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To: Sheriff Thomas Bowler
Superintendent Brad Little

From: Assistant Superintendent/General Counsel Daniel Sheridan
PREA Coordinator

Subject: Prison Rape Elimination Act (PREA) Annual Report 2023

1. The Prison Rape Elimination Act (PREA) of 2003 is a federal law designed to prevent, detect and eliminate rape of individuals in custody. In 2012, the National PREA Standards for Adults Prisons and Jails were issued. PREA Standard 115.88 requires correctional facilities to create an annual report of all sexual abuse and sexual harassment incidents reported within its facilities. This report must be completed, submitted to the agency head, and made public via the agency’s website.

2, Additionally we must identify problem areas and take corrective action on an ongoing basis. This report includes a comparison of the current year’s data and corrective actions along with those from prior years and provides an assessment of our progress in addressing sexual abuse.

3. In 2012, the Berkshire County Sheriff’s Office implemented PREA standards, providing education and informational material to inmates and training to staff. Since that time, the Sheriff’s Office has conducted staff training on PREA pursuant to Standard 115.31 consisting of classroom training, module training, shift report briefings, and e-mails concerning PREA issues. The Berkshire County Sheriff’s Office is committed to the safety and security of individuals in our custody, therefore, refresher training is provided to staff on an annual basis. Mental health and medical staff along with PREA investigators receive specialized training in accordance with Standard 115.33. Volunteer and contractor training is conducted in accordance with Standard 115.32. In January and April 2023, the Sheriff’s Office incorporated enhanced PREA training for its new Sergeants and Lieutenants which consisted of a review of PREA standards and supervisory responsibilities pertaining to PREA and “hands on” evidence collection scenarios. In November of 2023 five Officers were sent to PREA Specialized Training: Investigating Sexual Abuse in Confinement Settings for two days at Hampden County Sheriff’s Office. They are being phased in as PREA Investigators. Currently the PREA Investigators along the Training Coordinator are developing the curriculum to be used for all Staff in-person PREA training. This training is scheduled to begin April 2024. Additionally, a specialized training will be held on April 22, 2024 for PREA Investigators and Medical staff. This training will be conducted by the Elizabeth Freeman Center.

4. A toll free “hot line” is provided at the jail for all inmates so they can confidentially report sexual abuse or harassment. Inmates are also provided with contact information for and toll-free calling to the Elizabeth Freeman Center, which is an agency independent of the Sheriff’s Office. The

Elizabeth Freeman Center provides outside advocacy and confidential counseling for victims of sexual abuse. Independent Office Information about our PREA policies (including how to report sexual abuse and sexual harassment) is available to inmates through handouts during intake, the inmate handbook, posters in all housing units, and in other common areas. The PREA standards are also available to inmates in the law library. During 2023, material informing inmates on how to avoid and report sexual assault and harassment continued to be provided. The material was distributed through various formats, including the inmate orientation video, the inmate handbook, handouts provided to inmates and signs posted throughout the facility. Notices are posted in the lobby to advise family members, friends, visitors and attorneys for inmates about PREA.

5. In May of 2022, the Berkshire County Jail and House of Correction was audited by a United States Office of Justice certified PREA Auditor. The audit lasted two full days and encompassed every aspect of the entire facility where inmates and staff have contact. An extensive review of PREA related documentation, including agency policies and procedures, was conducted by the auditor prior to her arrival. Once at the facility, the auditor spent time speaking to at least 20 inmates and at least 25 staff members (including line officers, mental health staff, medical staff, supervisors, unit managers, PREA investigators, and top administrators), ensuring inmates and staff alike were aware of their rights and responsibilities under PREA, as well as examining inmate living, recreational, and work areas. The auditor also reviewed additional documents and examined PREA investigative files and viewed video recordings. Overall the facility was found by the auditor to be fully compliant with all 45 PREA standards, and zero (0) findings of non-compliance. Since the audit the Berkshire County Correctional facility has continued to meet the PREA regulations to this high standard.

6. In 2023, there were a total of 39 reports filed by inmates complaining of sexual abuse or harassment at the Berkshire County Correctional Facility, an increase of 25 incidents since 2022. A breakdown of the complaints is listed below:

Berkshire County Correctional Facility

BERKSHIRE COUNTY JAIL AND HOUSE OF CORRECTION 2023 STATISTICS

2023					
TYPE OF INCIDENT	ALLEGATIONS	SUBSTANTIATED	UNSUBSTANTIATED	UNFOUNDED	NON-PREA
Inmate on Inmate sexual abuse	8	0	5	1	2
Staff on Inmate sexual abuse	9	0	0	7	2
Inmate on Inmate sexual harassment	16	2	2	8	4
Staff on Inmate sexual harassment	6	0	0	5	1
Annual Total	39	2	7	21	9
Outside Agency Notifications	4				

7. Throughout the facility, there were a total of 22 reports of sexual harassment and 17 reports of sexual abuse. Of the 39 reported incidents, 15 were against staff and 24 were against inmates. Of the 24 reports of inmate-on-inmate sexual misconduct, 16 were for sexual harassment and 8 were for sexual abuse. All reports were thoroughly investigated and 9 of the reports were determined to be unfounded, 2 were determined to be substantiated, and 7 reports were determined to be unsubstantiated. Additionally, 6 reports were determined to be Non-PREA.

8. There were 9 claims of staff to inmate sexual abuse in 2023. There were 6 claims of staff-inmate sexual harassment. All claims were fully investigated and 12 were determined to be unfounded while 3 were found to be non-PREA. There were two allegations of staff on inmate sexual harassment in 2021 and five in 2022. I have reviewed all of the reports and subsequent investigations.

9. After reviewing all 39 investigative reports, it is apparent that all cases were investigated properly and thoroughly, in accordance with Berkshire County Sheriff's Office policy and PREA standards. There were no cases in 2023 that were submitted to the District Attorney for review.

10. I have compiled historical data for the previous five years (2019-2023) to provide a better representation of all incidents of sexual abuse and harassment throughout the agency. This data covers the Berkshire County Correctional Facility which housed an average of 148.5 inmates on a daily basis during 2023.

2019	Sexual Assault	Sexual Harassment	Total
Cell	0	0	0
POD	0	6	6
Booking	0	0	0
Other	2	0	2
Total	0	6	8
2020	Sexual Assault	Sexual Harassment	Total
Cell	0	1	1
POD	1	1	2
Booking	0	0	0
Other	0	1	1
Total	1	3	4
2021	Sexual Assault	Sexual Harassment	Total
Cell	0	2	2
POD	1	4	5
Booking	0	0	0
Other	0	0	0
Total	1	6	7
2022	Sexual Assault	Sexual Harassment	Total
Cell	5	3	8
POD	0	7	7
Booking	0	0	0
Other	0	0	0

Total	5	10	15
2023	Sexual Assault	Sexual Harassment	Total
Cell	11	5	16
POD	4	17	21
Booking	0	0	0
Other	2	0	2
Total	17	22	39

	PREA Statistics for Annual Report	2019	2020	2021	2022	2023
	General Information					
1.	New admissions to BCJHOC during the year	1,458	565	571	644	860
2.	Average daily population for year	199.62	167.33	141.15	168.06	193.60
	Inmate-on-Inmate Sexual Victimization					
1.	Between January 1 and December 31 how many allegations of inmate on inmate sexual abuse were reported?	1	1	1	1	8
2.	How many Substantiated?	0	1	0	0	0
3.	Unsubstantiated?	1	0	1	0	5
4.	Unfounded?	0	0	0	0	1
5.	Non-PREA?	-	-	-	-	2
6.	Ongoing?	0	0	0	1	0
7.	Between January 1 and December 31 how many allegations of inmate on inmate sexual harassment were reported?	5	3	4	4	16
8.	How many Substantiated?	3	1	0	1	2
9.	Unsubstantiated?	2	0	2	3	2
10.	Unfounded?	0	2	2	0	8
11.	Non-PREA?					4
12.	Ongoing?	0	0	0	0	0

	Staff-on-Inmate Abuse					
1.	Between January 1 and December 31 how many allegations of staff on inmate sexual harassment?	1	1	2	5	6
2.	How many Substantiated?	0	0	0	0	0
3.	Unsubstantiated?	1	0	0	0	0
4.	Unfounded?	0	1	2	5	5
5.	Non-PREA?	-	-	-	-	1
6.	Ongoing?	0	0	0	0	0
6.	Between January 1 and December 31 how many allegations of staff on inmate sexual abuse were reported?	1	0	0	4	9
7.	How many Substantiated?	0	0	0	0	0
8.	Unsubstantiated?	1	0	0	0	0
9.	Unfounded?	0	0	0	4	7
10.	Non-PREA?	-	-	-	-	2
11.	Ongoing?	0	0	0	0	0
1.	Total number of Substantiated incidents?	3	2	0	1	2
2.	Total number of Unsubstantiated incidents	5	0	3	3	7
3.	Total number of Unfounded incidents	0	2	4	9	21
4.	Total number of Non-PREA incidents	17*	6*	4*	2*	9
5.	Total number of PREA incidents	8	4	7	14	39

*In previous years, an allegation that was investigated and determined to be Non-PREA was not reported in these statistics. However, in an effort to better depict the full picture, I felt it was appropriate to include all investigations alleging a PREA violation including those ultimately determined to be non-PREA. Those year's Non-PREA findings have been added to this chart. As a result, the numbers of PREA allegations increased at least in part because more expanded reporting (beyond the required reporting) was implemented.

11. In reviewing all reports since 2015, excluding those determined to be unfounded, inmates are typically victimized by other inmates and these offenses primarily occurred in inmate living areas.

12. During 2017 the security upgrade project at the Berkshire County Correctional Facility, included the installation of the Avigilon Control Center. This program enhanced the amount of video we could store on our server by four months to help us with investigations if the victim did not report it right away.

13. Also during 2019^[DS1], all security staff attended classroom in-service training that included a block of time dedicated to PREA. This training served as refresher training as well as addressed any questions staff had regarding PREA. Further, line supervisors attended a training specific to the role they play as first responding supervisors if a PREA incident occurs while they are on duty. PREA module training and PREA Refreshers were conducted in 2020, through 2023. ^[DS2]

14. Due to the Massachusetts Criminal Justice Reform Bill (Chapter 69 of the Acts of 2018) going into effect late in 2018 changes were made to policy regarding transgender inmates. Staff received training on these changes, specifically on how to address inmates in a manner consistent with their gender identity; to ensure that inmates have access to commissary items, clothing, programming, educational material, and personal property consistent with gender identity; the requirement to conduct searches by same gender as the gender identity of the inmate for strip searches and consistent with the inmate's request; and, the requirement to house according to gender identity, consistent with prisoner's request, unless the sheriff or designee certifies in writing such housing will not ensure the prisoner's health or safety or such housing would create management or security problems. In accordance with the CJRA, we developed a form used at the outset of the intake process, before any search is conducted, for inmates to declare if they are intersex or transgender and, if so, the gender of staff they wish to have search them.

15. Further, the PREA team arranged for property to be made available in the event a transgender inmate is housed at the facility.

16. A PREA review committee continues to meet monthly and to discuss any issues relevant to PREA and the implementation of the PREA standards. Following each investigation of a PREA allegation, the PREA committee makes an assessment regarding whether any changes to staffing levels or video monitoring or other areas are necessary to avoid or deter prohibitive conduct. There were no recommendations made regarding staffing levels in 2023. Criteria reviewed in the staffing plan included: generally accepted practices, judicial findings of inadequacy, any findings of inadequacy from federal investigative agencies or internal/external audits, a physical tour of the facility, current inmate population, number and placement of supervisory staff, programs occurring on each shift, any state or local laws, the prevalence of substantiated and unsubstantiated incidents of sexual abuse, as well as any other relevant factors. In October of 2021, 9 Corrections Officers graduated from the Correctional Officer Academy and were assigned to shifts this has continued to allow the facility to maintain daily minimum staffing levels. Correctional Officer Academies also graduated March, 18 2022 (11 Officers), November 11, 2022 (11 Officers), May 19, 2023 (2 Officers) and November 16, 2023 (7 Officers).

In 2020 & 2021, the COVID-19 pandemic led a host of changes from increased cleaning, new COVID screening procedures for staff and inmates, mask wearing by inmates and staff, additional PPE issued to staff as necessary to more limited inmate movement (no county or state transfers), the temporary layoffs of non-essential staff (volunteers, clerical staff, etc.), the temporary cessation of personal visit (continues in effect), the institution of video visits for both personal and legal visits, video court and less frequent transportation of inmates, among a myriad of other changes.

Throughout much of 2020 and 2021, most inmates were single bunked to allow for separation and “social distancing” to the extent possible.

In 2023, many of the COVID restrictions were lifted leading to increased socialization amongst inmates and the return of contact visits. At the same time the inmate population is rising, placing inmates in greater contact with one another. The average daily population was as follows:

2019 – 199.62

2020 - 167.33

2021 – 141.15

2022 – 168.06

2023 – 193.60

Another reason for the significant increase in PREA claims against staff in 2023 (in addition to expanded reporting of allegations determined to be non-PREA and the increasing inmate population) was strict enforcement of the rule that inmates cannot block their cell door windows. Nine of the complaints in 2023 resulted from increased enforcement of this rule which is necessary to ensure the safety of inmates and for staff to properly perform their duties. Inmates repeatedly claimed that making them take down these so-called “privacy shields” violated their right to privacy and violated PREA. Inmates were educated that this requirement that officers be able to see into cells is not a PREA violation. Seeing into cells is necessary to insure the well-being of inmates [e.g. appropriate person(s) in cell, no self-harm being committed, no fighting taking place in the cell, no drug activity or other illicit conduct going on, etc.] PREA expressly recognizes that staff may in the course of their duties view inmates in a state of undress or utilizing the toilet. See, for example, definition of voyeurism within “sexual abuse” in Standard 115.6.

17. The Berkshire County Sheriff’s Office is aggressively working to improve in all aspects of the PREA process and continues to make great strides in the prevention, detection and response to inmate sexual assaults and sexual harassment. The regularly assigned staff at the Berkshire County Sheriff’s Office continues to do an outstanding job of managing care, custody and control of our inmates. They work very hard every day and interact with the inmates regularly and in a professional manner to ensure the Agency’s mission is met.

18. We continue to look forward to the security upgrade, which has completed the design phase & which will bring enhanced video monitoring capabilities. Because the project exceeds \$5 million, the Commonwealth’s Division of Capital Asset Management and Maintenance (DCAMM) is managing the project. Video has proved to be extremely helpful in conducting investigation into allegations of sexual harassment/abuse.