



Montgomery County Department of Correction and Rehabilitation Detention Services Division 2019 PREA Annual Report §115.88

PREA Background:

Since the passage of the Prison Rape Elimination Act in 2003, and through the adoption of PREA National Standards in August 2012, the Montgomery County Department of Correction and Rehabilitation has maintained a strong commitment to a Zero Tolerance policy for sexual abuse and sexual harassment. Included in the provisions of PREA are the development of standards for the detection, prevention, reduction and punishment of sexual abuse and sexual harassment in confinement settings.

Since 2005 the MCDOCR has actively taken steps to educate and train staff, contractors and volunteers on prohibited contact and inappropriate relationships with persons under our custody and supervision.

This is the MCDOCR's 6th annual report of data collected and aggregated pursuant to Prison Rape Elimination Act (PREA) Standard 115.88. The purpose of this report is to assess and improve the effectiveness of the agency's sexual abuse prevention, detection, and response policies, practices, and training. The facilities included in this report are the Montgomery County Detention Center and the Montgomery County Correctional Facility.

TRAINING:

All authorized personnel who have access to inmates within the facility are provided training, education and information on inmate-on-inmate sexual abuse and harassment and staff-on-inmate sexual abuse and harassment. Training and education serve as critical components of the Montgomery County Department of Correction and Rehabilitation efforts to prevent sexual violence. Staff assigned to all our facilities have participated in the comprehensive PREA training that has been a key element in the Department's mission to provide the best possible environment for detainees/inmates, and staff. The MCDOCR also continues to exceed the PREA standards by providing each employee, contractor and volunteer with refresher training annually and as needed to ensure that they all know and understand the MCDOCR's current sexual abuse and sexual harassment policies and procedures. Everyone who works within our agency receives training on the signs and symptoms of inmate sexual abuse and how to report allegations of abuse.



At MCDOCR, all Lieutenants and Captains, as part of their responsibilities, are trained as PREA investigators. As in years past there have been several retirements and promotions through these ranks. As a result, newly appointed Lieutenants have been provided with the PREA investigator information offered from the National Institutes of Corrections web site on the training specific to PREA investigators. There is a basic and an advanced course and all newly appointed Lieutenants have completed this training.

INMATE PREVENTION, INTERVENTION AND REPORTING METHODS:

The MCDOCR takes the safety of its inmates, residents and staff very seriously. Everyone who works within our Department receives training on how to report allegations of abuse and/or harassment. Inmates have numerous methods to report sexual assault/abuse, harassment and retaliation. They include:

- Telling any staff member (nurse, therapist, case manager, Correctional Officer or any supervisor, volunteer, contractor)
- Inmate request slip or note
- Inmate Grievance form
- Letter or note to the Captain
- Letter or note to the facility PREA Compliance Manager
- Letter or note to the Department PREA Coordinator
- Letter or note to the Chaplain
- Calling the internal Department PREA Hotline from any inmate telephone
- Calling the external PREA Hotline from any inmate telephone
- Staff and the public may call the external PREA Hotline

To address the prevention and intervention of possible sexual assault and/or harassment within MCDOCR, an initial inmate assessment is conducted during the intake and admission process. This is to help determine if the newly arrested inmate is a current or potential victim of sexual assault or battery or if they show tendencies of acting out with sexually aggressive behavior. During the objective jail classification assessment, specific criteria is used to help identify an inmate who may have a history of sexual assault or abusive behavior and/or of being sexually victimized. All inmates/residents also receive education on the Departments' Zero-Tolerance policy during intake and admission. Additionally, PREA information is available in the inmate handbook.

After assignment to a housing pod, education for inmates continues through signage throughout the facility and through a pre-recorded message on the inmate phone system. An orientation video is shown daily in the pre-placement pods. It is also during this time or when the inmate meets with their Case Manager for orientation that the



inmates are provided with the inmate guidebook. Procedures for reporting attempts of sexual abuse or harassment and incidents of sexual assault or battery are outlined, and information on how to access available support services as well as self-protection and prevention techniques are included. Details on a toll-free Hotline phone number are part of the video and materials. That information is also posted prominently throughout the facility. Inmates can contact the hotline from any inmate phone.

MCDOCR has teamed up with the County's Victim Assistance and Sexual Assault Program (VASAP) which has secured grant funding for a part time therapist who provides victim services exclusively to the inmate population at MCCF. If an inmate requires or requests these services while at MCDCC, they will be transferred to the MCCF. This certified and licensed position also provides staff trainings and inmate group support services related to PREA as the need arises.

PREA Disposition Types:

It should be noted that consensual sexual activity between inmates does not qualify as a PREA incident although it is against MCDOCR policy and may lead to disciplinary action. The Department PREA protocols would be followed until a determination of consent has been made. The PREA Standards provide definitions that guide the MCDOCR in determining the outcome of allegations investigated.

Those disposition types and their definitions are listed below after the Survey of Sexual Violence.

MCDOCR STATISTICS:

The findings from all investigations of reports received on inmate-on-inmate sexual abuse or harassment or all reports received on authorized personnel sexual abuse or harassment towards inmates are compiled monthly. These statistics help us to determine if MCDOCR can better detect, prevent and deter sexual violence within our facilities. This information also is reported to the U.S. Department of Justice on an annual basis.

INCIDENT REVIEWS:

During several incident reviews a trend was noticed that the PREA process was being utilized as a form of offender manipulation. For example, when an inmate files a PREA allegation, the process was being used by the inmates as a means of seeking other housing assignments for themselves or attempting to get a particular Correctional Officer re-assigned from a post.



These reviews also revealed that most of the unfounded inmate-on-inmate allegations stem from one inmate trying to get another inmate removed from the housing unit. In comparison, the majority of unfounded staff-on-inmate allegations stem from an inmate attempting to remove a Correctional Officer from their assigned post for a variety of reasons.

During many PREA investigations, it was determined that inmates are using the PREA process to get a quicker response to non-related PREA issues. This is seen as a short cut used by the inmates to get around currently established procedures.

Correctional staff recognize these behaviors and MCDOCR has responded by modifying established protocols in determining if an allegation rises to the threshold of PREA. After an evaluation, all allegations rising to the threshold of PREA will continue to be investigated to final disposition.

Those allegations determined not to meet the threshold of a PREA allegation and any non-related PREA issue presented as a PREA allegation will be handled accordingly. MCDOCR continues to maintain a proactive response in situations where corrective action is warranted.

ANALYSIS:

- MCDOCR continues with training compliance for authorized personnel and have expanded training schedules. The schedule includes non-vacation months for more availability. Also, MCDOCR will offer training at multiple facilities to allow employees easier access to complete mandatory PREA training.
- Employees who now accept a competitive promotion within the Department will need to submit to a criminal history check and must answer three PREA questions related to any previous or current incidents of institutional or community sexual abuse or harassment. Only the answering of the PREA questions will be required of employees for non-competitive promotions. This process is important to ensure the moral turpitude of those being promoted and to meet the PREA standards. To ensure all solicitations in the future inform applicants of the requirement, positions posted on the Montgomery County Careers website will indicate that prior to a promotional appointment within DOCR, the selected individual must answer the Prison Rape Elimination Act (PREA) questions and submit to a criminal history to comply with the Prevention Planning on Hiring and Promotion Decisions (115.17, 115.117, 115.217, 115.317) as it is a requirement to meet Federal law and audit standards. .
- Four (4) new high security/observation doors have been requisitioned and will be installed in N12, the male mental health housing unit. This will complete the refurbishing of all doors in N12 and will also provide one door for use in W25, the male



mental health step-down unit. This is part of our continuing efforts to increase safety for both staff and inmates in a high-risk housing area.

- MCDOCR continues to actively participate in the County Sexual Assault Response Team (SART) quarterly meetings to make sure that inmates have access to the most current community resources and information to receive services, so they can get any identified help they may need upon release. Inmates can receive information on these community services through our Re-Entry team members.
- After reviewing the substantiated and unsubstantiated findings from the sexual abuse and/or harassment allegations received in 2019, it has been determined that there was no need to change policy or practice. Monitoring technology was found to be adequate throughout the facilities. Staffing patterns are reviewed and evaluated annually as part of another department process and if there were any changes made, it was to ensure appropriate coverage on each shift at each facility. MCDOCR continues to implement best practices and the requirements of the PREA standards in order to address allegations of sexual abuse and sexual harassment of inmates.

This report is approved by:

Suzy Malagari, Warden
Montgomery County DOCR

Date



Allegations of Staff Sexual Misconduct/Abuse:

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total
Number Reported	1	0	2	1	2	2	0	1	2	2	1	0	14
Substantiated										1			1
Un-Substantiated			1		1						1		3
Un-Founded	1		1	1	1	2		1	2	1			10
Under Investigation													

Allegations of Staff Sexual Harassment:

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total
Number Reported	0	0	1	0	2	0	0	0	0	1	0	0	4
Substantiated													0
Un-Substantiated										1			1
Un-Founded			1		2								3
Under Investigation													

Other:

Reported – offender refused to cooperate													
Number Reported													
Substantiated													
Unsubstantiated													
Unfounded													
Under investigation													

COMMENTS:

* Total Allegations Received –33

Total Substantiated – 3

Total Unsubstantiated – 10

Total Unfounded –20

Total Under Investigation – 0

** Assume fields where no data is entered that no reports have been received.



INMATE ON INMATE SEXUAL VIOLENCE

The categories of inmate on inmate SEXUAL VIOLENCE are:

Nonconsensual Sexual Acts: 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 vagina or the penis and the anus including penetration, however slight;

OR

- Contact between the mouth and the penis, vagina, or anus;

OR

- Penetration of the anal or genital opening of another person however slight by a hand, finger, other instrument or object.

Abusive Sexual Contacts: (less severe) 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
- Exclude incidents in which the contact was incidental to a physical altercation.

Sexual Harassment by Another Inmate: 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

OTHER DEFINITIONS:

- **Substantiated** – The event was investigated and determined to have occurred
- **Unsubstantiated** – Evidence was insufficient to make a final determination that the event occurred.
- **Unfounded** – The event was determined NOT to have occurred.

Investigation Ongoing – A final determination has not yet been made



STAFF SEXUAL MISCONDUCT AND HARASSMENT

Staff Sexual Misconduct: Any behavior or act of a sexual nature directed towards an inmate by an employee, volunteer, contractor, official visitor, or other agency representative (exclude inmate family, friends or other visitors). Sexual relationships of a romantic nature between staff and inmates are included in this definition. Consensual or nonconsensual sexual 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;
- Completed, attempted, threatened, or requested sexual acts;
- Occurrences of incident exposure, invasion of privacy, or staff voyeurism for reasons unrelated to official duties or sexual gratification

OR

OR

Staff Sexual Harassment: Repeated verbal statements, comments or gestures of a sexual nature to an inmate by an employee, volunteer, contractor, official visitor, or other agency representative (exclude inmate family, friends, or other visitors). Include:

- Demeaning references to gender or sexually suggestive derogatory comments about body or clothing;
- Repeated profane or obscene language or gestures

OR

Gender Categories:

Transgender – A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth

Intersex – A person who's sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.