

Michigan Department of Health and Human Services— Juvenile Justice Programs

Prison Rape Elimination Act 2017 Annual Data and Annual Report

Michigan's public juvenile justice residential facilities and private facilities that contract with the state to provide juvenile justice residential services 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 establishes zero tolerance for sexual abuse and sexual harassment of residents in public and private facilities. Facilities must have preventive plans in place and, should allegations regarding sexual abuse or 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

Policy requires that juvenile justice facilities provide youth multiple ways to report sexual abuse, suspected abuse, and harassment. Youth must be given an orientation on the multiple reporting options available to them. Facilities must ensure that youth who report sexual abuse or harassment and supporting witnesses are protected from retaliation. Facilities must 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.
- Externally by telephoning 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 harassment of youth in custody. Anonymous and third-party reports must be accepted. The MDHHS Children's Protective Services line, 1-855-444-3911, can be utilized at any time to report suspected abuse or neglect of children, including sexual abuse.

2017 Sexual Abuse Data

PREA Juvenile Standard 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 2017 calendar year on sexual abuse and sexual harassment allegations, as defined in the federal Bureau of Justice Statistics’ Survey of Sexual Victimization, follows:

Public Facilities

The following aggregated data was reported for calendar year 2017 from the two state-operated juvenile justice facilities: Bay Pines Center, and Shawono Center.

Demographic Data

Number of youth held in these facilities on Dec. 31, 2017 was:

- Male: 59
- Female: 14
- Total: 73

Age of the youth held in these facilities was:

- Age 17 or younger: 60
- Ages 18-20: 13
- Age 21 or older: 0

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

- Admitted: 93
- Discharged: 94

Reporting & Allegation Statistics In

2017, it was reported that the facilities:

- Kept a record of all allegations of youth-on-youth nonconsensual sexual acts, whether substantiated or not, and kept a record of all allegations of attempted youth-on-youth non-consensual acts, whether the allegation was substantiated or not.
- Zero (0) allegations of youth-on-youth nonconsensual sexual acts were made in these facilities.
- Kept a record of all allegations of youth-on-youth abusive sexual contact, whether substantiated or not.
- Zero (0) allegations of youth-on-youth abusive sexual contact were made in these facilities.
- Kept a record of all allegations of youth-on-youth sexual harassment, whether substantiated or not.
- One (1) allegation of youth-on-youth sexual harassment was made in these facilities.

Of the allegations reported above:

Zero (0) were Substantiated	One (1) was Unsubstantiated: Evidence was insufficient to make a final determination that the allegation of youth-on-youth sexual harassment occurred.	Zero (0) were Unfounded	Zero (0) have an Investigation ongoing
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Additionally, it was reported that the public facilities:

- Kept a record of all allegations of staff sexual misconduct, whether the allegation was substantiated or not.
- Zero (0) allegations of staff sexual misconduct were made in these facilities.
- Kept a record of all allegations of staff sexual harassment, whether the allegation was substantiated or not.
- One (1) allegation of staff sexual harassment was made in these facilities.

Of the allegations reported above:

Zero (0) were Substantiated	Zero (0) were Unsubstantiated	Zero (0) were Unfounded	One (1) has an Investigation ongoing: A final determination has not yet been made as to whether the staff-on-youth sexual harassment incident occurred.
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Private Facilities

The following aggregated data for calendar year 2017 was reported by private agencies contracted by MDHHS to provide juvenile justice residential services (Bethany Christian Services, Crossroads for Youth, Detroit Behavioral Institute, Eagle Village, Great Lakes Recovery, Holy Cross Children’s Services, Highfields, Lakeside Inc., Muskegon River Youth Home, Muskegon River Pathway to Hope, Pineview Homes, Spectrum Human Services, Starr Commonwealth, Teaching Family Homes of Upper Michigan, Vista Maria, Wedgewood Christian Services, and Wolverine Human Services).

Demographic Data

Number of youth held in these facilities on Dec. 31, 2017, was:

- Male: 787
- Female: 249
- Total: 1,036

Age of the youth held in these facilities was:

- Age 17 or younger: 986
- Ages 18-20: 50
- Age 21 or older: 0

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

- Admitted: 1,737
- Discharged: 1,688

Reporting & Allegation Statistics

In 2017, the following statistics were reported by the facilities:

- All of the facilities reported keeping a record of all allegations of youth-on-youth nonconsensual sexual acts, whether the allegation was substantiated or not.
- Twelve (12) allegations of youth-on-youth nonconsensual sexual acts were recorded.

Of the allegations reported above:

Seven (7) were Substantiated: The event was investigated and determined to have occurred.	Four (4) were Unsubstantiated: Evidence was insufficient to make a final determination that the event occurred.	One (1) was Unfounded: The event was determined not to have occurred.	Zero (0) have an Investigation ongoing:
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Additionally, the facilities reported:

- All of the facilities kept records of all allegations of youth-on-youth abusive sexual contact, whether the allegation was substantiated or not.
- A total of Twenty (20) allegations of youth-on-youth abusive sexual contact were made at these facilities.

Of the allegations reported above:

Nine (9) were Substantiated: The event was investigated and determined to have occurred.	Eight (8) were Unsubstantiated: Evidence was insufficient to make a final determination that the event occurred.	Three (3) were Unfounded: The event was determined not to have occurred.	Zero (0) have an Investigation ongoing:
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Additionally, all of the facilities reported:

- Keeping a record of all allegations of youth-on-youth sexual harassment, whether the allegation was substantiated or not.

- Two (2) allegations of youth-on-youth sexual harassment were made at these facilities.

Of the allegations reported above:

Zero (0) were Substantiated: The event was investigated and determined to have occurred.	One (1) was Unsubstantiated: Evidence was insufficient to make a final determination that the event occurred.	One (1) was Unfounded: The event was determined not to have occurred.	Zero (0) have an Investigation ongoing:
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The private facilities reported:

- All facilities reported keeping a record of all allegations of staff sexual misconduct, whether the allegation was substantiated or not.
- Thirteen (13) allegations of staff sexual misconduct were made in these facilities.

Of the allegations reported above:

Four (4) were Substantiated: The event was investigated and determined to have occurred.	Six (6) were Unsubstantiated: Evidence was insufficient to make a final determination that the event occurred.	Two (2) were Unfounded: The event was determined not to have occurred.	One (1) has an Investigation ongoing: A final determination has not yet been made as to whether the event occurred.
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Additionally the private facilities reported:

- All facilities reported keeping a record of all allegations of staff sexual harassment, whether the allegations were substantiated or not.
- There were eight (8) allegations of staff sexual harassment made at these facilities.

Of the allegations reported above:

Two (2) were Substantiated: The event was investigated and determined to have occurred.	Five (5) were Unsubstantiated: Evidence was insufficient to make a final determination that the event occurred.	One (1) was Unfounded: The event was determined not to have occurred.	Zero (0) have an Investigation ongoing:
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PREA Annual Report

Section 115.388 of PREA 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 2017 and 2016 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 allegations are conducted, and provides an assessment of the Department's progress in preventing sexual abuse and sexual harassment of juvenile justice residential facility residents.

Sexual Abuse Allegation Year-to-Year Comparison Data

Statistical information listing numbers and types of allegations of sexual abuse or harassment are self-reported annually to MDHHS by privately-operated juvenile justice residential facilities under contract with MDHHS, and by the two public facilities operated by MDHHS. Comparison data on sexual abuse and sexual harassment allegations and investigation outcomes for the 2017, 2016, and 2015 calendar years appears below:

Calendar Year 2017 All Facilities	
Youth in residence on Dec. 31	1,109
Allegations of youth-on-youth sexual abuse or misconduct	32
Allegations substantiated	16
Allegations of staff-on-youth sexual misconduct	13
Allegations substantiated	4
Allegations of youth-on-youth sexual harassment	3
Allegations substantiated	0
Allegations of staff-on-youth sexual harassment	9
Allegations substantiated	2
Total of all types of allegations per 100 youth in population	5
Percent of allegations substantiated	39%

Calendar Year 2016 All Facilities	
Youth in residence on Dec. 31	1,133
Allegations of youth-on-youth sexual abuse or misconduct	54
Allegations substantiated	14
Allegations of staff-on-youth sexual misconduct	11
Allegations substantiated	1

Allegations of youth-on-youth sexual harassment	15
Allegations substantiated	2
Allegations of staff-on-youth sexual harassment	8
Allegations substantiated	0
Total of all types of allegations per 100 youth in population	8
Percent of allegations substantiated	19%

Calendar Year 2015 All Facilities	
Youth in residence on Dec. 31	1,175
Allegations of youth-on-youth sexual abuse or misconduct	12
Allegations substantiated	4
Allegations of staff-on-youth sexual misconduct	10
Allegations substantiated	1
Allegations of youth-on-youth sexual harassment	21
Allegations substantiated	11
Allegations of staff-on-youth sexual harassment	1
Allegations substantiated	0
Total of all types of allegations per 100 youth in population	4
Percent of allegations substantiated	36%

Data Analysis

There was a decrease in the number of reported allegations of sexual abuse, sexual misconduct, and/or sexual harassment made in 2017 compared to the number of allegations made by youth in 2016, with a total of 57 allegations made in 2017 versus a total of 88 allegations made in 2016. The largest proportion of that decrease was in allegations of youth-on-youth sexual abuse or sexual misconduct. Youth population in the facilities, collectively, remained fairly constant, as did the number of allegations of sexual harassment. The number of allegations of staff-on-youth sexual abuse rose slightly in the privately-operated facilities in 2017, increasing from 11 in 2016 to 13 in 2017, and four of those allegations were substantiated in 2017 versus one allegation that was substantiated 2016. There were no allegations of staff-on-youth sexual abuse leveled in the two public facilities in 2017. There were 31 fewer allegations of *all* types made in 2017 versus 2016, with 22 allegations of all types substantiated in 2017 versus 17 allegations of all types substantiated in 2016. The percentage of all types of sexual abuse and sexual harassment allegations that were substantiated in 2017 was 39%. Youth, staff, or third parties can make allegations.

While the goal of PREA is to eliminate all sexual abuse in juvenile facilities, the data from 2017 continues in most respects to reflect positive movement in that direction despite the fact that incidents still occurred. There was a decrease in reporting of

allegations by youth in 2017, possibly indicating that the sexual abuse prevention policies and practices that must be in place at all of the facilities were working. There was an increase of substantiated incidents of staff on youth sexual abuse, four in 2017 versus one in 2016. In review of these cases, it appeared that overall facilities were providing ample training, were fully screening employment applications, and were consistently enforcing the PREA juvenile standards. One recommendation for improving prevention was for facilities to practice more vigorous supervision of staff by supervisory-level personnel, and intervene more quickly when it appeared that a staff person was not maintaining professional boundaries. Review of incidents indicated that in almost all cases the substantiated allegations were the ultimate result of staff not maintaining strict professional boundaries when interacting with youth.

Awareness and understanding regarding reporting, investigation, and effective response to incidents of sexual misconduct have led to more accurate reporting and more effective intervention. Sexual misconduct by youth in custody, and by staff, have always occurred, hence the need for PREA. It appears that most facilities, and the state juvenile justice system as a whole, have been educated, are employing prevention, detection, and response activities more effectively, and overall are viewing, reporting, and investigating incidents with a new and more effective lens.

An investigative finding that youth-on-youth sexual activity was coerced is grounds for criminal prosecution. PREA Standards require that if staff engages in sexual misconduct with youth the staff must be disciplined up to and including dismissal, with dismissal being the presumptive discipline for staff sexual misconduct. Allegations against staff that are substantiated must be referred to prosecuting authorities and reported to pertinent licensing entities.

PREA Audits

PREA audits of facilities continue to indicate that youth have greater trust that facility personnel will respond appropriately and affirmatively when an allegation is made and will protect those making allegations from retaliation; a critical dynamic of the culture of sexual safety that PREA is attempting to imbue into all justice custody settings. By the end of 2017 all public and all but one of the privately-contracted facilities operating juvenile justice residential facilities had been audited for PREA compliance by a U.S. Department of Justice (USDOJ)-certified auditor at least once, and two-thirds of the facilities had been audited a second time. PREA audits must occur at each facility every three years. As a result of audits or other contracting factors three previously-contracted facilities no longer have active contracts with MDHHS for providing juvenile justice residential services to MDHHS youth, and/or have closed. Two other facilities are not operating at this time for reasons other than PREA compliance, however both of those facilities had passed PREA audits in 2015.

PREA audits are robust and auditors are exacting in requiring that facilities comply with all of the PREA juvenile standards. As a result, facilities that have successfully completed an audit will have youth, staff, and investigators that are better educated on

their rights and responsibilities under PREA for zero tolerance of sexual abuse and harassment. PREA Standards require youth and staff education, require that youth have the unrestricted right to use a grievance process and other avenues to report allegations, and that reporting youth and supporting witnesses be protected from retaliation for reporting. A full listing of the juvenile standards can be found online at the National PREA Resource Center website.

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.

The standards are designed to eliminate sexual abuse and sexual harassment of youth in custody. Since 2012 MDHHS has provided consultation and on-site technical assistance to public and private facilities to guide and support facilities in achieving compliance, and to assist facilities to prepare for audits. In conjunction with providing technical assistance, MDHHS also monitors facilities and periodically assesses facilities to ensure continued compliance.

Investigation of Allegations

PREA Standard 115.322—Policies to Ensure Referrals of Allegations for Investigations, requires that the Department ensures an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. In addition, if a separate entity is responsible for conducting criminal investigations, each facility must publish on its website a description of the responsibilities of both the facility and the investigating entity relative to conducting those investigations.

The MDHHS residential facility policy manual lists the requirements that facilities develop and attempt to enter into agreements with law enforcement agencies as part of responsive planning for conducting criminal investigations. If the facility conducts its own investigations, including administrative investigations, personnel conducting those investigations must have received specialized training. Facility policies and memorandums of understanding with outside investigative agencies must further detail the responsibilities of both parties. Standard agreement language between both of the public facilities and law enforcement agencies is:

The facility agrees to:

- Cooperate fully with law enforcement investigators.
- Not terminate an investigation solely because the source of the allegations recants the allegation.
- Make every effort to protect evidence and preserve incident scenes, if known or identified, until law enforcement investigators gather and preserve direct and circumstantial evidence.

- Ensure that sexual abuse victims/complainants and supporting witnesses are monitored for at least 90 days to prevent retaliation.

Law enforcement agrees to:

- Promptly, thoroughly, and objectively investigate allegations of sexual abuse as requested by the facility, Children's Protective Services, or others.
- Utilize investigators that have received special training in sexual abuse investigations involving juvenile victims.
- Follow nationally-established investigatory protocols for the investigation of sexual abuse allegations involving juveniles.
- Provide information about the progress of the investigation and provide investigation findings to the facility.