



# Essex County Sheriff's Department

20 Manning Ave  
P.O. Box 807  
Middleton, MA 01949-2807



Kevin F. Coppinger  
Sheriff

Telephone 978-750-1900  
[www.essexsheriffma.org](http://www.essexsheriffma.org)

## *Office of Professional Standards*

**Date:** January 27, 2022  
**To:** Kevin F. Coppinger, Sheriff  
**From:** Joseph Magnarelli, Assistant Superintendent, Office of Professional Standards  
**Subject:** Essex County Sheriff's Department 2021 Prison Rape Elimination Act Annual Report

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### **INTRODUCTION:**

The Prison Rape Elimination Act (PREA) was signed into federal law in September 2003 following unanimous support from both parties in the United States Congress. The purpose of the law was to provide information, resources, recommendations, and funding to protect individuals from sexual abuse and sexual harassment in confinement facilities. PREA seeks to establish a "Zero Tolerance" policy regarding rape, sexually abusive behavior, and sexual harassment in federal, state, and local correctional systems. PREA also mandated the publication of standards to ensure compliance and to improve prevention, detection, and response strategies in addressing rape, sexually abusive behavior, and sexual harassment.

In August 2012, the United States Department of Justice (DOJ) issued the final PREA standards for: Prisons and Jails, Lockups, Community Confinement Facilities and Juvenile Facilities. These standards required DOJ audits of all facilities under the agency's operational control of the Commonwealth of Massachusetts' Executive Branch, to include private facilities operating on behalf of the Executive Branch to house inmates. The first 3-year audit cycle began in August 2013. Failure to comply with the standards would result in a loss of 5 percent of identified federal grant funding.

The Essex County Sheriff's Department (ECSD) facilities; Essex County Correctional Facility and Sheriff's Headquarters (ECCF), the Essex County Pre-Release and Re-Entry Center (ECPRC) and the Women in Transition Center (WIT) were accredited by the DOJ PREA audit in 2016.

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On June 24-26 of 2019, a PREA audit was conducted at the Essex County Correctional Facility, the Essex County Pre-Release and Re-Entry Center, and the Women in Transition Center. All three facilities were reaccredited by the Department of Justice, with the auditor finding ECSD meeting and/or exceeding 45 out of 45 PREA standards. The following 5 standards received the grade “Exceeded”: 115.11 - Zero Tolerance of sexual abuse and sexual harassment, 115.31 - Employee training, 115.33 - Inmate education, 115.42 - Use of screening information and 115.86 - Sexual abuse incident reviews. No corrective action was found to be necessary.

The ECSD remains committed to a Zero-Tolerance policy towards all forms of sexual harassment and sexually abusive behaviors and is dedicated to meeting or exceeding the PREA standards set forth by the DOJ. The Essex County Correctional Facility, the Essex County Pre-Release and Re-Entry Center, and the Women in Transition Center are scheduled for a re-accreditation audit in March 2022.

### **BACKGROUND:**

The DOJ PREA standards require our agency to collect a defined set of data for every investigation into allegations of sexually abusive behaviors and sexual harassment. These standards further require the Essex County Sheriff’s Department to aggregate and review that data to assess and improve our effectiveness as an agency at preventing, detecting, and responding to PREA allegations. Standards related to the collection of data include: § 115.87 Data Collection, § 115.88 Data Review for Corrective Action and § 115.89 Data Storage, Publication, and Destruction. For reference purposes, they are included within this report.

#### ***§ 115.87 Data Collection***

- a. The agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.
- b. The agency shall aggregate the incident-based sexual abuse data at least annually.
- c. The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.
- d. The agency shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
- e. The agency also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates.
- f. Upon request, the agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

#### ***§ 115.88 Data Review for Corrective Action***

- a. The agency shall review data collected and aggregated pursuant to § 115.87 to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:
  1. Identifying problem areas.

2. Taking corrective action on an ongoing basis; and,
  3. Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.
- b. Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.
  - c. The agency's report shall be approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means.
  - d. The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility but must indicate the nature of the material redacted.

***§ 115.89 Data Storage, Publication, and Destruction***

- a. The agency shall ensure that data collected pursuant to § 115.87 are securely retained.
- b. The agency shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means.
- c. Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers.
- d. The agency shall maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.

**INVESTIGATIVE STANDARDS/DEFINITIONS:**

The definitions used by DOJ are extensive for each category of abuse and misconduct. Below are those definitions:

- a. Evidentiary Standard: The agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.
  1. Substantiated: Substantiated allegation means an allegation that was investigated and determined to have occurred.
  2. Unsubstantiated: An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
  3. Investigation ongoing: Evidence is still being gathered, processed or evaluated, and a final determination has not yet been made.
  4. Unfounded: An allegation that was investigated and determined not to have occurred.
- b. Incidents of sexual violence or sexual harassment (inmate-on-inmate):
  1. Nonconsensual Sexual Acts: Sexual 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 vulva or the penis and the anus including penetration, however slight; or contact between the mouth and the penis, vulva, or anus; or penetration of the anal or genital opening of another person, however slight, by a hand, finger, or other instrument.

2. Abusive Sexual Contacts: 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.
  3. Sexual Harassment: 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 towards another.
- c. Incidents of sexual violence or sexual harassment (staff-on-inmate):
1. Staff Sexual Misconduct: Any behavior or act of a sexual nature directed toward an inmate by an employee, volunteer, contractor, official visitor, or other agency representative (exclude 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 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 or completed, attempted, threatened, or requested sexual acts, or occurrences of indecent exposure, invasion of privacy, or staff voyeurism for reasons unrelated to official duties or for sexual gratification.
  2. Staff Sexual Harassment: Repeated verbal comments or gestures of a sexual nature to an inmate by an employee, volunteer, contractor, official visitor, or other agency representative (exclude family, friends, or other visitors). This includes demeaning references to gender or sexually suggestive or derogatory comments about body or clothing, or repeated profane or obscene language or gestures.

### **INVESTIGATIVE FINDINGS:**

A complete review of all PREA allegations reported to the ECSD's Security Investigations (SI) Unit was conducted. This review encompassed allegations from all 3 ECSD facilities. There was a total of 56 allegations reported in 2021. A total of 32 allegations were reported as having occurred at the ECSD. Of those 32, 5 were reported at other agencies as having occurred at the ECSD. The ECPRC had a total of 2 allegations reported. There were no allegations of incidents at the WIT during 2021.

Of the 56 total allegations from 2021, 20 were allegations reported as having occurred at other agencies and outside of ECSD custody. In accordance with 115.63 of the DOJ PREA standards, those allegations were referred to their respective facilities. A total of 4 allegations were fully investigated and did not meet the criteria/definition of a PREA case. The remaining 32 allegations met the criteria/definitions used to open an investigation.

Below is a summary of the 2021 investigations and a comparison to the 2020 and 2019 allegations investigated.

### 2021 Investigation Findings

Category	Investigative Outcomes				
	Substantiated	Unsubstantiated	Unfounded	Pending	Line Total
Inmate-Inmate Sex Acts	0	5	0	0	5
Inmate-Inmate Sexual Abuse Contact	0	8	0	0	8
Inmate-Inmate Sexual Harassment	0	8	2	0	10
Inmate-Inmate Other	0	2	0	1	3
Staff Sexual Misconduct	0	1	3	0	4
Staff-Inmate Sexual Harassment	0	0	2	0	2
<b>Total</b>	<b>0</b>	<b>24</b>	<b>7</b>	<b>1</b>	<b>32</b>

### 2020 Investigation Findings

Category	Investigative Outcomes				
	Substantiated	Unsubstantiated	Unfounded	Pending	Line Total
Inmate-Inmate Sex Acts	0	1	1	2	4
Inmate-Inmate Sexual Abuse Contact	0	2	1	0	3
Inmate-Inmate Sexual Harassment	0	2	1	0	3
Staff Sexual Misconduct	0	0	0	0	0
Staff-Inmate Sexual Harassment	0	0	1	0	1
<b>Total</b>	<b>0</b>	<b>5</b>	<b>4</b>	<b>2</b>	<b>11</b>

### 2019 Investigation Findings

Category	Investigative Outcomes				
	Substantiated	Unsubstantiated	Unfounded	Pending	Line Total
Inmate-Inmate Sex Acts	2	2	0	1	5
Inmate-Inmate Sexual Abuse Contact	0	14	1	0	15
Inmate-Inmate Sexual Harassment	0	3	0	0	3
Staff Sexual Misconduct	1	0	1	0	2
Staff-Inmate Sexual Harassment	0	3	0	0	3
<b>Total</b>	<b>3</b>	<b>22</b>	<b>2</b>	<b>1</b>	<b>28</b>

### **TRENDS:**

From 2019 to 2021, the Essex County Sheriff's Department (ECSD) investigated a total of 71 allegations. A total of 3 allegations were substantiated. This represents approximately 4.2%, which is half of the national average of 8.4% substantiated allegations.

From 2020 to 2021, the ECSD saw a roughly 34% increase in allegations investigated. Some contributing factors may include:

In 2021, 4 staff members virtually attended PREA Academy, put on through the National PREA Resource Center. Assistant Superintendent Joseph Magnarelli (PREA Coordinator), Captain Amanda Burnham (Facility PREA Manager - Middleton), Lieutenant Joseph DiPietro (Facility PREA Manager - ECPRC), and Sergeant Ann Zannini (Facility PREA Manager - WIT) completed the course to assist in the implementation of the PREA standards at the ECSD and its facilities. The knowledge gained through this course assisted in the initial response process to many of these allegations.

ECSD continues to conduct orientation for civilian vendors, volunteers, interns, and contractors. During this orientation, we stress the importance of PREA, its history, methodology of reporting allegations, and responsibilities of staff in the response to allegations.

The inmate population receives timely orientation after initial intake where they were informed of their right to remain free from all forms of sexual harassment and assault while in ECSD custody. The inmate population received numerous methods of reporting allegations of sexual harassment and assault (ECSD tip hotline, verbal or in writing to any staff member, District Attorney's Office through writing or hotline, National Sexual Assault Hotline, and Third-Party Reporting).

A concerted effort was put forth by staff when conducting Vulnerability and Predatory Risk Assessments to inform the inmate population as to the reason and need for the assessments. This genuine approach and the open dialogue it generated with our population created a strong avenue of communication. This allows for allegations to be reported without fear of retaliation or discrimination.

In 2021, due to the impact of the ongoing global Covid-19 pandemic, the ECSD fluctuated through various stages of lockdown status, where the inmate population had limited time outside of their cell and housing assignment. Due to the Zero-Tolerance policy of the ECSD regarding all forms of sexual harassment and assault, any allegation must be fully investigated, which may mandate certain housing assignment changes for either individual involved in an allegation.



### **IDENTIFIED PROBLEM AREAS AND CORRECTIVE ACTIONS:**

The DOJ PREA standards require an agency to identify any problem areas and develop plans of corrective action(s) to remedy them. Based on the statistical data, the substantiated victimization rate within the ECSD is low in comparison to the available national average. There were no obvious problem areas which were not already being addressed through our efforts to achieve compliance with PREA standards and our demonstrated compliance with the PREA standards and our successful DOJ PREA audit in 2019. However, the ECSD continues to evaluate, and when necessary, improve its current policies, procedures, and practices to continue to meet and exceed the DOJ standards, to keep its inmates/residents safe and free from sexual harassment and abuse.

### **RESOLVED PROBLEM AREAS FROM 2020:**

The ECSD continued to provide comprehensive PREA education and training to all staff, contractors, volunteers, vendors, and inmates on the ECSD's Zero Tolerance policy on all forms of sexual harassment and sexual assaults. Additionally, the ECSD continues to work with outside stakeholders collaboratively to ensure the Department meets and/or exceeds the PREA standards as set-forth by the DOJ.

### **2021 ASSESSMENT OF THE ECSD's PROGRESS IN ADDRESSING INMATE SEXUAL HARASSMENT and ABUSE:**

The Essex County Sheriff's Department continues to be a grateful recipient of U.S. Department of Justice, Office of Justice Programs, and Bureau of Justice Assistance, 2020 Implementing the PREA Standards, Protecting Inmates, and Safeguarding Communities, Grant Award. The Department continues to work with WellPath, the Department's contracted medical provider, to provide timely and more efficient mental health care to inmates/residents who have been impacted by sexual abuse/harassment.

The Department has strategically utilized Federal Grant funds to purchase PREA mirrors, new camera systems, and to off-set the cost of continued training for all staff members.

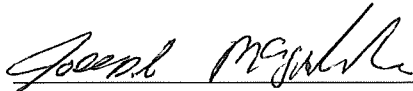
In 2021 the following staff members were added to the PREA Team:

- Assistant Superintendent III Jennifer Padre, Director of Clinical Services.
- Assistant Superintendent IV Rachel Goguen, Inspections and Compliance.
- Assistant Superintendent IV Kim Murtagh, Director of Classifications.
- Assistant Superintendent I Joseph Magnarelli, Department PREA Coordinator.
- Sarah Whitney-Swenson, Director of Mental Health.

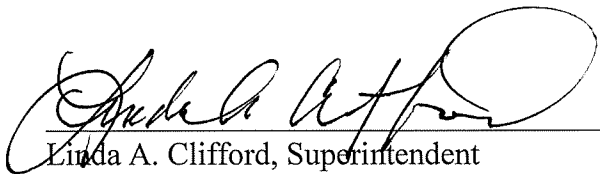
The ECSD is diligently working to improve in all areas of PREA implementation and continues to make great strides in the prevention, detection, and response to all allegations of sexually abusive behaviors and sexual harassment.

We are proud of our staff at all levels throughout the ECSD as we have consistently demonstrated our commitment to the Prison Rape Elimination Act by having all our facilities accredited through the DOJ PREA audit process. The unwavering commitment of all staff allows for safe facilities for both inmates and employees. We continue to work tirelessly and remain confident we will be successful in our upcoming PREA audit, scheduled for March 2022.

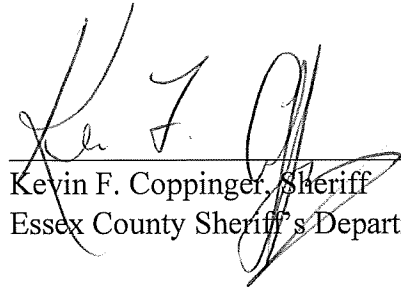
The undersigned have conducted a joint review of the contents of the Essex County Sheriff's Department, 2021 Prison Rape Elimination Act (PREA) Annual Report on: 02-02-2022



Joseph Magnarelli, Assistant Superintendent  
PREA Coordinator



Linda A. Clifford, Superintendent  
Office of Professional Standards



Kevin F. Coppinger, Sheriff  
Essex County Sheriff's Department