Hope (doing business as: Youth Opportunity Pathway Academy).

### **Demographic Data**

Number of youth held in these facilities on Dec. 31, 2018, was:

- Male: 715
- Female: 197
- Total: 912

Age of the youth held in these facilities was:

- Age 17 or younger: 877
- Ages 18-20: 35
- Age 21 or older: 0

Number of youth admitted and discharged from these facilities was:

- Admitted: 1277
- Discharged: 1153

### **Reporting & Allegation Statistics**

In 2018, all state run, and private, contracted facilities self-reported keeping a record of all allegations, whether substantiated or not, of the following: youth-on-youth non-consensual sexual acts, youth-on-youth abusive sexual contact, youth-on-youth sexual harassment, staff-on-youth sexual misconduct and staff-on-youth sexual harassment. All allegations are investigated and determined to be substantiated, unsubstantiated, unfounded or have an investigation ongoing. Substantiated allegations are determined to have occurred based on evidence. Unsubstantiated allegations are defined as the evidence was insufficient to make a final determination the event occurred. Unfounded allegations are determined not to have occurred. An allegation that is still under investigation at end of the reporting year are noted as under investigation. The following is a chart of the self-reported data for 2018:

Calendar Year 2018 All Facilities			
Description	State Run	Private Contracted	Total
Youth in residence on Dec. 31	72	912	984
Allegations of youth-on-youth non-consensual sexual acts	2	20	22
Substantiated	1	13	14
Unsubstantiated	0	7	7
Unfounded	0	0	0
Under Investigation	1	0	1
Allegations of youth-on-youth abusive sexual contacts	0	9	9
Substantiated	0	4	4
Unsubstantiated	0	3	3
Unfounded	0	1	1
Under Investigation	0	1	1
Allegations of youth-on-youth sexual harassment	0	8	8
Substantiated	0	1	1
Unsubstantiated	0	4	4
Unfounded	0	3	3
Under Investigation	0	0	0
Allegations of staff-on-youth sexual misconduct	2	23	25
Substantiated	0	9	9
Unsubstantiated	1	10	11
Unfounded	0	4	4
Under Investigation	1	0	1
Allegation of staff-on-youth sexual harassment	0	1	1
Substantiated	0	0	0
Unsubstantiated	0	0	0
Unfounded	0	1	1
Under Investigation	0	0	0
Total of all types of allegations per 100 youth in population			6.5
Percent of allegations substantiated			43%

## PREA Data Assessment

28 CFR 115.388 requires that the MDHHS review data on sexual abuse in juvenile justice residential facilities on an annual basis in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies and practices, improve training, and identify problem areas and take corrective action on an ongoing basis. This report includes a comparison of 2016, 2017 and 2018 data on sexual abuse allegations, reviews how PREA audits are used to develop corrective action plans to address compliance deficiencies, describes how investigations of sexual abuse and harassment allegations are conducted, and provides an assessment of the Department's progress in preventing sexual abuse and harassment of juvenile justice residential facility residents.

## Sexual Abuse and Harassment Allegation Year-to-Year Comparison Data

Comparison data on sexual abuse and harassment allegations and investigation outcomes for the 2018, 2017, and 2016 calendar years appears below:

Calendar Year 2018 All Facilities				Total
Youth in residence on Dec. 31				984
Allegations of youth-on-youth non-consensual sexual acts and abusive sexual contact				31
Substantiated 18	Unsubstantiated 10	Unfounded 1	Under Investigation 2	
Allegations of youth-on-youth sexual harassment				8
Substantiated 1	Unsubstantiated 4	Unfounded 3	Under Investigation 0	
Allegations of staff-on-youth sexual misconduct				25
Substantiated 9	Unsubstantiated 11	Unfounded 4	Under Investigation 0	
Allegations of staff-on-youth sexual harassment				1
Substantiated 0	Unsubstantiated 0	Unfounded 1	Under Investigation 0	
Total of all types of allegations per 100 youth in population				6.5
Percent of allegations substantiated				43%

Calendar Year 2017 All Facilities				Total
Youth in residence on Dec. 31				1,109
Allegations of youth-on-youth non-consensual sexual acts and abusive sexual contact				32
Substantiated 16	Unsubstantiated 12	Unfounded 4	Under Investigation 0	
Allegations of youth-on-youth sexual harassment				3
Substantiated 0	Unsubstantiated 2	Unfounded 1	Under Investigation 0	
Allegations of staff-on-youth sexual misconduct				13
Substantiated 4	Unsubstantiated 6	Unfounded 2	Under Investigation 1	
Allegations of staff-on-youth sexual harassment				9
Substantiated 2	Unsubstantiated 5	Unfounded 1	Under Investigation 1	
Total of all types of allegations per 100 youth in population				5
Percent of allegations substantiated				39%

Calendar Year 2016 All Facilities				Total
Youth in residence on Dec. 31				1,133
Allegations of youth-on-youth non-consensual sexual acts and abusive sexual contact				54
Substantiated 13	Unsubstantiated 23	Unfounded 18	Under Investigation 0	
Allegations of youth-on-youth sexual harassment				15
Substantiated 2	Unsubstantiated 4	Unfounded 9	Under Investigation 0	
Allegations of staff-on-youth sexual misconduct				11
Substantiated 1	Unsubstantiated 7	Unfounded 2	Under Investigation 1	
Allegations of staff-on-youth sexual harassment				8
Substantiated 0	Unsubstantiated 4	Unfounded 4	Under Investigation 0	
Total of all types of allegations per 100 youth in population				8
Percent of allegations substantiated				19%

## Data Analysis

The youth population in the facilities decreased as of year-end, from 1,109 in 2017 to 984 in 2018. Overall, there was an increase in the number of allegations made in 2018 compared to the number of allegations made by youth in 2017, with a total of 65 allegations made in 2018 versus a total of 57 allegations made in 2017. There were eight more allegations of *all* types made in 2018, of all the allegations 28 were substantiated in 2018 versus 22 in 2017. The largest decrease in reported allegations was in staff-on-youth sexual harassment from nine in 2017 with two substantiated to one in 2018 with zero substantiated. Youth-on-youth non-consensual sexual acts and abusive contact allegations decreased from 32 in 2017 to 31 in 2018. Allegations for youth-on-youth sexual harassment increased from three in 2017 to eight in 2018. The number allegations of staff-on-youth sexual misconduct increased in 2018, from 13 in 2017 to 25 in 2017, and nine of those allegations were substantiated in 2018 versus four allegations that were substantiated in 2017.

The goal of PREA is to eradicate all sexual abuse in juvenile facilities. There was an increase in the number of allegations reported in 2018, possibly indicating an increasing awareness with both staff and youth to report allegations. Youth, staff, or third parties can make allegations. There was also an increase overall of substantiated incidents mostly likely due an improved understanding regarding reporting, investigation, and effective response to allegations. This has produced improvements in the accuracy of reporting and effective intervention.

In review of these cases, it appeared that facility staff were receiving training, fully screening employment applications, and enforcing the PREA juvenile standards. One recommendation for improving prevention continues to be that facility leadership practice more vigorous supervision of staff and intervene more quickly when it appears that a staff person is not maintaining professional boundaries. Review of incidents indicated that in almost all cases, the substantiated allegations were the result of staff not maintaining strict professional boundaries when interacting with youth.

An allegation that youth-on-youth sexual activity was coerced is grounds for referral to law enforcement for investigation. PREA standards require that if staff engages in sexual misconduct with youth, the staff must be disciplined, with dismissal being the presumptive discipline. Allegations against staff that are substantiated must be referred to prosecuting authorities and reported to pertinent licensing entities.

## **PREA Audits**

PREA audits are robust and auditors are exacting in requiring that facilities comply with all the PREA juvenile standards. PREA audits must occur at each facility every three years. Audits assess and improve the effectiveness of facilities' sexual abuse prevention, detection, and response policies and practices. Audits are the principle method utilized by the MDHHS to effectively identify problem areas and mandate corrective action. Corrective action plans resulting from audit findings dictate activities that facilities must complete to achieve compliance and maximize youth safety.

By the end of 2018, all state run and private, contracted facilities were audited for PREA compliance by a U.S. Department of Justice (USDOJ)-certified auditor or have had compliance monitoring completed. All reports from those audits showed compliance with one facility needing a corrective action plan scheduled for completion in 2019.

Since 2012, MDHHS has provided consultation and on-site technical assistance to state run and contracted, private facilities to guide and support facilities in audit preparedness and achieving compliance. In conjunction with providing technical assistance, MDHHS also monitors and annually assesses facilities to ensure continued compliance. A full listing of the juvenile standards can be found online at the National PREA Resource Center website.