



## 2023 Annual Report of Sexual Victimization

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## PURPOSE

The Prison Rape Elimination Act (PREA) requires facilities to collect and review data “...to assess and improve the effectiveness of sexual abuse prevention, detection, and response policies and training” (Standard 115.88a). The purpose of this review is to:

- Identify problem areas and implement corrective actions across the Department;
- Compare the current year’s data and corrective actions with previous years; and
- Assess progress in addressing sexual abuse and harassment.

## BACKGROUND

The Federal Prison Rape Elimination Act (PREA) of 2003 was established to address the sexual abuse and sexual harassment of incarcerated persons in confinement settings. On June 20, 2012, the PREA Standards Final Rule, *National Standards to Prevent, Detect, and Respond to Prison Rape*, was released to address sexual violence, staff sexual misconduct, and sexual harassment of incarcerated persons. The New Jersey Department of Corrections (NJDOC) maintains compliance with PREA. This report is available to the public pursuant to PREA Federal Standards Sections 115.87 and 115.88.

PREA mandates the publication of standards aimed at ensuring compliance, with specifications designed to foster a culture of sexual safety within each facility. In addition to these mandatory standards, PREA requires correctional facilities to conduct sexual abuse incident reviews and to collect “accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions” (Standard 115.87a).

The final rule and standards were published in the Federal Register on June 20, 2012, and became effective on August 20, 2012. These standards require annual audits of one-third of the facilities under the Department’s jurisdiction, as well as Annual Governor Certification of Compliance for all facilities under the operational control of the state’s executive branch, including private facilities contracted to house incarcerated persons. Failure to certify compliance annually results in a five-percent reduction in Department of Justice (DOJ) identified grant funds for the following federal fiscal year. The NJDOC operates 9 correctional facilities. In 2023, the Department completed four PREA audits:

- New Jersey State Prison (NJSP)
- Edna Mahan Correctional Facility (EMCF)
- Garden State Youth Correctional Facility (GSYCF)
- South Woods State Prison (SWSP)

PREA requires that the Bureau of Justice Statistics (BJS) within the Department of Justice (DOJ) conduct a comprehensive statistical review and analysis of the incidence and effects of prison rape and sexual misconduct within correctional facilities nationwide. The NJDOC participates annually in the DOJ’s Survey on Sexual Victimization (SSV) to report allegations and outcomes of sexual abuse and harassment within the state's prison system. The SSV collects national data on

allegations and substantiated incidents that occur each calendar year, and this report reflects the NJDOC SSV data for 2023.

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### **NJDOC ZERO TOLERANCE POLICY**

NJDOC's PREA policy establishes a zero tolerance for sexual abuse, staff sexual misconduct, and sexual harassment, and provides guidelines for the prevention, detection, response, investigation, and tracking of allegations involving NJDOC incarcerated persons. The NJDOC will respond to, investigate, and support the prosecution of sexual abuse and sexual harassment both within the correctional system and externally, in partnership with state and local authorities. The NJDOC accepts and investigates all verbal, written, and anonymous reports of sexual abuse or sexual harassment made by incarcerated persons or third parties. Additionally, the County Prosecutor may be contacted for potential criminal investigation and prosecution.

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### **INVESTIGATIVE OUTCOMES**

Under federal PREA regulations, investigative outcomes can result in determinations that are substantiated, unsubstantiated or unfounded as defined by federal regulation. 28 C.F.R. §115.5.

**Substantiated Allegation:** An allegation that was investigated and determined to have occurred by a preponderance of the evidence.

**Unsubstantiated Allegation:** An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred by a preponderance of the evidence.

**Unfounded Allegation:** An allegation that was investigated and determined not to have occurred by a preponderance of the evidence.

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### **EDUCATION**

All staff, incarcerated persons, contractors, and volunteers are educated on their duties and responsibilities under NJDOC's zero tolerance policy and are provided information on the multiple ways to report an allegation, including third-party reporting. NJDOC remains diligent in investigating all allegations of sexual abuse, staff sexual misconduct, and sexual harassment involving incarcerated persons. The NJDOC also provides incarcerated persons with ongoing education regarding the zero tolerance policy, how to report sexual abuse or harassment, their rights and responsibilities under PREA, and available services related to sexual abuse.

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### **REPORTING AND PROTECTION FROM RETALIATION**

All NJDOC staff members, contractors, and volunteers are required to immediately report any occurrence of incarcerated person sexual abuse and/or sexual harassment. The NJDOC protects all incarcerated persons and staff who report sexual abuse or harassment and cooperate with investigations from retaliation by other incarcerated persons or staff.

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## RISK ASSESSMENTS

All incarcerated persons committed to the custody of the NJDOC are screened in-person by contracted health services to identify those at high risk of being sexually victimized and separate them from those at high risk of being sexually abusive. Information from this assessment is used by staff to inform housing, bed, work, education, and program assignments. Incarcerated persons may request to update this information at any time during their incarceration. Risk assessments are conducted at reception, during transfers, and updated upon request, referral, or when there is an incident of sexual abuse.

## SEXUAL ABUSE DATA

Every year, as a participant in the National Prison Rape Statistics Program, NJDOC reports to the U.S. Department of Justice Bureau of Justice Statistics the number and type of allegations of sexual victimization and investigative outcomes at NJDOC by other incarcerated persons or staff that are reported to correctional authorities. Data is reported in the Survey of Sexual Victimization State Prison Systems Summary Form (SSV). This is a federal standardized reporting form used nationwide for all state prison systems designed to collect uniform, mandated data on the incidence and prevalence of sexual victimization in state correctional facilities. The data collected is based on allegations of sexual victimization that are reported to correctional authorities.

Federal PREA regulations give specific definitions of prohibited conduct that constitute sexual victimization of an incarcerated person while in a state prison. It is broken down into two broad categories: incarcerated person on incarcerated person victimization and staff on incarcerated person victimization. While in everyday conversation it has become common for people to use shorthand phrases like “a PREA,” “a PREA incident” or “a PREA allegation,” or to ask questions like “how many PREAs do you have at NJDOC” it is important to note that PREA regulations prohibit certain acts of specifically defined conduct by incarcerated persons and staff. Reported conduct that meets these definitions constitutes an allegation of sexual victimization while in custody.

The Survey of Sexual Victimization utilizes the definition of “sexual abuse” 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). The NJDOC has established definitions under PREA that are more comprehensive than those published by the DOJ. These definitions were the result of litigation as well as issues encountered during standard implementation.

Data is submitted to the Bureau of Justice Statistics (BJS) in the following year for the preceding calendar year. Pending cases listed below were pending as of the submission date of the SSV each year.

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## STATISTICS

During the calendar year of 2023, the NJDOC conducted investigations into 184 incarcerated person-on-incarcerated person allegations and 356 staff-on-incarcerated person allegations, for a total of 540 formal investigations. With an incarcerated person population of 13,196 in prison and residential community reintegration facilities (12/31/2023), this results in a rate of 40.92 formal investigations per 1,000 individuals. The percentage of allegations by population is 4.09%. One case was substantiated. The rate of substantiated cases per PREA allegations is .18%.

Below are the statistics for reported allegations within NJDOC adult institutions in 2023, categorized by outcome:

### Incarcerated Person on Incarcerated Person Nonconsensual Sexual Acts

	2019	2020	2021	2022	2023
Substantiated	1	1	1	1	0
Unsubstantiated	20	23	30	36	21
Unfounded	3	2	1	6	3
Ongoing Investigation	0	1	7	14	41
TOTAL	24	27	39	56	86

Incarcerated Person on Incarcerated Person Nonconsensual Sex Acts is defined as, contact of an incarcerated person by another incarcerated person without their consent, or by coercion, or contact of an incarcerated person who is unable to consent or refuse; and contact between the penis and vagina or the penis and 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 by the hand, finger, or other object.

In 2022, the number of allegations for Incarcerated Person on Incarcerated Person Nonconsensual Sex Acts was 56.

In 2023, the number of allegations for Incarcerated Person on Incarcerated Person Nonconsensual Sex Acts was 86.

This equates to an **increase** of 53.57%.

### Incarcerated Person on Incarcerated Person Abusive Sexual Contact

	2019	2020	2021	2022	2023
Substantiated	0	1	1	1	0
Unsubstantiated	36	32	29	26	17
Unfounded	1	3	1	5	6
Ongoing Investigation	3	1	9	14	21
TOTAL	40	37	40	46	23

Incarcerated Person on Incarcerated Person Abusive Sexual Contact is defined as, contact of an incarcerated person by another incarcerated person without his or her consent, or by coercion, or contact of an incarcerated 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.

In 2022, the number of allegations for Incarcerated Person on Incarcerated Person Abusive Sexual Contact was 46.

In 2023, the number of allegations for Incarcerated Person on Incarcerated Person Abusive Sexual Contact was 23.

This equates to a **decrease** of 50%.

#### **Incarcerated Person on Incarcerated Person Sexual Harassment**

	2019	2020	2021	2022	2023
Substantiated	5	3	11	5	0
Unsubstantiated	43	51	59	91	36
Unfounded	4	5	6	5	2
Ongoing Investigation	0	3	9	7	37
<b>TOTAL</b>	<b>52</b>	<b>62</b>	<b>85</b>	<b>108</b>	<b>75</b>

Incarcerated Person on Incarcerated Person Sexual Harassment is defined as, repeated, and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by an incarcerated person toward another incarcerated person. Department of Justice PREA Resource Center (FAQ dated June 3, 2015) states: ““Repeated,” in the context of this provision, means more than one incident. Please note that the seriousness of the conduct should be taken into account in determining the appropriate commensurate response by the agency or facility. Serious misconduct along these lines, even if committed once, should still be addressed by the agency or facility.”

In 2022, the number of allegations for Incarcerated Person on Incarcerated Person Sexual Harassment was 108.

In 2023, the number of allegations for Incarcerated Person on Incarcerated Person Sexual Harassment was 75.

This equates to a **decrease** of 30.56%.

#### **Staff on Incarcerated Person Sexual Misconduct**

	2019	2020	2021	2022	2023
Substantiated	2	6	1	2	1
Unsubstantiated	50	61	90	149	45
Unfounded	16	9	19	41	37
Ongoing Investigation	0	7	12	30	119
<b>TOTAL</b>	<b>68</b>	<b>83</b>	<b>122</b>	<b>222</b>	<b>202</b>

Staff on Incarcerated Person Sexual Misconduct is defined as; threatened, coerced, attempted, or completed sexual contact, assault, or battery of an incarcerated person by staff. Staff is inclusive of employees, volunteers, and independent contractors assigned to an institution, community correctional facility, conservation camp, parole, or headquarters. Pursuant to NJDOC’s zero tolerance policy, all staff are held accountable for actions in violation of the

policy. The legal concept of "consent" does not exist between staff and incarcerated person; any sexual behavior between them constitutes sexual misconduct and subjects the staff member to disciplinary action and/or criminal prosecution.

In 2022, the number of allegations for Staff on Incarcerated Person Sexual Misconduct was 222. In 2023, the number of allegations for Staff on Incarcerated Person Sexual Misconduct was 202. This equates to a **decrease** of 9.01%.

#### Staff on Incarcerated Person Sexual Harassment

	2019	2020	2021	2022	2023
Substantiated	2	5	3	0	0
Unsubstantiated	66	112	51	114	67
Unfounded	14	7	5	8	8
Ongoing Investigation	2	5	3	26	79
TOTAL	84	129	62	148	154

Staff on Incarcerated Person Sexual Harassment is defined as, repeated verbal comments or gestures of a sexual nature to an incarcerated person or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures. Department of Justice PREA Resource Center (FAQ dated June 3, 2015) states: ""Repeated," in the context of this provision, means more than one incident. Please note that the seriousness of the conduct should be taken into account in determining the appropriate commensurate response by the agency or facility. Serious misconduct along these lines, even if committed once, should still be addressed by the agency or facility."

In 2022, the number of allegations for Staff on Incarcerated Person Sexual Harassment was 148. In 2023, the number of allegations for Staff on Incarcerated Person Sexual Harassment was 154. This equates to an **increase** of 4.05%.

## SUMMARY

In 2023, NJDOC had a total of 1 substantiated allegation of sexual misconduct, which involved staff and resulted in criminal charges. This is a decrease from 9 substantiated allegations in 2022, with 2 of those involving staff.

The total number of combined allegations **decreased** from 580 in 2022 to 540 in 2023, reflecting a **decrease** of 6.90%. At the same time, NJDOC saw a population **increase** of 231 incarcerated persons, based on the population results from December 31, 2022 (12,965) to December 31, 2023 (13,196).

The following factors contributed to the 53.57% increase in Incarcerated Person on Incarcerated Person Nonconsensual Sexual Acts allegations and the 4.05% increase in Staff on Incarcerated Person Sexual Harassment allegations in 2023:

- 1. Increase in Incarcerated Person on Incarcerated Person Nonconsensual Sexual Acts Allegations:** This increase can be attributed to NJDOC's heightened awareness and enhanced training. Efforts to make reporting easier, improve confidentiality processes, and strengthen educational initiatives for both staff and incarcerated persons have encouraged more individuals to report incidents. Additionally, the continued reinforcement of the zero tolerance policy, coupled with a shift towards a more transparent and supportive environment, likely contributed to the rise in reported allegations. The expansion of the Video Surveillance System and Body Worn Camera (BWC) program to additional institutions also played a role. Updated materials, including information about NJDOC's zero tolerance policy and various reporting methods (internal, external, third-party, confidential, and anonymous), were distributed to the incarcerated population. Additionally, the PREA Educational DVD was updated to include subtitles in the English version as well as on the Spanish version. These efforts have likely helped incarcerated persons recognize early signs of sexual abuse and report them before they escalate into more violent and abusive acts involving sexual contact.
- 2. Increase in Staff on Incarcerated Person Sexual Harassment Allegations:** The 4.05% increase in these allegations can be partially attributed to a lack of full understanding of the Staff on Incarcerated Person Sexual Harassment definition. In response, the PREA Compliance Unit, within the Division of Women's Services, revised the internal training program for new Institutional PREA Compliance Managers. This included ongoing training for audit preparation, the development of a new desk manual, and annual in-person training. The Department also created a plan to post for two Regional PREA Compliance Manager positions to support facilities in their compliance efforts. Furthermore, the PREA Compliance Unit worked with the Division of Training, Recruitment, and Professional Development to successfully update the annual PREA training for all staff and contractors. A refresher training for staff on misgendering incarcerated persons and Executive Staff



Training on Preponderance of the Evidence were also provided. Additionally, the comprehensive PREA Compliance policy was updated.

3. **Decrease in Other Allegations:** Decreases in allegations in other categories—Incarcerated Person on Incarcerated Person Abusive Sexual Contact (down by 50%), Incarcerated Person on Incarcerated Person Sexual Harassment (down by 30.56%), and Staff on Incarcerated Person Sexual Misconduct (down by 9.01%)—can be attributed to several factors. In 2023, the NJDOC continued to review incidents of sexual abuse and harassment to assess and improve its prevention, detection, and response efforts. The PREA Compliance Unit identified the need for continued support and resources to help facilities maintain compliance with DOJ standards during non-audit periods. The rolling audit process was reevaluated and revised to focus on targeted areas identified in prior PREA audits, and a pre-audit process was introduced to review all standards.

The NJDOC continues to make significant progress in addressing sexual abuse by thoroughly monitoring all allegations of abuse, staff sexual misconduct, and sexual harassment. Each case is investigated by trained professionals and reviewed by the institution's Administration team, including the Institutional PREA Compliance Managers. Any identified issues or trends are promptly addressed, which may involve updates to policies, procedures, education, or training, as well as assessing physical plant limitations and the need for additional video monitoring equipment.

## HOW TO REPORT SEXUAL ABUSE/SEXUAL HARASSMENT AT NJDOC

Beginning at reception and throughout their incarceration, incarcerated persons are informed of the Department's Zero Tolerance for sexual abuse/sexual harassment and the methods used to report it. Incarcerated persons who are victims of sexual abuse/sexual harassment, or have knowledge of sexual abuse/sexual harassment or retaliation should immediately report the incident by using any of the following reporting methods:

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### FOR INCARCERATED PERSONS IN AN NJDOC FACILITY TO REPORT SEXUAL ABUSE/SEXUAL HARASSMENT AND RETALIATION:

- Report verbally or in writing to any NJDOC staff member, contractor or volunteer
- Incarcerated person Remedy System form/JPAY Incarcerated person Computer Kiosk
- Contacting the Institutional PREA Compliance Manager;
- Contacting the Special Investigations Division (SID) or by dialing \*SID1# on the incarcerated person telephone system (Confidential Free Call)
- Ombudsman's Number 1-555-555-5555 (Confidential Free Call)

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### FOR STAFF TO REPORT SEXUAL ABUSE/SEXUAL HARASSMENT AND RETALIATION:

All NJDOC staff are required to promptly document and immediately report to their supervisor any allegation of sexual abuse/sexual harassment and retaliation.

- Report to Immediate Supervisor
- Contacting the Institutional PREA Compliance Manager
- Contacting the Special Investigations Division by Telephone: (609)826-5617

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### FOR THIRD PARTIES TO REPORT SEXUAL ABUSE/SEXUAL HARASSMENT AND RETALIATION:

Family members, friends, attorneys, clergy or any other third party, including staff may make a report of sexual abuse/sexual harassment or retaliation on an incarcerated person's behalf by using any of the following methods:

- Contacting the Correctional Facility's Institutional PREA Compliance Manager
- Contacting the Special Investigations Division by Telephone: (609) 826-5617

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## REPORTING OF SEXUAL ABUSE/SEXUAL HARASSMENT AND RETALIATION TO THE OFFICE OF CORRECTIONS OMBUDSPERSON:

The Office of the Corrections Ombudsperson serves as an independent confidential external resource for incarcerated persons and any third parties to report incidents of sexual abuse, harassment, or retaliation. Reports to this office are confidential and are anonymous upon request. All allegations of incarcerated person sexual abuse, sexual harassment or retaliation are forwarded to the NJDOC for investigation.

Incarcerated persons can contact the Office of the Corrections Ombudsperson by completing an "Ombudsperson Incarcerated Person Request for Assistance Form" that is available at each correctional facility, writing directly, or calling the confidential, toll-free Incarcerated person Telephone System number. Mail directed to or from the Office of the Corrections Ombudsperson is classified "Legal, Confidential and Official."

Third parties, including staff, can report sexual abuse/sexual harassment or retaliation in writing or by calling the Office's public telephone number.

### Office of Corrections Ombudsperson Contact Information:

Office of Corrections Ombudsman  
PO Box 855  
Trenton, NJ 08625

Incarcerated person Telephone System Number 1-555-555-5555 (Confidential/free call)

Public Reporting Number (609) 633-2596 (Confidential)

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