



STATE OF NEW HAMPSHIRE
DEPARTMENT OF CORRECTIONS
OFFICE OF THE COMMISSIONER

P.O. BOX 1806
CONCORD, NH 03302-1806
603-271-5603 FAX: 888-908-6609
TDD Access: 1-800-735-2964
www.nh.gov/nhdoc

Helen E. Hanks
Commissioner

Lynmarie C. Cusack
Director of Professional
Standards

CONSOLIDATED PREA ANNUAL REPORT
2019

REPORTING PERIOD

As required by the Prison Rape Elimination Act (PREA) Pub. L. No. 108-79 (2003), the New Hampshire Department of Corrections (NHDOC) has collected and reviewed data on allegations reported during the 2019 calendar year. This report is being produced in compliance with 28 CFR Part §§115.87-89 (2012).

The data is collected through a NHDOC database entry, which contains reports of allegations and investigations related to sexual harassment/abuse under the Division of Professional Standards. This report reflects the status of the consolidated 2019 allegations as of August 19, 2020.

REPORTING SUMMARY

A total of 44 allegations were investigated by trained internal affairs investigators assigned to the Division of Professional Standards stemming from all NHDOC facilities and units including:

- New Hampshire State Prison for Men – Concord (NHSP-Men)
- Northern New Hampshire Correctional Facility – (NCF)
- New Hampshire Correctional Facility for Women
- Secure Psychiatric Unit
- Division of Community Corrections
 - Transitional Work Center (TWC)
 - Transitional Housing Unit (THU) – Shea Farm
 - THU – Calumet House
 - THU – North End House

An additional 9 allegations were forwarded to other outside organizations where an individual reported there was an incident at a facility not operated by the NHDOC. In each of those instances, the report was forwarded within 72 hours of an investigator receiving the allegation. *See* PREA Standard §115.63.

Calendar year 2019 saw an increase of 9 allegations from calendar year 2018. This is an approximate 25% increase in the number of allegations brought in calendar year 2018. There are two open cases from remaining from 2019. The number of substantiated cases, however, realized a reduction of 50% over the two year period for resident on resident sexual abuse. There were no substantiated staff on resident sexual abuse or sexual harassment cases.



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In August of 2020 the NHDOC had just over 2200 residents. At approximately the same period in 2019 the total NHDOC offender population was 2650 which was consistent with the 2018 numbers at just under 2700 residents.

DEFINITIONS RELATED TO SEXUAL ABUSE AND HARASSMENT

- **Sexual Abuse**

- (1) Sexual abuse of an inmate or resident by another inmate or resident
- (2) Sexual abuse of inmate or resident by a staff member

Resident on Resident sexual abuse includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- (4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Staff on Resident sexual abuse includes abuse by a staff member, contractor, or volunteer performing any of the following acts, with or without consent of the inmate, detainee, or resident:

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;



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- (4) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (5) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;
- (7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and
- (8) Voyeurism by a staff member, contractor, or volunteer.

Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

- **Sexual Harassment**

- (1) 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, detainee, or resident directed toward another; and
- (2) Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, 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.



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***THIS REPORT LOOKS AT SEXUAL HARASSMENT AND SEXUAL ABUSE. SEXUAL ABUSE IS FURTHER SEPARATED AS ABUSIVE SEXUAL CONTACT, OR A NON-CONSENSUAL SEX ACT.**

**AGGREGATED SEXUAL ABUSE DATA 2019 –
PREA Standard 115.88 (a)**

<u>Case Number</u>	<u>Unsubstantiated</u>
16607	Resident on resident sexual harassment
16651	Resident on resident abusive sexual contact
16736	Resident on resident abusive sexual contact
16925	Resident on resident abusive sexual contact
16977	Staff on resident sexual harassment
17131	Resident on resident non-consensual sex act
17352	Resident on resident abusive sexual contact
17363	Resident on resident sexual harassment
17388	Resident on resident abusive sexual contact
17425	Resident on resident sexual harassment
18867	Resident on resident abusive sexual contact
19895	Resident on resident abusive sexual contact
19926	Resident on resident abusive sexual contact
19984	Resident on resident sexual harassment
19985	Resident on resident sexual harassment
20280	Resident on resident non-consensual sex act
20417	Resident on resident abusive sexual contact
20513	Resident on resident abusive sexual contact
20545	Resident on resident non-consensual sex act
20638	Resident on resident sexual harassment
20693	Resident on resident abusive sexual contact
20707	Resident on resident sexual harassment
20709	Resident on resident sexual harassment
20807	Resident on resident abusive sexual contact
20995	Resident on resident sexual harassment
21208	Resident on resident abusive sexual contact



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21234	Resident on resident abusive sexual contact
21235	Resident on resident sexual harassment
21246	Resident on resident sexual harassment
16920	Resident on resident abusive sexual contact

Unfounded

16835	Staff on resident sexual misconduct
17353	Resident on resident non-consensual sex act
18617	Resident on resident abusive sexual contact
19894	Resident on resident abusive sexual contact
20501	Resident on resident non-consensual sex act
20511	Resident on resident sexual harassment
20987	Resident on resident sexual harassment
21202	Staff on resident abusive sexual contact
21368	Resident on resident abusive sexual contact
22514	Resident on resident non-consensual sex act

Substantiated

16734	Resident on resident abusive sexual contact
19927	Resident on resident abusive sexual contact

Open

17333	Resident on resident abusive sexual contact
18683	Resident on resident sexual harassment



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**ANALYSIS
COMPARISON OF TOTAL NUMBER OF ALLEGATIONS**

	2018	2019	TOTAL (2 YR)	CHANGE
RESIDENT ON RESIDENT	27	41	68	+51%
SUBSTANTIATED	4	2	6	-50%
UNSUBSTANTIATED	14	29	43	+107%
UNFOUNDED	9	8	17	-11%
OPEN	0	2	2	
STAFF ON RESIDENT	8	3	11	-62.5%
SUBSTANTIATED	2	0	2	-100%
UNSUBSTANTIATED	1	1	2	0%
UNFOUNDED	5	2	7	-60%
OPEN	0	0	0	

COMPARISON BY TYPE

	2018	2019	TOTAL (2 YR)	CHANGE
SEXUAL ABUSE	26	29	55	11.5%
SEXUAL HARASSMENT	9	15	24	67%
TOTAL	35	44	79	25.8%

In 2019 while the total number of PREA cases increased overall in the Department, the number of substantiated staff on resident cases fell by 100%. Likewise, the number of substantiated resident on resident cases fell by 50%.

Members of the NHDOC Sexual Assault Response Team (SART) convened in May, 2020 via conference call, given the COVID-19 pandemic, to conduct a systemic case review of unsubstantiated cases in



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Community Corrections and NCF. The case review included reviewing whether there were issues related to policies, practices, dynamics, physical barriers, staffing leveling or unit monitoring to determine if improvements can be made to better prevent, detect or respond to sexual abuse. The SART did not reveal any root causes of race, ethnicity, gang affiliation, or group dynamics that contributed to the alleged incidents. In several of the cases reviewed, significant time delays were observed, where in reports of the abuse/harassment were not made within a reasonable period. In 5 cases, time delays of between 6 months and 17 years were noted.

The case review also revealed that video monitoring was problematic in some areas where for example camera angles made detection impossible. NHSP-Men as an example had bathroom areas, inside units such as H-building that due to privacy restrictions, do not allow a broad field of vision. Additionally, the quality of the video monitoring system, given its age, made detection of faces to prove identity of alleged perpetrators difficult.

COMPARISON BY FACILITY 2019

FACILITY	SUBSTANTIATED	UNSUBSTANTIATED	UNFOUNDED	TOTAL
NHSP-M	1	24	5	30 <small>*2 cases remain open</small>
NCF	0	3	1	4
NHCF- W	1	1	1	3
SHEA FARM	0	0	1	1
CALUMET/NORTH END	0	1	2	3
TWC	0	1	0	1
TOTAL	2	30	10	42_(+2)

There are two open cases from 2019 where the investigations remain uncompleted awaiting findings. The substantiated cases involve the unwanted, intentional touching of clothed genitalia. One case involved a transgender female, the other two females. In the NHCF-W case there was a scant preponderance of the evidence that the touching may have been unwanted, although the investigator believed it was better to give the benefit of the doubt, as there was a previous consensual kissing encounter.



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2019 PROGRAM ENHANCEMENTS

- In 2019 a policy revision was introduced relative to screening for the risk of victimization and abusiveness. *See* PREA Standard 115.41. The final rollout occurred in calendar year 2020.
- Also in 2019 all internal affairs investigators were required to complete a certificate program through the National Institute of Corrections (NIC) regarding PREA investigations.
- Training continued for new hires, in-service and contractors.
- Assessment of Physical Plant Issues – annual PREA facility assessments occurred at NCF, THU- Calumet and the TWC. To enhance supervision of any blind spot, surveillance monitoring was recommended and will be included in the upcoming capital budget upgrades at one facility.
- NHDOC was awarded a PREA Grant to be effective October 2020.

Submitted by:
Lynmarie C. Cusack
Director Professional Standards
Agency PREA Coordinator