



Evaluation of the Federal Bureau of Prisons' Efforts to Address Sexual Harassment and Sexual Assault Committed by Inmates Toward Staff



EVALUATION AND INSPECTIONS DIVISION

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EXECUTIVE SUMMARY

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Introduction

The U.S. Department of Justice (DOJ, Department) and its employees are governed by a policy framework that, among other things, establishes that sexual harassment is unacceptable in DOJ workplaces. In the Federal Bureau of Prisons' (BOP) correctional setting, harassment—including harassment of a sexual nature—can manifest in federal inmates' behavior toward BOP staff working in the correctional facilities (referred to as inmate-on-staff sexual harassment). Incidents in which BOP staff experience harassment perpetrated by inmates have significant ramifications not only for the individuals involved but also for the BOP and its workforce as a whole.

Following receipt of congressional inquiries expressing concern about the BOP's handling of inmate-on-staff sexual harassment, the Office of the Inspector General (OIG) initiated this evaluation in May 2019 to assess the prevalence and effects of inmate-on-staff sexual harassment, as well as the BOP's efforts to address this form of inmate behavior.¹ This evaluation focuses on inmate-on-staff sexual harassment; does not cover sexual harassment perpetrated by staff toward inmates, other staff, or contract staff; and does not cover sexual harassment perpetrated by inmates toward other inmates. For more information on prior OIG and federal government work relating to inmate-on-inmate and staff-on-inmate sexual harassment, see [Appendix 4](#).

Recommendations

We make nine recommendations to the BOP, which relate to assessing the full scope of inmate-on-staff sexual harassment across the BOP and increasing the effectiveness of the BOP's mitigation efforts.

Results of the Evaluation

The OIG found that, while the BOP has highlighted inmate-on-staff sexual harassment issues, it can do more to assess the full scope of the issue and increase the effectiveness of its mitigation efforts. We found that the BOP had inadequate data on inmate-on-staff sexual harassment and is not consistently identifying the gender of the victim, whether the victim is an inmate or staff member, and the specific inmate behavior within its prohibited act codes, which could be preventing it from fully realizing the scope of the problem. Despite the weaknesses in BOP inmate-on-staff sexual harassment data, through staff interviews, focus groups, and a survey, we determined that inmate-on-staff sexual harassment occurs across BOP institutions and BOP staff believe that it particularly affects employees who are women. We also found that, because the BOP has inadequate data and cannot fully identify the prevalence and scope of inmate-on-staff sexual harassment BOP-wide, the BOP's mitigation actions cannot fully address the associated problems. Additionally, the BOP's inability to fully identify and effectively mitigate inmate-on-staff sexual harassment has negative effects on both the BOP and its staff and can lead to unsafe work environments, which can cause staff emotional and physical stress and could lead to potential legal liability for the BOP.

Finally, we found that, while the BOP's staff training includes some information on inmate-on-staff sexual harassment, we believe that the BOP could do more to educate its staff on inmate-on-staff sexual harassment and that the BOP's training could further emphasize resources to assist staff who witness or experience inmate-on-staff sexual harassment.

¹ At the outset of the coronavirus disease 2019 pandemic in March 2020, the OIG shifted resources to

extensive pandemic-related oversight, which delayed our completion and issuance of this report.

Table of Contents

Introduction	1
Background	1
Scope and Methodology of the OIG Evaluation	2
Results of the Evaluation	5
The BOP Has Been Unable to Identify the Prevalence and Scope of Inmate-on-Staff Sexual Harassment, Which Prevents the BOP from Fully Addressing the Associated Problems	5
Inmate-on-Staff Sexual Harassment Content in BOP Staff Training Is Minimal, and BOP Staff Are Divided on Its Effectiveness	26
Conclusion and Recommendations	31
Conclusion.....	31
Recommendations	31
Appendix 1: Purpose, Scope, and Methodology	33
Standards	33
Purpose and Scope	33
Methodology.....	33
Appendix 2: Corrective Actions for Federal Correctional Complexes Coleman and Victorville	36
Tracking and Processing Incident Reports.....	36
Disciplinary Rules	36
Practices to Deal with Inmate Sexual Misconduct Toward Staff.....	37
Threat Assessment and Staff Notification	38
Measures to Reduce Opportunities for Inmate Sexual Misconduct Toward Staff.....	38
Communication to Inmates	39
Behavior Modification and Psychology Treatment Programs	40
Special Housing Unit.....	41
General	42
Appendix 3: BOP Institutions by Number of Staff Reporting Inmate-on-Staff Sexual Harassment Incidents in the OIG Survey and Institution Security Levels	44
Appendix 4: Related Reviews and Studies	47
U.S. Department of Justice Office of the Inspector General.....	47

U.S. Government Accountability Office	48
Appendix 5: BOP Staff Suggestions for Mitigating Inmate-on-Staff Sexual Harassment.....	49
Appendix 6: The BOP’s Response to the Draft Report	53
Appendix 7: OIG Analysis of the BOP’s Response.....	57

Introduction

Background

The Department of Justice (DOJ, Department) has a zero tolerance policy with respect to sexual harassment in DOJ workplaces.² In 2013, DOJ leadership provided a policy statement to DOJ employees to enhance workplace awareness and the capacity to create a safe work environment for employees and contractors, stating that “existing Department policy does not tolerate violence, threats, harassment, intimidation, or other disruptive behavior in the workplace.”³ In 2015, DOJ leadership expanded this policy to implement a “zero tolerance” environment throughout the Department, stating that “the Department will tolerate no form of harassment and will take immediate and appropriate corrective action to address it.”⁴ In 2018, the Department issued a memorandum that sets forth important directives for the DOJ components to follow in an effort to enforce the Department’s zero tolerance policy for sexual harassment, including facilitating consistent discipline for substantiated allegations of sexual harassment or misconduct and developing processes to track the handling of sexual misconduct and harassment allegations.⁵ Further, the 2015 policy stated that the Department will not wait for a pattern of offensive conduct to emerge before addressing claims of harassment. Rather, the Department will act before the harassing conduct is so pervasive and offensive as to constitute a hostile environment. The Department requires component management to respond to allegations of sexual harassment promptly and strive to eliminate such behaviors from the workplace. More recently, in July 2021, DOJ leadership issued a memorandum reaffirming the Department’s commitment to providing a workplace free from sexual harassment and misconduct and its obligation to prevent sexual harassment and misconduct when addressing the needs of its workforce.⁶ This communication was accompanied by an announcement that the Department had established a steering committee to review the sexual harassment policies, practices, training, and awareness efforts of DOJ components to evaluate whether the current policies serve the needs of employees. As a component of DOJ, the Federal Bureau of Prisons (BOP) is subject to these directives and policies on sexual harassment.

The Department’s Policy Statement on Federal Workplace Responses to Domestic Violence, Sexual Assault, and Stalking defines sexual harassment as “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly affects an

² On its website, the Department has public information on the prevention of sexual harassment in the workplace. See, for example, DOJ, [“Reporting, Investigating, and Taking Action on Allegations of Sexual Harassment and Sexual Misconduct,”](https://www.justice.gov/policies-and-directives-effect-relating-and-duty-conduct-including-sexual-misconduct) May 28, 2018, www.justice.gov/policies-and-directives-effect-relating-and-duty-conduct-including-sexual-misconduct (accessed November 16, 2022).

³ DOJ Policy Statement 1200.02, [Federal Workplace Responses to Domestic Violence, Sexual Assault, and Stalking,](https://www.justice.gov/jmd/page/file/1047636/download) November 19, 2013, www.justice.gov/jmd/page/file/1047636/download (accessed June 9, 2022).

⁴ Loretta E. Lynch, Attorney General, memorandum for all Department of Justice Employees, [Policy Memorandum # 2015-04: Prevention of Harassment in the Workplace,](https://www.justice.gov/jmd/file/786691/download) October 9, 2015, www.justice.gov/jmd/file/786691/download (accessed November 16, 2022).

⁵ Rod J. Rosenstein, Deputy Attorney General, memorandum for Heads of Department Components, [Sexual Harassment and Sexual Misconduct,](https://www.justice.gov/jmd/page/file/1059401/download) April 30, 2018, www.justice.gov/jmd/page/file/1059401/download (accessed June 9, 2022).

⁶ Lisa O. Monaco, Deputy Attorney General, memorandum for All Employees, [Steering Committee to Review Sexual Harassment Policies,](https://www.justice.gov/dag/page/file/1419171/download) July 29, 2021, www.justice.gov/dag/page/file/1419171/download (accessed November 17, 2022).

individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.”⁷ Sexual assault refers to a range of behaviors, including but not limited to a completed or attempted nonconsensual act and/or abusive sexual contact. Stalking refers to “harassing, unwanted or threatening conduct that causes a victim to reasonably fear for his or her safety or the safety of a family member.” In the BOP correctional setting, harassment—including harassment of a sexual nature—can manifest in federal inmates’ behavior toward BOP staff working at the correctional facilities (referred to as inmate-on-staff sexual harassment). The BOP generally defines sexual harassment, stalking, and assault consistent with the aforementioned DOJ policy and further elaborates on the type of victim particular to a prison environment (staff, inmate, etc.).⁸ In a survey of BOP staff that the Office of the Inspector General (OIG) conducted during this evaluation, inmate-on-staff “sexual harassment” and “sexual misconduct” were defined as a range of behaviors that are nonconsensual or unwanted with the inmate’s intent to harass staff or for sexual gratification. For purposes of this evaluation, the OIG uses the term “sexual harassment” to encompass all forms of sexual harassment and sexual misconduct.

Incidents in which BOP staff experience harassment perpetrated by inmates have significant ramifications not only for the individuals involved but also for the BOP and its workforce as a whole. The BOP has several program statements that contain policies relevant to sexual harassment and that specifically address inmate-on-staff sexual harassment.⁹ Several other BOP program statements, such as those that address sanctions for prohibited acts by inmates and processes for referring incidents involving inmates as criminal matters, are tangentially relevant to inmate-on-staff sexual harassment.¹⁰

Unlike staff-on-staff and staff-on-inmate sexual harassment in the workplace, inmate-on-staff sexual harassment has yet to be widely researched and studied.

Scope and Methodology of the OIG Evaluation

The DOJ OIG has received multiple congressional inquiries regarding concerns about the BOP’s efforts to keep its staff safe. In recent years, civil suits and public reporting have detailed inmate-on-staff sexual

⁷ DOJ Policy Statement 1200.02.

⁸ The BOP definitions are based on Federal Regulations from 28 C.F.R. § 115.6, Prison Rape Elimination Act National Standards.

⁹ The BOP has many of its policies and program statements available to the public on its website. See, for example, BOP Program Statements 3713.26, [Bureau of Prisons Anti-Harassment Policy](http://www.bop.gov/policy/progstat/3713_026.pdf), June 16, 2014, www.bop.gov/policy/progstat/3713_026.pdf; 5324.12, [Sexually Abusive Behavior Prevention and Intervention Program](http://www.bop.gov/policy/progstat/5324_012.pdf), June 4, 2015, www.bop.gov/policy/progstat/5324_012.pdf; and 3713.25, [Bureau of Prisons Anti-Discrimination Policy](http://www.bop.gov/policy/progstat/3713_025.pdf), June 16, 2014, www.bop.gov/policy/progstat/3713_025.pdf (all accessed June 10, 2022).

¹⁰ See BOP Program Statements 1350.01, [Criminal Matter Referrals](http://www.bop.gov/policy/progstat/1350_001.pdf), January 11, 1996, www.bop.gov/policy/progstat/1350_001.pdf; 5324.10, [Sex Offender Programs](http://www.bop.gov/policy/progstat/5324_010.pdf), February 15, 2013, www.bop.gov/policy/progstat/5324_010.pdf; 5110.17, [Notification Requirements Upon Release of Sex Offenders, Violent Offenders, and Drug Traffickers](http://www.bop.gov/policy/progstat/5110_017.pdf), May 16, 2014, www.bop.gov/policy/progstat/5110_017.pdf; 5394.01, [Certification and Civil Commitment of Sexually Dangerous Persons](http://www.bop.gov/policy/progstat/5394_01.pdf), February 1, 2016, [www.bop.gov/policy/progstat/5394.01.pdf](http://www.bop.gov/policy/progstat/5394_01.pdf); 5100.08, [Inmate Security Designation and Custody Classification](http://www.bop.gov/policy/progstat/5100_008cn.pdf), September 4, 2019, www.bop.gov/policy/progstat/5100_008cn.pdf; and 5270.09, CN-1, [Inmate Discipline Program](http://www.bop.gov/policy/progstat/5270.90_cn1.pdf), November 18, 2020, www.bop.gov/policy/progstat/5270.90_cn1.pdf (all accessed June 10, 2022).

harassment of Correctional Officers, particularly female officers, at BOP institutions.¹¹ The OIG initiated this evaluation in May 2019 to assess the prevalence and effects of inmate-on-staff sexual harassment, as well as the BOP's efforts to address this form of inmate behavior.¹²

This evaluation examined conditions related to inmate-on-staff sexual harassment at federal correctional facilities owned and operated by the BOP, including correctional institutions, detention centers, and U.S. penitentiaries, which we collectively refer to as "BOP institutions." The scope of this evaluation did not include the setting or staff of private contract prisons or Residential Reentry Centers. This evaluation focused on inmate-on-staff sexual harassment and did not cover sexual harassment perpetrated by staff toward inmates, other staff, or contract staff and did not cover sexual harassment perpetrated by inmates toward other inmates (see [Appendix 4](#) for a summary of prior OIG and federal government work relating to inmate-on-inmate and staff-on-inmate sexual harassment).

To accomplish our objectives, we evaluated relevant DOJ policies and assessed BOP policies and program statements. In addition, we conducted data analysis of incidents involving sexual harassment and other sexual misconduct of staff by inmates that were sanctioned by the BOP between fiscal years (FY) 2015 and 2021.¹³ We conducted over 100 interviews with BOP staff in positions at BOP Central Office, regional offices, and several BOP institutions across the country and conducted three focus groups with staff to gain insight on their experiences, perceptions, and beliefs related to inmate-on-staff sexual harassment. Additionally, we spoke with BOP inmates and external stakeholders to obtain their perspectives on this issue. We performed in-person, on-site visits at three BOP institutions; to obtain input from a wider population, we deployed an anonymous online survey, addressing staff experiences and perceptions of sexual harassment by inmates, to all staff employed by the BOP in September–October 2019. The survey was open for 3 weeks, and we received 7,334 total survey responses. Of the 7,334 survey responses, nearly 40 percent (2,597) of the respondents identified as female; 59 percent (3,842) identified as male; and 1.6 percent (104) identified as other, while an additional 10.8 percent (791) of respondents provided an incomplete response. In addition, we obtained updated information on BOP training documents in FY 2021 concerning sexual harassment. The majority of our fieldwork centered on staff experiences, perceptions, and beliefs as of 2019, though our interviews and survey also encompassed historical experiences.

At the time of this evaluation, the BOP did not have a reliable accounting of all allegations of inmate-on-staff sexual harassment, so we could analyze only the number of sanctioned incidents involving inmate-on-staff sexual harassment. This hindered our ability to conduct a comprehensive analysis of the prevalence and effects of inmate-on-staff sexual harassment. Additionally, inmate-on-staff sexual harassment has yet to be

¹¹ Senators Dianne Feinstein and Ron Johnson, letters to the Honorable Michael E. Horowitz, Inspector General, U.S. Department of Justice, November 29, 2018, and December 11, 2018, respectively. The congressional inquiries referenced a news media investigation of sexually abusive behaviors and harassment that female employees experienced while working at BOP institutions. "[Hazing, Humiliation, Terror: Working While Female in Federal Prison](#)," *The New York Times*, November 17, 2018, www.nytimes.com/2018/11/17/us/prison-sexual-harassment-women.html (accessed June 10, 2022).

¹² At the outset of the coronavirus disease 2019 pandemic in March 2020, the OIG shifted resources to extensive pandemic-related oversight, which delayed our completion and issuance of this report.

¹³ The BOP refers to allegations of inmate-on-staff sexual harassment for which the inmates have been found guilty of prohibited act(s) as "sanctioned." We refer to these findings as "sanctioned incidents."

widely researched and studied, which limited our abilities to ascertain a broader depth of research and analysis on this subject. For further details on the scope and methodology of this evaluation, see [Appendix 1](#).

Results of the Evaluation

We found that, while the BOP has taken some actions to respond to allegations and mitigate the risk of inmate-on-staff sexual harassment, it can do more to assess the full scope of the issue and increase the effectiveness of its mitigation efforts based on our findings during the scope of our evaluation. Specifically, the BOP has not been able to identify the prevalence and scope of inmate-on-staff sexual harassment, which prevents the BOP from fully addressing the associated problems. We found that the BOP had inadequate data on the prevalence of inmate-on-staff sexual harassment because the process for tracking prohibited inmate behavior allowed for variation at each institution and, until recently, tracked only allegations of inmate-on-staff sexual harassment that were sustained and sanctioned. Additionally, the tracking system did not always identify the gender of the victim, whether the victim was an inmate or staff member, and the specific inmate behavior within the prohibited act codes; these factors hinder the BOP's ability to identify the scope of inmate-on-staff sexual harassment.

Despite the inadequacy of BOP data on inmate-on-staff sexual harassment, we were able to determine that inmate-on-staff sexual harassment occurs across BOP institutions and that BOP staff believe that it particularly affects women. Additionally, inmate-on-staff sexual harassment has negative effects on both the BOP and its staff that can lead to unsafe work environments and can cause staff emotional and physical stress. Further, after entering into settlement agreements that included corrective actions for two BOP institutions, the BOP missed an opportunity to conduct a full-scope needs assessment of the prevalence and ramifications of inmate-on-staff sexual harassment across BOP institutions. Such an assessment would have helped reduce the risks to staff safety and potential legal liability for the BOP; instead, the BOP limited the application of many of the corrective actions to the two institutions. Finally, we found that, while the BOP's staff training includes some information on inmate-on-staff sexual harassment, the total amount of content on the topic is limited and does not adequately address the issue and BOP staff are divided on its effectiveness.

The BOP Has Been Unable to Identify the Prevalence and Scope of Inmate-on-Staff Sexual Harassment, Which Prevents the BOP from Fully Addressing the Associated Problems

For most of the time during our fieldwork for this evaluation, the BOP's process for reporting and tracking inmate-on-staff sexual harassment allegations (1) did not fully track all allegations of inmate-on-staff sexual harassment and (2) allowed Lieutenant-level discretion as to which incidents were entered into SENTRY, which introduced variations among institutions in the reporting process.¹⁴ We believe that these variations

¹⁴ The BOP used a BOP-wide system called SENTRY as its primary database to store critical inmate information (location, medical history, behavior history, release date, etc.), which includes findings that inmates have committed prohibited acts. According to BOP Program Statement 5270.09, CN-1, incident reports are issued to inmates within 24 hours of staff becoming aware of an inmate's involvement in a prohibited act. In October 2018, the BOP began to transition from submitting incident reports in SENTRY to entering incident reports into a new electronic system called the Discipline and Administration Reintegration Tracking System (DARTS). BOP Program Statement 5270.09, CN-1, [Inmate Discipline Program](http://www.bop.gov/policy/progstat/5270.90_cn1.pdf), November 18, 2020, www.bop.gov/policy/progstat/5270.90_cn1.pdf (accessed April 26, 2022).

See also DOJ OIG, [Select Application Controls Review of the Federal Bureau of Prison's Sentry Database System](https://oig.justice.gov/reports/select-application-controls-review-federal-bureau-prisonss-sentry-database-system), Audit Report 03-25 (July 2003), oig.justice.gov/reports/select-application-controls-review-federal-bureau-prisonss-sentry-database-system.

in the reporting process hindered the BOP's ability to fully ascertain the prevalence and scope of inmate-on-staff sexual harassment. Additionally, the BOP's procedures for tracking inmate-on-staff sexual harassment do not always identify the types of associated victims (e.g., inmate or staff and gender) and the specific inmate behavior for all prohibited acts in its inmate discipline code. These shortcomings also impede the BOP's ability to determine the full prevalence and severity of the problem. This also hindered our ability to analyze the full scope of inmate-on-staff sexual harassment. However, we were able to analyze the data for inmate-on-staff sexual harassment sanctioned incidents from FY 2015 through FY 2021 and combine those results with our extensive reporting from staff in interviews, focus groups, and the survey to find that inmate-on-staff sexual harassment occurs across BOP institutions and that BOP staff believe it particularly affects women. We also found that the BOP has taken some actions to respond to allegations and mitigate the risk of inmate-on-staff sexual harassment. However, until the BOP has a full understanding of the scope of the issue, the BOP will continue to lack a complete understanding of the risks and consequences to its staff and institutions posed by inmate-on-staff sexual harassment. These include the detrimental effect these incidents have on staff morale and safety, which can lead to increased staff turnover, loss of institutional knowledge, and the potential for costly legal settlements. Finally, after entering into settlement agreements that included corrective actions for two BOP institutions, the BOP missed an opportunity to conduct a full-scope assessment of the prevalence and ramifications of inmate-on-staff sexual harassment across BOP institutions to help reduce the risks to staff safety and potential legal liability for the BOP; instead, the BOP limited the application of many of the corrective actions to the two BOP institutions.

The BOP Had Inadequate Data on Inmate-on-Staff Sexual Harassment and, Therefore, Has Not Been Able to Identify the Full Scope of the Problem

We found that the BOP had inadequate data on the prevalence of inmate-on-staff sexual harassment because the process for tracking inmate misconduct allowed for variation at each institution and, until recently, tracked only allegations of inmate-on-staff sexual harassment that were sustained and sanctioned. While the BOP did develop a new tracking system during our fieldwork, we found that the tracking system did not always identify the gender of the victim, whether the victim was an inmate or staff member, and the specific inmate behavior within the BOP's prohibited act codes. Further, we found that the BOP's policy and training are not clear on the types of inmate behaviors that fit within the inmate-on-staff sexual harassment prohibited act codes. This could lead to improper categorization of sexual behaviors, which then results in inconsistent reporting or underreporting of inmate-on-staff sexual harassment and these types of behaviors. The lack of data and specificity hinders the BOP's ability to identify the scope of inmate-on-staff sexual harassment.

The BOP's inmate discipline program enables the BOP to impose sanctions on inmates who commit prohibited acts.¹⁵ Prohibited acts are divided into four categories based on severity: 100 Level (greatest severity), 200 Level (high severity), 300 Level (moderate severity), and 400 Level (low severity). There are eight prohibited act codes that are used to charge inmates with sexual harassment and sexual misconduct that range from greatest severity to low severity:

1. 114–sexual assault of any person, involving non-consensual touching by force or threat of force;

¹⁵ BOP Program Statement 5270.09.

2. 205–engaging in sexual acts (taking part in intimate physical contact with self or another);
3. 206–making sexual proposals or threats to another (offering or encouraging another to engage in a sexual act or in intimate physical contact, a threat being a communicated intent to inflict physical or other harm on the person or property);
4. 225–stalking another person through repeated behavior that harasses, alarms, or annoys the person after having been previously warned to stop such conduct;
5. 229–sexual assault of any person, involving non-consensual touching without force or threat of force;
6. 300–indecent exposure;
7. 312–insolence toward a staff member; and
8. 409–unauthorized physical contact (e.g., kissing, embracing).¹⁶

BOP staff are required to file an incident report with a Lieutenant when they witness a BOP inmate committing or reasonably believe that an inmate has committed a prohibited act. After the Lieutenant reviews the incident report, a BOP Investigating Officer investigates the incident.¹⁷ When it appears that the incident may involve criminal conduct, the Investigating Officer suspends the investigation until the Federal Bureau of Investigation or other investigative agency releases the incident report for administrative processing.

Once the investigation of the incident is complete, a Unit Discipline Committee (UDC) reviews the investigation report and determines whether the inmate committed the prohibited act(s) or refers the case to a Discipline Hearing Officer (DHO) to conduct a hearing. The UDC is required to refer all matters involving the highest severity prohibited acts (100 or 200 Level) to a DHO. For incidents not involving potential criminal conduct and for those that are not at the greatest or high severity level categories, the Investigating Officer or UDC can also informally resolve the incident.¹⁸ The BOP encourages staff to informally resolve

¹⁶ After reviewing a draft of this report, the BOP's Central Office told us that Prohibited Act Code 312 (Insolence Toward a Staff Member) can be used to charge inmates with sexual harassment such as catcalls, inappropriate sexual gestures, and inappropriate sexual comments.

¹⁷ The Investigating Officer is a BOP employee at the supervisory level who investigates alleged inmate incidents. The Investigating Officer must be certified by the Inmate Discipline Committee and may not be the employee reporting the incident or otherwise be involved in the incident. The Investigating Officer is ordinarily a Lieutenant, but the Warden may appoint another staff member.

¹⁸ The incident report for prohibited acts in the moderate severity and low severity levels can be informally resolved at any stage of the process.

incidents at the moderate and low severity levels (300 and 400).¹⁹ If the UDC refers the matter to a DHO, the DHO holds a hearing to determine whether the inmate committed the prohibited act(s). The DHO will then do one of the following: determine that the inmate committed one or more prohibited acts; determine that the inmate did not commit a prohibited act; or send the incident back to the UDC for further investigation, review, and disposition. If the UDC or DHO finds that the inmate did not commit the prohibited act, the incident report and related documents will be expunged from the inmate's file. If an allegation is expunged, there is no record of the incident in the inmate's file and only limited information regarding the incident is available elsewhere in BOP information technology systems and available only to specific BOP employees in DHO and senior positions.²⁰ If the DHO determines that the inmate committed one or more prohibited acts, the DHO can impose sanctions.²¹

Prior to 2018, the aforementioned incident reporting and inmate discipline process started with BOP staff filing a paper incident report with a Lieutenant. According to BOP policy, the Lieutenant "will enter the incident report into SENTRY." However, during interviews and focus groups, BOP staff told us that, contrary to this policy, Lieutenants often used their own discretion in deciding which incident reports to enter into SENTRY and to informally resolve incidents without entering them into SENTRY. Interviewees indicated that this behavior decentralized the incident reporting process and affected the transparency and accountability of the process. Additionally, several BOP interviewees told us that it was difficult to reconcile allegation data from across institutions in a central and standardized way because BOP institutions did not record allegation data in a consistent manner. This resulted from the discretion being exercised at the Lieutenant level, which hindered the ability to identify methods to address and prevent inmate-on-staff sexual harassment. We believe that when data at the institution level is unreliable, inconsistent, and contains discrepancies it can lead to an unreliable accounting of inmate-on-staff sexual harassment incidents by the BOP's Central Office.

In October 2018 (during the course of our fieldwork), the BOP began to transition from the paper system for submitting incident reports to Lieutenants to an electronic system called the Discipline and Administration

¹⁹ The only acts sexual in nature that can be informally resolved by the Investigating Officer or UDC are indecent exposure and unauthorized physical contact. All other incident reports that are sexual in nature are required to be forwarded to the DHO.

²⁰ The comments and explanation for why an incident was expunged remains in SENTRY for 45 days. After that time, the Regional DHO and Chief DHO are the only staff who can retrieve the comments and explanations through DARTS. The DARTS implementation began in 2018, so comments and explanations prior to 2018 are beyond the 45 days and are not retrievable. Additionally, the BOP's Office of Research and Evaluation has the ability to retrieve limited expunged incident data beyond the 45-day period; however, the Office of Research and Evaluation does not have access to the comments and explanations.

²¹ Any inmate who aids, attempts, abets, or makes plans to commit a prohibited act is treated in the same manner as an inmate who has committed the act itself. BOP Program Statement 5270.09, CN-1, 10.

If at any stage of the discipline process it appears that an inmate is mentally ill, the inmate will be referred to a mental health professional to determine whether the inmate is responsible for his or her conduct and whether he or she is competent. When an inmate is found to be mentally incompetent, the incident report will show as a finding that the inmate should not be disciplined for the prohibited act because he or she was found not mentally competent. If evidence indicates that an inmate cannot understand the nature of the disciplinary proceedings or cannot participate in his or her own defense, disciplinary proceedings may be postponed until the inmate is competent enough to understand the proceedings and assist in his or her defense. BOP Program Statement 5270.09, CN-1, 22–23.

Reintegration Tracking System (DARTS). The DARTS implementation began in three BOP institutions to track all BOP inmate incident reports from the time an incident occurs through inmate disciplinary actions, which also allows staff to review the status of cases at any point in the process. During the end of our fieldwork for this evaluation, the BOP was in the early stages of implementing DARTS at approximately nine institutions (the three initial institutions and six additional institutions). Due to the limited number of institutions with DARTS and the limited data available in DARTS, we were unable to fully assess this system and were unable to analyze inmate-on-staff sexual harassment data in the system. As of March 2022, all BOP institutions have implemented DARTS and all inmate incident reports and accompanying information are stored electronically in the system.²²

DARTS changed the incident reporting process, and staff now directly enter the incident report electronically in DARTS. The incident report is then automatically forwarded to a Lieutenant. The Lieutenant then has to forward the incident report to the UDC, which sends all 200 and 100 Level prohibited acts to the DHO and decides whether to informally resolve 300 and 400 Level incidents. A BOP Central Office staff member told us that DARTS was created to increase transparency and accountability in the incident report submission and review process and to establish barriers to Lieutenants exercising discretion in informally resolving an incident or deciding not to enter an incident report into SENTRY. Further, the Central Office staff member said that the BOP emphasizes that the role of the Lieutenant is an investigator in the incident review process and the decision making authority resides with the UDC and the DHO. Additionally, the BOP Central Office staff member told us that DARTS increased the transparency of the incident reporting system because staff who submit the incident reports can see where the report is at any stage of the process. Further, we learned from this Central Office staff member that DARTS allows the Regional DHO and Chief DHO to review comments and explanations for expunged incident reports beyond 45 days, as well as to review comments and explanations for informally resolved incidents at the 300 and 400 Levels, which was a limitation prior to DARTS.

Although DARTS appears to address some reporting, tracking, and transparency concerns, we found that (1) the BOP's program statements are not fully reflective of the DARTS process and (2) there are still limitations with the BOP's data on inmate-on-staff sexual harassment. While evaluating the inmate discipline process, we found that the BOP's program statement on inmate discipline does not reference DARTS, still contains outdated references to SENTRY, and is not updated to reflect DARTS processes. For example, the program statement states that, when staff witness or reasonably believe that a prohibited act has been committed by an inmate, staff should submit the incident report to a Lieutenant and the Lieutenant will enter the incident report into SENTRY. This program statement does not include the updated BOP guidance that staff enter incident reports directly into DARTS and that the submission process is electronic. When program statements and policies are not up-to-date, we believe that there is the potential for staff to be confused about processes and procedures or not to adhere to the correct processes

²² The BOP activated DARTS in 6 institutions in 2019, 21 institutions in 2020, the majority of remaining institutions in 2021, and the remaining 14 institutions in early 2022. The 96 institutions include BOP complexes that are made up of multiple institutions but are counted as 1. For example, Federal Correctional Complex Coleman is made up of five institutions: a minimum security camp, a low security institution, a medium security institution, and two U.S. Penitentiaries. The BOP told us that it cannot implement DARTS in Residential Reentry Centers, Residential Reentry Management Offices, and Witness Security Program areas for security reasons.

and procedures, thus creating the potential for errors in reporting and tracking inmate-on-staff sexual harassment.²³

We also found that DARTS does not solve two separate but related problems with identifying and tracking specific inmate behaviors within the prohibited act codes and with identifying the type of victim for all sanctioned incidents of inmate-on-staff sexual harassment in DARTS and SENTRY.²⁴ The BOP uses prohibited act codes to identify inmate behavior in the inmate discipline process. As previously stated, the BOP uses eight prohibited act codes, which vary in severity, to charge inmates with sexual harassment and sexual misconduct. The prohibited act code is assigned based on the actions and behaviors of the inmate.

During our fieldwork, we learned from some BOP staff that Prohibited Act Code 205 (Engaging in Sexual Acts) and Prohibited Act Code 206 (Making Sexual Proposals or Threats to Another) can be used as catch-all codes for types of behavior that are sexual in nature but not specifically covered by other prohibited act codes. After reviewing a draft of this report, the BOP's Central Office told us that Prohibited Act Code 312 (Insolence Toward a Staff Member) is the code that should be used to charge inmates with catcalls, inappropriate sexual gestures, and inappropriate sexual comments.

We reviewed the program statements and training for BOP staff on prohibited act codes, including the BOP Inmate Discipline Program Statement, the Elements of Offense, and the BOP's Annual Refresher Training (ART) course related to sexual behavior to assess how the BOP defines and explains these codes. We found that the program statements and training do not fully explain or detail the variety of inmate behaviors associated with these codes. For example, in the 2019–2021 ART course titled "Addressing Inmate Sexual Misconduct," there was some description of the types of behaviors that fall under Prohibited Act Codes 205 and 206 and a minor mention of Prohibited Act Code 312 as another code that could be used by the BOP for inmate sexual misconduct. In the 2022 version of that same training, the reference to Code 312 was removed by the BOP. Moreover, while the 2022 ART course identifies "'cat-calls' (e.g., whistles, shouts, or comments of a sexual nature)" as "Oral Harassment," the 2022 ART course does not detail which prohibited act codes are associated with oral harassment. We believe that this lack of clarity in program statements and training creates a risk that BOP staff may not know which forms of sexual harassment qualify as prohibited acts under each code. The terms "sexual act" and "threat" have common parlance meanings, as well as specific meanings under criminal laws that would not encompass many forms of catcalls, inappropriate sexual gestures, and inappropriate sexual comments, while "insolence" is generally defined as rude and disrespectful behavior and might not instinctively cover catcalls, inappropriate sexual gestures, and inappropriate sexual comments either.²⁵ We believe that there could be confusion among staff as to

²³ For more information on the BOP's policy and program statement concerns, see DOJ OIG, [Management Advisory Memorandum: Impact of the Failure to Conduct Formal Policy Negotiations on the Federal Bureau of Prisons' Implementation of the FIRST STEP Act and Closure of Office of the Inspector General Recommendations](#), Evaluation and Inspections (E&I) Report 22-007 (November 2021), oig.justice.gov/reports/management-advisory-memorandum-impact-failure-conduct-formal-policy-negotiations-federal.

²⁴ When an inmate is sanctioned, it means that the incident was reviewed by the UDC or DHO, the inmate was found to have committed a prohibited act, and the inmate is disciplined based on the severity of the offense.

²⁵ The term "sexual act" is defined under federal law as follows:

how to categorize inmate-on-staff sexual harassment when the definitions and correlating inmate behaviors are not specified in BOP policy and training. If staff are not able to properly categorize sexual harassment when reporting inmate disciplinary incidents, there is a risk of inconsistent reporting or underreporting of sexual harassment and these types of behaviors, which would affect the BOP's ability to fully identify and track the prevalence and scope of inmate-on-staff sexual harassment. We believe that there is also a risk that, when staff are uncertain of how to categorize these types of inmate behaviors, discipline might not be applied in a consistent manner for like offenses. For example, an inmate charged with a 206 for an inappropriate sexual gesture could receive a higher penalty than an inmate charged with a 312 for the same sexual gesture.

Although the BOP can identify and track the prohibited act codes with its current inmate discipline process and DARTS, the specific behavior of the inmate is not easily identified and tracked, both within and across BOP institutions. We believe that it is not easy for the BOP to identify how many reported incidents under Prohibited Act Code 205 are, for example, inmates touching the buttock of a BOP staff member (or other specific behaviors) because DARTS does not contain a separate field that includes the specific inmate behavior. The DARTS incident report has three fields where staff input the charges, incident summary, and incident description:

- the charges field contains the prohibited act code number for charges (e.g., 205);
- the incident summary field contains the prohibited act code number with the code language (e.g., 205–Engaging in Sexual Acts); and
- the incident description field contains the specific details of the incident as a 5,000 character or fewer description.

We were not able to identify a field in DARTS where the specific behavior under each sexual-in-nature prohibited act code is easily distinguished without going through the long narrative in the incident

(A) contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight; (B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; (C) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or (D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person." (18 U.S.C. § 2246)

Criminal provisions dealing with threats generally penalize threats to do bodily harm or to commit criminal acts. See, for example, 18 U.S.C. § 875(b) ("Whoever, with intent to extort from any person, firm, association, or corporation, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined under this title or imprisoned not more than twenty years, or both"); 18 U.S.C. § 876(b) ("Whoever, with intent to extort from any person any money or other thing of value, so deposits, or causes to be delivered, as aforesaid, any communication containing any threat to kidnap any person or any threat to injure the person of the addressee or of another, shall be fined under this title or imprisoned not more than twenty years, or both").

description field. We believe that a field listing just the specific behavior(s) could help the BOP to identify trends, including issues with specific types of behaviors or certain institutions, and to be able to fully ascertain the prevalence and scope of inmate-on-staff sexual harassment. This, combined with DARTS lacking a field to identify the type and gender of the victim, compounds the BOP's lack of adequate inmate-on-staff sexual harassment data. Further, we found that there is a related problem with identifying the type of victim and the victim's gender for all sanctioned incidents of inmate-on-staff sexual harassment in SENTRY. Although DARTS is the new system for reporting and tracking inmate incident reports, the BOP still uses SENTRY to track inmate incidents that have been sanctioned. When an inmate is found to have committed a prohibited act, a DHO enters the data and hearing information into SENTRY. For Inmate Assault Prohibited Acts 100, 101, 107, 114, 203, 205, 206, 224, 225, and 229 (inmate-on-staff sexual harassment falls under five of those codes), the DHO is required to enter the following information into the Additional Tracking Identifier (ATI) field in SENTRY:

- ATI Field #1–Tracking Type/Victim Identifier (e.g., an inmate, staff, or other victim);
- ATI Field #2–Weapons Identifiers (e.g., sharp object, fists/hands, bodily fluids/waste, gun, head, teeth, unknown/other, or no weapon); and
- ATI Field #3–Injury Identifier (e.g., no injury, minor injury, moderate injury, major injury, or fatal injury).

Each identifier for the aforementioned fields is assigned either a letter or a number in SENTRY, which the DHO enters (for example, "S" indicates a staff victim, "H" indicates bodily fluids/waste, and "2" indicates a minor injury).

Additionally, prohibited acts at the 300 or 400 Level, including Prohibited Act Codes 300 (Indecent Exposure), 312 (Insolence Toward a Staff Member), and 409 (Unauthorized Physical Contact), do not have ATI fields in SENTRY. Without ATI fields for all prohibited acts, the BOP cannot fully ascertain the full scope of the problem and cannot accurately count and track sexual harassment of BOP staff, which prevents the BOP from fully realizing the prevalence of staff victims of inmate-on-staff sexual harassment. Further, the BOP does not identify the victim's gender in the ATI fields for any prohibited acts in SENTRY, which hinders the BOP's ability to ascertain the full scope of staff victimization by gender. The BOP is not fully equipped to mitigate inmate-on-staff sexual harassment if it does not track information regarding specific inmate behavior, victim types, and victim gender within the ATI fields.

While the implementation of DARTS appears to have been a positive step to address some of the issues we saw early during our fieldwork, such as insufficient accountability with paper incident reports, the lack of adequate behavior, victim, and gender identifier information still carries risks, such as an inability to discern the full scope of staff victims. Additionally, full implementation of DARTS occurred in 2022, after our fieldwork, and it is too early to determine whether it will be successful in standardizing the reporting and tracking of inmate-on-staff sexual harassment incidents and aiding the BOP in more effectively collecting and analyzing inmate-on-staff sexual harassment data to fully assess the scope of the problem.

According to the BOP's Office of General Counsel (OGC), the BOP is currently in the process of changing the prohibited act codes that are sexual in nature in order to increase the severity of these prohibited acts. The

BOP is currently in the deliberation process for these changes. At this time, it is unclear to the OIG whether the changes to severity for inmate behavior that is sexual in nature will resolve the issues of data limitations that prevent the BOP from ascertaining the full scope of inmate-on-staff sexual harassment.

Despite the BOP's Inability to Identify the Full Scope of the Problem, We Determined that Inmate-on-Staff Sexual Harassment Is Widespread and that BOP Staff Believe that It Particularly Affects Female Employees

Despite the incompleteness of BOP data regarding inmate-on-staff sexual harassment, we were able to determine that inmate-on-staff sexual harassment occurs across BOP institutions and that BOP staff believe that it particularly affects female employees. Based on an examination of all sanctioned incidents that were sexual in nature between FY 2015 and FY 2021 for all BOP institutions (see Table 1 below), as well as the responses of BOP staff in interviews, focus groups, and an OIG survey, we found that inmate-on-staff sexual harassment has been a persistent challenge within the BOP. However, we were not able to analyze the full scope of the inmate-on-staff sexual harassment problem due to the BOP's limitations in data described above. For example, we were unable to analyze the total sanctioned incidents for Prohibited Act Codes 300 (Indecent Exposure), 312 (Insolence Toward a Staff Member), and 409 (Unauthorized Physical Contact) and their consistency across fiscal years. We were also unable to analyze the data according to the victim's gender.

Based on the data in Table 1, we found that, for the data we were able to analyze, most sanctioned incidents with a sexual nexus were for Prohibited Act Codes 205 (Engaging in Sexual Acts). As previously discussed, interviewees indicated that Prohibited Act Code 205 is the most commonly used code for inmate-on-staff sexual harassment incidents that are of the high severity offense level because it is general enough to encompass a variety of types of sexual behavior.

Table 1**Total Number of Sanctioned Incidents for Prohibited Act Codes 114, 205, 206, 225, and 229, Staff Victims, All BOP Institutions, FY 2015–FY 2021**

Prohibited Act Code	Offense	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	Total
114	Sexual assault of any person, involving non-consensual touching by force or threat of force	4	5	2	3	2	3	3	22
205	Engaging in sexual acts	1,436	1,462	1,702	1,713	1,670	2,379	1,765	12,127
206	Making sexual proposals or threats to another	264	191	227	226	277	307	228	1,720
225	Stalking another person through repeated behavior that harasses, alarms, or annoys the person, after having been previously warned to stop such conduct	65	54	59	50	53	54	48	383
229	Sexual assault of any person, involving nonconsensual touching without force or threat of force	7	7	8	6	12	3	3	46
300	Indecent exposure	Unknown							
409	Unauthorized physical contact (e.g., kissing, embracing)	Unknown							

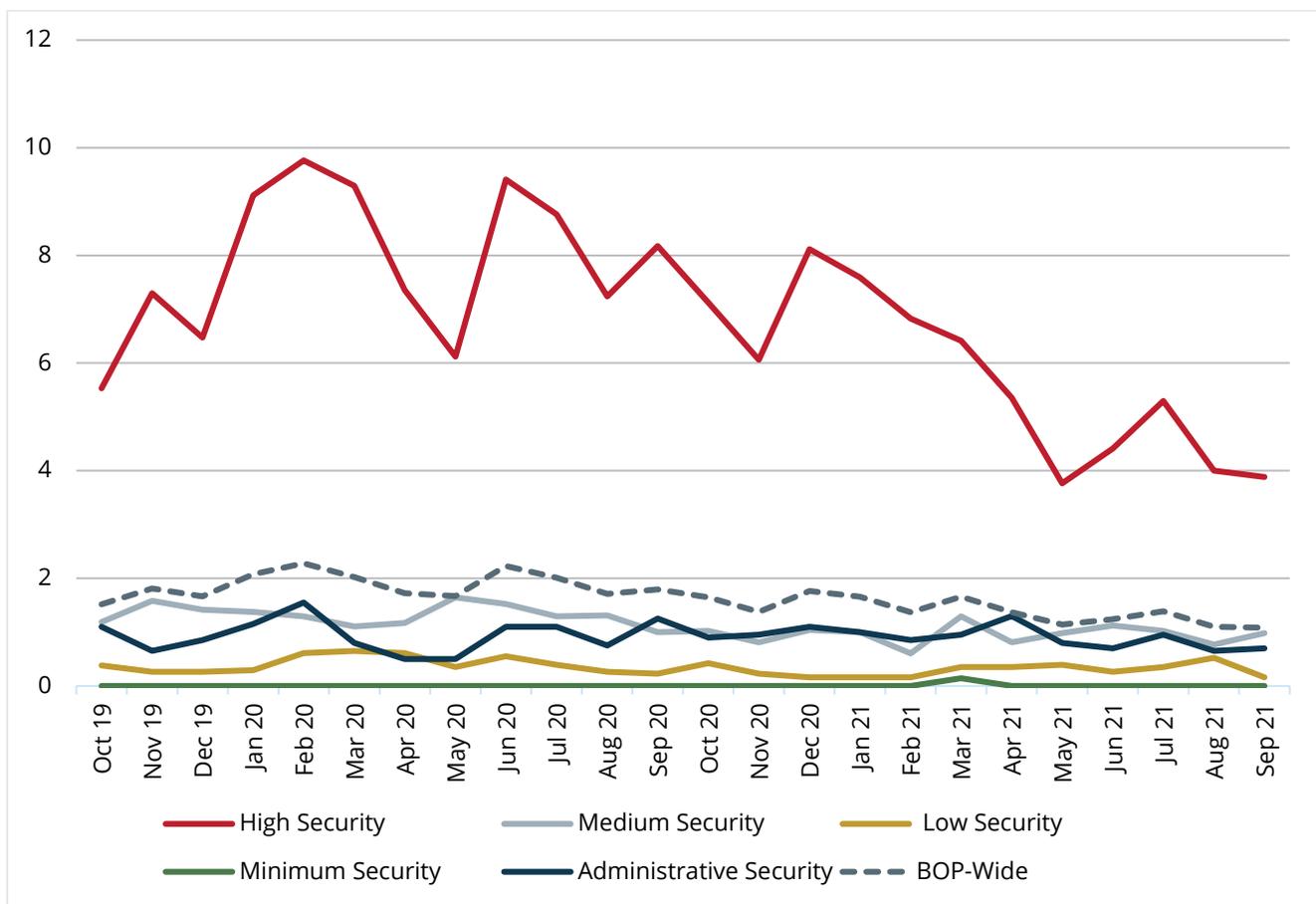
Note: Prohibited act codes are listed from most to least severe.

Source: OIG analysis of BOP data

Additionally, we examined sanctioned incident data for Prohibited Act Codes 114 (Sexual Assault by Force or Threat of Force), 205 (Engaging in Sexual Acts), 206 (Making Sexual Proposals or Threats), 225 (Stalking), and 229 (Sexual Assault without Force or Threat) between FY 2020 and FY 2021 to discern trends among institutions (see Table 1 above for full prohibited act code titles). With this data, we were able to calculate the average number of sanctioned incidents for all BOP institutions at each of the five security levels and compare to the BOP-wide average for each month between October 2019 and September 2021 (see Figure 1 below).

Figure 1

Average Number of Sanctioned Incidents for Prohibited Acts on Staff, by BOP Institution Security Level, Between October 2019 and September 2021



Note: There are 17 high security facilities, 48 medium security, 31 low security, 7 minimum security, and 20 administrative security.

Source: OIG analysis of BOP data

We found that high security facilities had a substantially higher average number of sanctioned incidents each month compared to administrative security facilities, low security facilities, and the component-wide averages for the most severe prohibited act codes. The minimum, low, medium, and administrative security

facilities usually had smaller numbers of sanctioned incidents for these codes than the component-wide average. This finding is consistent with respondents who reported their experiences of inmate-on-staff sexual harassment at high, medium, low, minimum, and administrative security facilities in the OIG survey described below (see also Table 2 below and [Appendix 3](#)). We were not able to analyze the sanctioned incidents for Prohibited Act Codes 300 or 409 due to the BOP's lack of victim tracking, so we were not able to determine the significance of the security level compared to the BOP average for these codes.

To ascertain the perceptions of BOP staff regarding inmate-on-staff sexual harassment, we conducted a BOP-wide survey. Seventy-five percent of survey respondents who answered the question related to the prevalence of inmate-on-staff sexual harassment agreed or strongly agreed with the statement that "inmate-on-staff sexual harassment occurs at most or all BOP institutions." Conversely, only 2 percent of survey respondents agreed or strongly agreed that "inmate-on-staff sexual harassment occurs at only a few BOP institutions," indicating that inmate-on-staff sexual harassment is perceived by BOP staff to be occurring at most BOP institutions. Statements provided in interviews and focus groups mirrored our analysis of the survey data. For example, an interviewee from the BOP's OGC stated: "I think the behavior happens regardless of the facility, whether it's a high, a medium, a low. Or whether it houses female offenders or male offenders."

Table 2 below identifies the BOP institutions with the highest number of OIG survey respondents reporting sexual harassment at that facility. While Table 2 shows only the institutions with the highest number of respondents reporting inmate-on-staff sexual harassment, our analysis of the survey data indicates that every BOP institution had staff reporting incidents of inmate-on-staff sexual harassment (see [Appendix 3](#) for a detailed list of institutions).

Table 2**BOP Institutions with the Highest Number of Respondents Reporting Inmate-on-Staff Sexual Harassment in the OIG Survey**

BOP Institution	Number of Survey Respondents Reporting Sexual Harassment	Institution Security Level(s)
FCC Coleman	168	Minimum, Low, Medium, & High
FCC Florence	127	Minimum, Medium, High, & Administrative
FCC Victorville	120	Minimum, Medium, & High
FCC Butner	82	Minimum, Low, Medium, High, & Administrative
FCC Allenwood	80	Low, Medium, & High
FCC Hazelton	72	Minimum, Medium, & High
FCC Pollock	70	Minimum, Medium, & High
FCC Tucson	69	Minimum, Medium, & High
FCC Beaumont	64	Minimum, Low, Medium, & High
USP Lewisburg	63	Minimum & Medium

Notes: FCC=Federal Correctional Complex; USP=U.S. Penitentiary. Based on the survey question structure, respondents first indicated whether they had experienced inmate-on-staff sexual harassment during their career at the BOP. If a respondent selected “yes,” he or she then selected the institution at which the harassment occurred, which did not necessarily indicate his or her current institution. Thus, we could not compare the number of survey respondents who reported inmate-on-staff sexual harassment at a particular institution in the OIG survey and the total number of employees at that institution.

Nine of the 10 BOP institutions listed above are FCCs, a designation the BOP uses for co-located custody settings whose facilities have different missions and inmate security levels and often have larger total inmate populations when compared with other, stand-alone institutions.

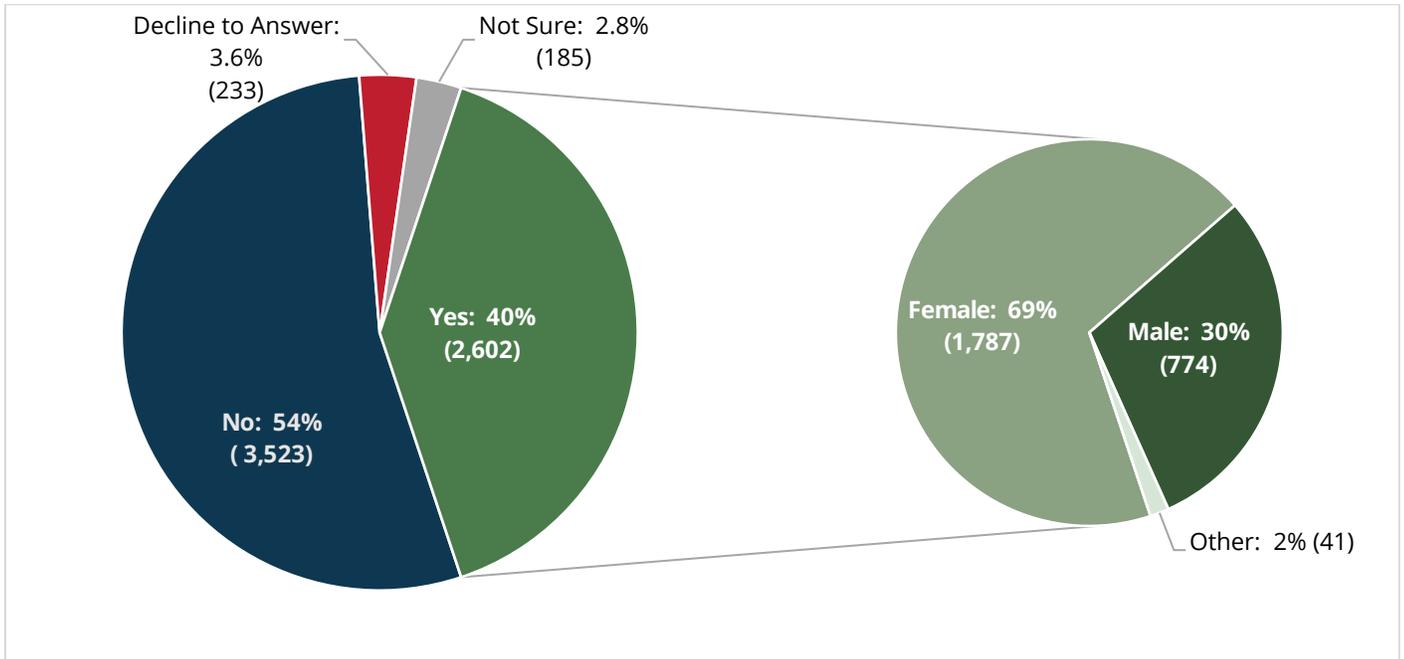
Source: OIG analysis of survey data

When survey respondents were asked about their personal experiences related to inmate-on-staff sexual harassment, 40 percent indicated that since being employed by the BOP they had been sexually harassed by an inmate, with additional staff responding that they were unsure or that they declined to answer the question. Additionally, of the survey respondents who selected yes to having been sexually harassed by an inmate, 46 percent also identified their most recent incident of sexual harassment as having occurred in the year preceding the survey launch in 2019. Our data analysis showed that, of the staff who responded to the survey that they had been sexually harassed by an inmate, 69 percent (1,787 of 2,602) were female, 30 percent (774 of 2,602) were male, and 2 percent (41 of 2,602) identified as other than male or female. Our analysis of the survey data, interviews, and focus groups suggests that women may be more vulnerable to sexual harassment by inmates than their male counterparts; however, men are not exempt from this type of behavior. Women composed approximately 40 percent of all survey respondents, while men

composed approximately 59 percent of all survey respondents. Figure 2 below shows how survey respondents answered the survey question, by gender identity.

Figure 2

Responses to Survey Question: “Since you have been employed at the BOP, has an inmate ever sexually harassed you,” by Response Type, and “Yes” Responses by Gender Identity



Source: OIG analysis of survey data

Further, survey respondents who answered yes to having been sexually harassed by an inmate during their time with the BOP most often reported experiencing the following forms of sexual harassment or sexual misconduct from an inmate: whistling, catcalling, genitalia exposure, sexual remarks, and sexual gestures. Survey responses were consistent with the descriptions of harassing behavior reported during interviews and focus groups we conducted with BOP staff. Table 3 below details the types of sexual harassment or misconduct survey respondents selected, categorized by respondent gender.

Table 3

Responses to Survey Question: “What type(s) of sexual harassment or sexual misconduct have you experienced from an inmate(s)?”

Type of Sexual Harassment or Misconduct	Percent of Female Respondents	Percent of Male Respondents	Percent of Other Respondents
An inmate whistled at you or you were the subject of catcalls.	48% (1,255)	7% (280)	22% (23)
An inmate exposed his/her genitalia.	47% (1,227)	10% (398)	25% (26)
An inmate masturbated in front of you.	47% (1,228)	9% (361)	26% (27)
An inmate made sexual remarks to you.	37% (949)	12% (474)	27% (28)
An inmate made sexual gestures toward you.	33% (859)	9% (336)	26% (27)
An inmate groped or grabbed you.	3% (77)	0.3% (11)	2.9% (3)
An inmate is stalking/has stalked you.	34% (875)	1.8% (70)	11% (12)
An inmate threatened you with sexual violence.	10% (265)	4% (162)	4.8% (5)
An inmate forced you into a sexual act, including attempted or completed vaginal or anal penetration or oral sex.	0.08% (2)	0	0
Other	7% (199)	2% (77)	7% (8)

Note: Respondents could select more than one answer.

Source: OIG analysis of survey data

The BOP personnel we interviewed generally described behavior as enumerated above, and they also described additional behavior such as inmates fondling themselves through pant pockets in front of BOP staff. Further, when we asked survey respondents to characterize *most* acts of inmate sexual harassment at their current facility, we found that 44 percent (2,625 of 5,963) of respondents characterized most acts of inmate sexual harassment as serious or somewhat serious while only 13 percent (783 of 5,963) of respondents characterized an act as not serious.

Because the BOP Has Not Fully Identified the Prevalence and Scope of Inmate-on-Staff Sexual Harassment BOP-wide, the BOP’s Mitigation Actions Cannot Fully Address the Associated Problems

We found that because the BOP has inadequate data and cannot fully identify the prevalence and scope of inmate-on-staff sexual harassment BOP-wide, the BOP’s mitigation actions cannot fully address the associated problems. Additionally, the BOP’s inability to fully identify and effectively mitigate inmate-on-staff sexual harassment has negative effects on both the BOP and its staff that can lead to unsafe work environments and can cause staff emotional and physical stress.

The BOP provides to its institutions a wide range of suggested strategies, from an array of program statements and internal memoranda, to mitigate inmate-on-staff sexual harassment; yet the suggested strategies are often vague, lack implementation steps, and vary by institution.²⁶ It is also unclear how effective the BOP's strategies are at mitigating inmate-on staff sexual harassment because the BOP does not fully identify the prevalence and scope of inmate-on-staff sexual harassment and, therefore, cannot fully measure the effectiveness of its strategies. Additionally, some BOP staff believe that the BOP does more to mitigate staff-on-inmate sexual misconduct than inmate-on-staff sexual harassment.

The BOP's strategies to mitigate inmate-on-staff sexual harassment that involves prohibited acts include disciplinary measures such as forfeiture of earned statutory good time credit, disciplinary segregation, monetary restitution, loss of privileges, and housing changes, as well as referral for prosecution. The BOP's Sexually Abusive Behavior Prevention and Intervention Program Statement provides guidance and links to other BOP resources on (1) screening for the risk of sexual abusiveness during the inmate intake process; (2) reporting, investigating, and disciplining inmate-on-staff sexual harassment; (3) medical and mental health screens for inmates outside of the intake process; and (4) safeguarding staff who have been victims of inmate-on-staff sexual harassment. Other suggested strategies include offering or mandating interventions such as counseling and therapy to inmates engaging in such behavior to address the underlying reasons inmates engage in sexual harassment. The information related to staff victims within this program statement conveys general mitigation strategies, such as posting a picture of an offending inmate so that staff are aware of the offender. Additionally, the program statement says:

If the alleged perpetrator is an inmate, and a staff member is the subject of abuse or harassment, all options for safeguarding the staff member should be considered. Options should include reassignment of the inmate to another housing unit, writing incident reports, assignment to the Special Housing Unit, and criminal prosecution if appropriate.²⁷

The program statement further states: "Consideration for staff affected by the incident is necessary. Efforts to mitigate potential stress associated with these events should be offered to affected staff, such as offering Employee Assistance Program information." Although the BOP provides guidance and support through this program statement and others, such as the Inmate Discipline Program Statement, some BOP staff believe that there is a gap in information related to resources, communication, and staff protection in BOP program statements and policies related to inmate-on-staff sexual harassment. Additionally, the BOP shared with staff strategies to mitigate inmate-on-staff sexual harassment; however, based on interviews with BOP staff, we found that the implementation of these measures varied widely across BOP institutions. Specifically, in 2019 the BOP's Correctional Programs Division and OGC sent to all BOP Chief Executive Officers a memorandum that shared some strategies to reduce inmate-on-staff sexual harassment, such as prosecution, enforcement of rules pertaining to acceptable inmate clothing, removal of offending inmates from the general population, increased monitoring of offending inmates, and widely informing facility staff

²⁶ The BOP has many of its policies and program statements available to the public on its website. See, for example, BOP Program Statements 3713.26, [Bureau of Prisons Anti-Harassment Policy](http://www.bop.gov/policy/progstat/3713_026.pdf), June 16, 2014, www.bop.gov/policy/progstat/3713_026.pdf; 5324.12, [Sexually Abusive Behavior Prevention and Intervention Program](http://www.bop.gov/policy/progstat/5324_012.pdf), June 4, 2015, www.bop.gov/policy/progstat/5324_012.pdf; and 3713.25, [Bureau of Prisons Anti-Discrimination Policy](http://www.bop.gov/policy/progstat/3713_025.pdf), June 16, 2014, www.bop.gov/policy/progstat/3713_025.pdf (all accessed June 10, 2022).

²⁷ BOP Program Statement 5324.12.

on which inmates have engaged in sexual harassment.²⁸ However, the 2019 memorandum does not define the types of behaviors that constitute inmate-on-staff sexual harassment or provide specifics on the circumstances under which the various strategies should be used. According to BOP staff we interviewed, these mitigation strategies have been used in a variety of combinations at facilities of differing security levels across the BOP. The BOP also provided us examples of 22 BOP institutions that have implemented additional, institution-specific measures to mitigate inmate-on-staff sexual harassment. Examples of preventive measures include supplemental training for staff on sexual assault prevention, increased monitoring of inmates with a history of prohibited sexual conduct, and regular reminders to inmates of the consequences of engaging in prohibited behavior. In addition to the mitigation measures, reactive measures to inmates who engage in prohibited sexual acts toward staff varied by institution. These include increased efforts to prosecute offending inmates, extensive limitations placed on offending inmates' commissary benefits, and separation from the general population.

The BOP's Inability to Fully Mitigate Inmate-on-Staff Sexual Harassment Has Negative Effects on the BOP and Its Staff

We found that, because the BOP has inadequate data and cannot fully identify the prevalence and scope of inmate-on-staff sexual harassment BOP-wide, the BOP's mitigation actions cannot fully address the associated problems, which, in turn, has negative effects on both the BOP and its staff that can lead to unsafe work environments and can cause staff emotional and physical stress.

Inmate-on-staff sexual harassment can result in costs to the BOP, including reduced staff morale and well-being, decreased productivity, difficulties retaining qualified staff, and monetary costs from legal settlements or decisions. We found through our analysis of focus group, interview, and survey responses that inmate-on-staff sexual harassment was perceived by BOP staff to be prevalent, lacking in effective mitigation, and resulting in negative work environments. BOP staff told us that the repeated exposure to inmate-on-staff sexual harassment, lack of consequences for inmates who engage in such behaviors, and lack of support from colleagues and management for victims lowered their morale and well-being and caused them to feel that they are working in a hostile work environment. Some staff we interviewed expressed the belief that the BOP does not take enough steps to ensure the safety of staff and that inmate-on-staff sexual harassment contributes to an unsafe work environment.

²⁸ M.D. Carvajal, Assistant Director, Correctional Programs Division, and Ken Hyle, Assistant Director/General Counsel, Office of General Counsel, Bureau of Prisons, memorandum for Chief Executive Officers, Inappropriate Sexual Behavior by Inmates, April 24, 2019.

In 2019, the U.S. Department of Labor Occupational Safety and Health Administration (OSHA) issued a notice of unsafe working conditions to Federal Correctional Institution (FCI) Miami for a serious violation related to hazards from inmate-on-staff sexual and physical assault, which the BOP unsuccessfully appealed (see the text box). Additionally, in recent years, the BOP has entered into settlement agreements under which it agreed to pay more than \$30 million to resolve claims brought before the U.S. Equal Employment Opportunity Commission (EEOC) arising from inmate-on-staff sexual harassment and other conduct. In 2016, the BOP entered into a settlement agreement under which it agreed to pay up to \$20 million and to undertake programmatic relief as part of the first and largest settlement, which resolved a class action concerning conduct at the BOP's Federal Correctional Complex (FCC) Coleman. As described in Table 4 below, the programmatic relief included nine major corrective action areas with dozens of associated actions under each area related to preventing and responding to inmate-on-staff sexual harassment.²⁹ In 2018, the BOP entered into an agreement under which it agreed to pay up to \$11 million and adopt a near-identical system of programmatic relief to resolve a class action concerning conduct at FCC Victorville that also included nine major corrective action areas with dozens of associated actions under each area (see [Appendix 2](#) for further details on the programmatic relief at both facilities).³⁰ Following these two large settlements, the BOP entered into a settlement to resolve claims by an individual complainant employed at FCC Florence who alleged inmate harassment, among other things. The final settlement sum was \$700,000. We also learned in a discussion with BOP officials of several additional matters in various stages of litigation resulting from individual complaints involving allegations of inmate-on-staff sexual harassment. An interviewee from the BOP's OGC expressed concerns over future, expensive litigation if a systematic approach to handling, tracking, and communicating inmate-on-staff sexual harassment is not effectively and efficiently implemented.

Unsafe Working Conditions Associated with Workplace Violence and Sexual Harassment at FCI Miami

At FCI Miami, OSHA identified hazards associated with inmate-on-staff workplace violence and sexual harassment on more than one occasion. On June 6, 2018, OSHA issued a letter to FCI Miami that, among other things, detailed incidents that occurred in December 2017, February 2018, and May 2018, when female staff were exposed to sexual assault and violent threats from inmates. OSHA stated that the employer (the BOP) "failed to take action to prevent workplace violence" in connection with these incidents. FCI Miami was not issued a citation at this time for failing to protect employees from workplace violence hazards; however, OSHA recommended that the BOP take voluntary action to address the issue and proposed measures to reduce or eliminate the hazard. Later, in November 2019, OSHA issued a notice of unsafe and unhealthful working conditions at FCI Miami, citing the facility for a serious violation of OSHA regulations for failing to provide a place of employment free from recognized hazards of death or serious physical harm by exposing employees to the hazard of being assaulted by inmates with a history of violent behavior. Two incidents from 2018 were cited in the notice, one in which an inmate with a history of sexually aggressive behavior sexually assaulted a pharmacist while he was unescorted in the health unit and another in which a Special Housing Unit inmate tried to assault a Correctional Officer through an open-door slot on a shower cell.

The BOP appealed the notice that OSHA issued, and in April 2020 OSHA issued a decision declining the appeal. At the time of issuance of this report, the BOP was awaiting further contact from OSHA's area office.

Source: OSHA documentation issued to FCI Miami

²⁹ Settlement Agreement, *White v. Dep't of Justice*, EEOC No. 510-2012-00077X (Dec. 5, 2016).

³⁰ Settlement Agreement, *Ferguson v. Dep't of Justice*, EEOC No. 480-2016-00563X (Nov. 9, 2018).

Table 4

BOP Settlement Costs for Inmate-on-Staff Sexual Harassment, 2016–2020

Year of Settlement Agreement	Facility	Settlement Amount	Summary of Allegations and Cases	Number of Corrective Actions
2016	FCC Coleman	\$20,000,000	This class action alleged that the BOP created a hostile work environment at FCC Coleman when it failed to correct known egregious sexual harassment perpetrated by inmates. The certified class included all women who had worked at FCC Coleman since February 6, 2011, who were allegedly subjected to discriminatory sexual harassment (with certain noted exceptions).	9 major corrective action areas with 35 associated actions
2018	FCC Victorville	\$11,000,000	This class action alleged that the BOP failed to take adequate measures to prevent male inmates from sexually harassing female employees and implemented discriminatory policies relating to female participation in use-of-force teams. The certified class included women employed by FCC Victorville from as early as the summer of 2011 who had been denied use-of-force training and/or subjected to sexual harassment as alleged in the complaint.	9 major corrective action areas with 33 associated actions
2019	FCC Florence	\$700,000	The individual complainant alleged inmate-on-staff sexual harassment, among other things.	N/A—no corrective actions associated with this settlement
Total		\$31,700,000		

Notes: There are two additional areas related to the roles and responsibilities of the Internal Coordinator, Standing Committee, and Facilitators under the terms of the agreements’ programmatic relief. For FCC Victorville, there is an additional action not related to the plaintiffs’ claims about inmate-on-staff sexual harassment.

Sources: Settlement Agreements, *White v. Dep’t of Justice*, and *Ferguson v. Dep’t of Justice*. The FCC Florence settlement was not made public.

The BOP implemented the corrective actions in only the two institutions where it was mandated to do so, and we found that there is a risk that the problems related to inmate-on-staff sexual harassment transcend FCCs Coleman and Victorville. While assessing the effectiveness of the corrective actions was outside the scope of this evaluation, we note that the corrective actions outlined in the two settlements (1) are similar to the findings and recommendations described in this report (for example, risk assessments and enhanced training) and (2) mirror BOP staff suggestions to mitigate inmate-on-staff sexual harassment expressed to us in interviews, as outlined in [Appendix 5](#) (for example, referrals for criminal prosecution and civil

commitment in appropriate cases, which are included in [Appendix 2](#).³¹ While BOP staff told us that in 2013 the BOP conducted an assessment of inmate-on-staff sexual harassment mitigation strategies, we believe that the BOP missed an opportunity following the settlements to further assess whether the corrective actions imposed on FCCs Coleman and Victorville could address inmate-on-staff sexual harassment at other BOP institutions to mitigate the associated problems of inmate-on-staff sexual harassment and to help reduce the risks to staff safety and potential legal liability for the BOP.

Another financial cost resulting from limited mitigation of inmate-on-staff sexual harassment is personnel expenses. Staff we interviewed expressed the belief that the lack of effective mitigation can lead to unsafe work environments and emotional stress that affects both the mental and physical health of staff. The interviewees also said that these experiences may cause staff to leave their jobs or take leave without pay to avoid harassment. These retention issues lead not only to staff shortages and loss of institutional knowledge but also to additional costs for the BOP, including the costs to interview, hire, and train each new employee needed to backfill the vacated positions and overtime costs when staffing is insufficient.³²

To gain context on this issue in other government settings, we examined state-level Equal Employment Opportunity handbooks, operational manuals, and disciplinary rules and procedures. Guidance for employees of the state of New York, for example, highlights the significance of human and financial costs associated with allowing sexual harassment to go unchecked in workplaces, citing “significant costs to the State in both human and financial terms, including the replacement of personnel who leave their jobs, increased use of health benefit plans due to emotional and physical stress, absenteeism, and decline in individual and workgroup productivity.”³³ These negative personnel consequences are not unique to states and represent broader concerns for other workplaces and agencies, including the BOP. The findings of the U.S. Merit Systems Protection Board (MSPB) support the statements of interviewees and focus group participants regarding the costs of sexual harassment. One MSPB report described the personal costs of sexual harassment, saying, “for employees who experience it, sexual harassment takes its toll in the form of mental and emotional stress and even loss of income.”³⁴ Another MSPB report described the numerous monetary costs of sexual harassment: “the cost of job turnover, sick leave that the victims say they used as

³¹ [Appendix 2](#) summarizes all corrective actions issued to FCC Coleman and FCC Victorville.

³² In December 2020, the OIG issued to the BOP a Management Advisory Memorandum (MAM), which stated, “The OIG consistently identifies managing the federal prison system as one of the most significant challenges facing the Department of Justice, which includes staffing challenges.” Appendix 1 of this MAM captured additional OIG work related to insufficient staffing at the BOP. See DOJ OIG, [Management Advisory Memorandum: Analysis of the Federal Bureau of Prisons’ Fiscal Year 2019 Overtime Hours and Costs](#), Audit Report 21-011 (December 2020), 3, 12–14, oig.justice.gov/reports/management-advisory-analysis-federal-bureau-prisons-fiscal-year-2019-overtime-hours-and.

The OIG’s December 2020 MAM stated that during FY 2019 BOP employees worked 6,710,437 overtime hours, the equivalent of 3,107 full-time positions, at a cost of \$300,874,769. DOJ OIG, [Analysis of the Federal Bureau of Prisons’ Fiscal Year 2019 Overtime Hours and Costs](#), 3.

³³ State of New York Executive Department, [Equal Employment Opportunity in New York State, Rights and Responsibilities: A Handbook for Employees of New York State Agencies](#), December 2018, 16, www.parks.ny.gov/documents/inside-our-agency/PublicDocuments/GuidancePolicies/EqualEmploymentOpportunityRightsAndResponsibilitiesHandbook.pdf (accessed June 10, 2022).

³⁴ MSPB, [Women in the Federal Government: Ambitions and Achievements](#) (May 2011), 47, www.mspb.gov/studies/studies/Women_in_the_Federal_Government_Ambitions_and_Achievements_606214.pdf (accessed June 10, 2022).

a result of the harassment, the cost of the individual productivity decreases reported by victims, and the estimated productivity lost by work groups in which harassment occurs.”³⁵

Conclusion

We found that the BOP has taken some action to respond to allegations of inmate-on-staff sexual harassment and to mitigate the risks for BOP staff. Such actions include highlighting inmate-on-staff sexual harassment issues in program statements, disciplining inmates for engaging in such harassment, and deploying preventive and mitigation strategies. The BOP also created DARTS to store all inmate incident reports and accompanying information, to increase transparency and accountability in the incident report submission and review process, and to standardize procedures so that incidents are not expunged before the incident review process is complete.

However, we found that the BOP can do more to assess the full scope of the issue and increase the effectiveness of its mitigation efforts based on the scope. We found that the BOP had inadequate data on the prevalence of inmate-on-staff sexual harassment because the process for tracking prohibited inmate behavior allowed for variation at each institution and, until recently, tracked only allegations of inmate-on-staff sexual harassment that were sustained and sanctioned, which prevents the BOP from identifying the full scope of inmate-on-staff sexual harassment. The risks associated with the former incident reporting process prior to DARTS includes missed incidents, undisciplined harassment, and the BOP's inability to determine the full scope of inmate-on-staff sexual harassment across institutions.

Although DARTS addresses some reporting, tracking, and transparency concerns, we found that DARTS does not solve separate but related problems with inmate behavior and victim identifiers, in that the BOP did not always identify the gender of the victim, whether the victim was an inmate or staff, and the specific inmate behavior within the prohibited act codes, all of which could have prevented it from fully realizing the scope of the problem. Without specific inmate behavior and victim identifiers for all prohibited act codes, the BOP cannot accurately count and track sexual harassment of BOP staff, which prevents the BOP from fully realizing the prevalence of staff victims of inmate-on-staff sexual harassment and victims by gender, as well as the scope of the problem across institutions. Despite the variations in inmate-on-staff sexual harassment accountings, we were able to determine that inmate-on-staff sexual harassment occurs across BOP institutions and that BOP staff believe that it particularly affects women.

Because the BOP has inadequate data and cannot fully identify the prevalence and scope of inmate-on-staff sexual harassment BOP-wide, the BOP's mitigation actions cannot fully address the associated problems. The BOP's inability to effectively mitigate inmate-on-staff sexual harassment in turn has negative effects on both the BOP and its staff that can result in significant financial costs to the BOP, lead to unsafe work environments, and cause staff emotional and physical stress. Until the BOP has a full understanding of the scope of the issue, the BOP will continue to lack a complete understanding of the risks and consequences to its staff and institutions posed by inmate-on-staff sexual harassment. These include the detrimental effect

³⁵ MSPB, *Sexual Harassment in the Federal Workplace: Trends, Progress, Continuing Challenges* (October 1995), 23, www.mspb.gov/studies/studies/Sexual_Harassment_in_the_Federal_Workplace_Trends_Progress_Continuing_Challenges_253661.pdf (accessed June 10, 2022).

these incidents have on staff morale and safety, which continue to lead to increased staff turnover, loss of institutional knowledge, and the potential for steep legal settlements.

Recommendations

To fully ascertain the prevalence and scope of inmate-on-staff sexual harassment, and to ensure that the BOP's actions to mitigate inmate-on-staff sexual harassment fully address the associated problems, we recommend that the BOP:

1. Add fields to the Discipline and Administration Reintegration Tracking System that can be easily queried to identify the type of victim (inmate, staff, or other) and gender of the victim for all incidents involving prohibited acts by inmates, and identify the specific inmate behavior under each prohibited act code.
2. Ensure that staff are trained on the updated fields in the Discipline and Administration Reintegration Tracking System and that staff understand which inmate behaviors are associated with each prohibited act code, as well how to articulate the behavior in the corresponding field.
3. Ensure that policies and program statements that address inmate-on-staff sexual harassment are consistent with updates to systems and data tracking mechanisms.
4. Conduct regular risk assessments of the prevalence and severity of inmate-on-staff sexual harassment within individual institutions and across BOP institutions, with a particular emphasis on the risks for female staff.
5. Review the corrective actions from the two class action settlements concerning Federal Correctional Complex (FCC) Coleman and FCC Victorville, and assess all BOP institutions to determine which corrective actions should be implemented BOP-wide or in additional institutions.
6. Develop and implement a comprehensive inmate-on-staff sexual harassment mitigation strategy that includes the appropriate corrective actions from the settlement agreements, addresses the issues identified in the assessment, and is based on the scope of the problem.
7. Share inmate-on-staff sexual harassment mitigation strategies BOP-wide on a regular and recurring basis.

Inmate-on-Staff Sexual Harassment Content in BOP Staff Training Is Minimal, and BOP Staff Are Divided on Its Effectiveness

Through our analysis of BOP training materials, we determined that the BOP offers several training opportunities to ensure staff safety and security but that training content related to inmate-on-staff sexual

harassment is minimal and lacks specificity related to the full scope of the problem.³⁶ We reviewed three types of training the BOP offers its employees, which the BOP identified as having a nexus with inmate-on-staff sexual harassment: (1) new employee training; (2) position-specific training; and (3) Annual Refresher Training (ART).³⁷ We found that only one new employee training session mentioned inmate-on-staff sexual harassment and the content was limited to a minimal discussion within one training slide. Similarly, of the position-specific training sessions between FYs 2015 and 2021 that the BOP identified as including content on sexual harassment, only one session delivered to new psychologists in 2016 mentioned inmate-on-staff sexual harassment. Finally, of the seven ART courses offered each year, only one, Addressing Inmate Sexual Misconduct, consistently mentions inmate-on-staff-sexual harassment. This course was new in FY 2019 and replaced the course, Managing Inmate Sexual Behaviors, that did not adequately discuss inmate-on-staff-sexual harassment and was delivered to BOP staff between FYs 2015 and 2018. While the 2019 course includes stronger explanations of relevant code violations, how best to write incident reports, and how staff can mitigate the likelihood of incidents taking place, it lacks details on the BOP's response to the issues, such as how the component supports staff victims and how it prevents inmates from repeated engagement in this behavior. Further, OIG focus group participants told us that the BOP should standardize and increase information on how the BOP supports staff victims and prevents this type of inmate behavior, further elaborating that ART and the additional training and support staff receive depends largely on the leadership of the institution.

From FY 2019 through FY 2021, the ART course, Addressing Inmate Sexual Harassment, contained the same content each year. After our fieldwork, the BOP provided the OIG a copy of the 2022 course content. The BOP had made revisions and additions to the course in 2022 that included (1) an added section that outlines best practices to manage inmate sexual misconduct, (2) an added section that discusses the BOP's zero tolerance stance, and (3) the removal of Prohibited Act Code 312 in the listing of codes used for inmate-on-staff sexual harassment. The OIG believes that the added content on best practices improves the course by providing strategies to help staff effectively manage inmate sexual misconduct. Additionally, the added content on the BOP's zero tolerance toward sexual harassment reminds staff that the BOP takes all forms of sexual harassment seriously and does not tolerate such behaviors. Although the BOP made these improvements to the course in 2022, the BOP removed the information on Prohibited Act Code 312 and also removed the limited information on its employee assistance program. As stated above, the 2019–2021 versions of training had limited information on how the BOP provides support to staff victims of inmate-on-staff sexual harassment and the 2022 revision removed that information and provided no further discussion of resources for staff who witness or experience inmate-on-staff sexual harassment.

Additionally, there were varied thoughts and opinions among staff interviewees as to the effectiveness of the inmate-on-staff sexual harassment sections of ART. Some staff indicated that they believe the quality and length of the inmate-on-staff sexual harassment content in ART depends on the instructor, stating that not all deliveries of the material are effective. Some staff stated that the inmate-on-staff sexual harassment

³⁶ For this analysis, the OIG examined copies of training materials given by the BOP in all Annual Refresher Training (ART) and non-ART courses between FYs 2015 and 2021 that include information on sexual harassment or sexual misconduct.

³⁷ New employee training is mandatory at the start of an employee's BOP career. ART is a series of mandatory training sessions provided to all BOP employees on an annual basis, regardless of position. Position-specific training requirements vary based on position.

training section in ART only minimally captures the topic and is lacking in comprehensive details, while other staff indicated that ART's inmate-on-staff sexual harassment section is sufficient. Other staff stated that the information provided in ART on sexual harassment is geared more toward inmate-on-inmate and staff-on-inmate sexual harassment rather than on inmate-on-staff sexual harassment. These staff identified that, while it is important to cover these topics to comply with the Prison Rape Elimination Act of 2003 (PREA), it is just as important to adequately cover potential incidents of inmate-on-staff sexual harassment in the BOP-administered ART.³⁸ Additionally, many of the staff we interviewed suggested that the BOP's Central Office should provide staff with additional training courses on inmate-on-staff sexual harassment, outside of ART, to help inform and educate staff on the prevalence of sexual harassment in a correctional setting while also providing additional measures to prevent and deter such behaviors and discipline inmates that engage in sexual harassment toward staff.

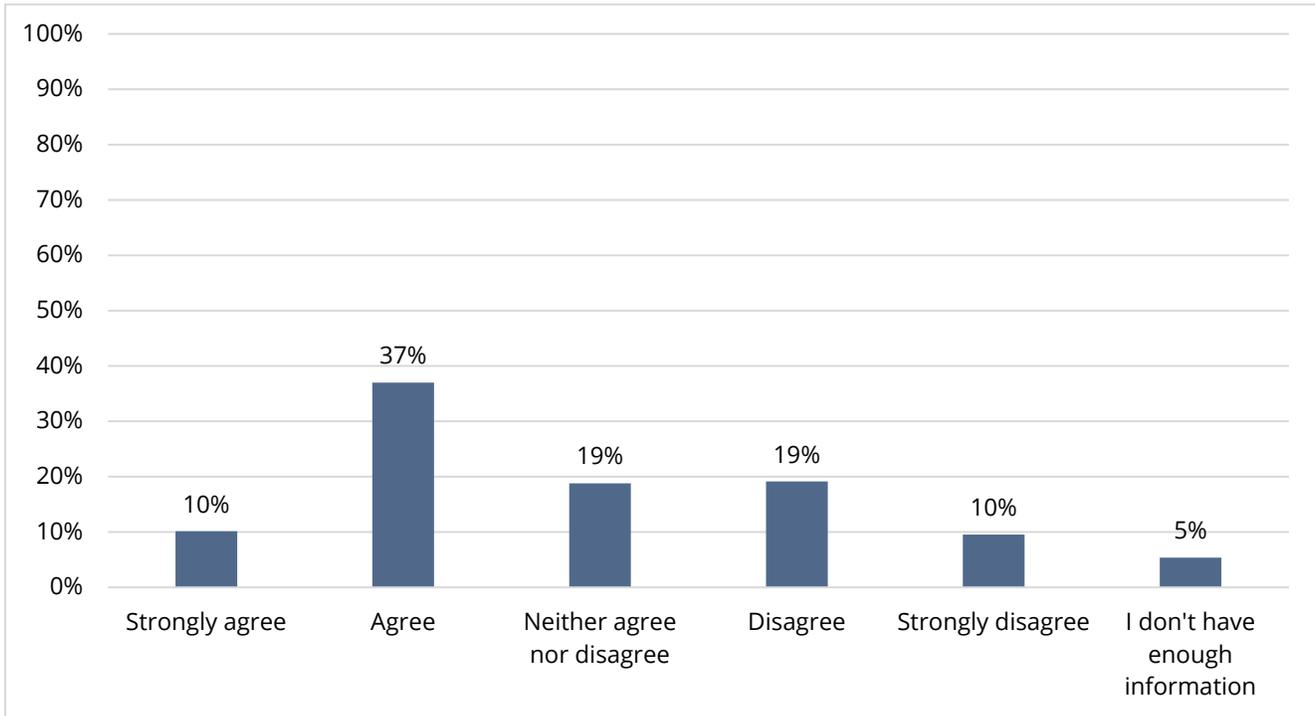
Further, some interviewees and focus group participants believed that the training the BOP delivers has had little to no effect on how inmate-on-staff sexual harassment was actually handled within institutions and has not improved staff safety. Survey respondents were somewhat equally divided (22 percent of respondents agreed or strongly agreed and 29 percent disagreed or strongly disagreed) that inmate-on-staff sexual harassment training is having little to no effect on how sexual harassment matters are handled at BOP institutions. In addition, only 38 percent (2,803 of 7,259) of survey respondents agreed or strongly agreed that the BOP's inmate-on-staff sexual harassment training is improving safety at BOP institutions while 28 percent of survey respondents neither agreed nor disagreed and 22 percent disagreed or strongly disagreed. While OIG survey data results indicated that nearly half (47 percent) of the survey respondents believed that the BOP's inmate-on-staff sexual harassment training is sufficient, the data also indicated that there is room for improvement. See Figure 3 below for a breakdown of survey responses.

³⁸ PREA's purpose is to "provide for the analysis of the incidence and effects of prison rape in federal, state, and local institutions and to provide information, resources, recommendations and funding to protect individuals from prison rape." National PREA Resource Center, "[Prison Rape Elimination Act](http://www.prearesourcecenter.org/about/prison-rape-elimination-act)," www.prearesourcecenter.org/about/prison-rape-elimination-act (accessed June 10, 2022).

The current OIG evaluation examined inmate-on-staff sexual harassment specifically. The OIG reviewed staff-on-inmate sexual harassment and abuse in DOJ OIG, [The Department of Justice's Efforts to Prevent Staff Sexual Abuse of Federal Inmates](#), E&I Report I-2009-004 (September 2009), oig.justice.gov/reports/review-department-justices-effort-prevent-staff-sexual-abuse-federal-inmates, and [Deterring Staff Sexual Abuse of Federal Inmates](#) (April 2005), oig.justice.gov/reports/deterring-staff-sexual-abuse-federal-inmates.

Figure 3

Responses to Survey Question: "BOP-wide, how strongly do you agree with the following statements about the BOP's inmate-on-staff sexual harassment training: The BOP's inmate-on-staff sexual harassment training is sufficient for ensuring that staff at all levels know what to do during those types of incidents."



Source: OIG analysis of survey data

We also reviewed training documents from the BOP's 2018 Warden Conference and found that an Inmate Sexual Misconduct course is a step in the right direction for the BOP because it acknowledges the prevalence of inmate-on-staff sexual harassment and identifies ways to prevent such harassment and enforce inmate discipline. However, we concluded that it is unclear whether and how Wardens are applying the information presented at the Warden Conference at their institutions and through training staff across institutions to encourage transparency of inmate-on-staff sexual harassment occurrences.

Conclusion

We concluded that, while the BOP includes some information related to inmate-on-staff sexual harassment in staff training, BOP staff are divided about whether the training, as it stands, is useful in preventing and responding to this issue. Additionally, there were varied opinions among staff interviewees as to the effectiveness of the inmate-on-staff sexual harassment sections of ART, which we conclude can cause confusion among staff, as well as adding to lack of transparency in the processes and procedures for handling inmate-on-staff sexual harassment across BOP institutions. We believe that the BOP could do more to educate its staff on inmate-on-staff sexual harassment and that the BOP's training could further emphasize resources to assist staff who witness or experience inmate-on-staff sexual harassment. Overlooking or failing to adequately address inmate-on-staff sexual harassment during staff training carries

risk in that some personnel may inappropriately handle incidents or completely disregard occurrences. This in turn has the potential to give rise to and spread unacceptable and harmful norms on the handling of inmate-on-staff sexual harassment incidents and decrease staff safety.

Recommendations

To improve the BOP's inmate-on-staff sexual harassment staff training, we recommend that the BOP:

8. Include a training needs assessment as part of the comprehensive mitigation strategy outlined in Recommendation 6, and ensure that inmate-on-staff sexual harassment training addresses the identified needs.

9. Ensure that inmate-on-staff sexual harassment training continues to include content related to reporting, preventing, and mitigating inmate-on-staff sexual harassment, as well as including the resources available to staff who witness or experience this harassment.

Conclusion and Recommendations

Conclusion

Throughout this evaluation, we found that when inmate-on-staff sexual harassment is not appropriately and consistently addressed and mitigated it could harm the reputation and credibility of the BOP and that BOP staff believe that it also compromises the safety and security of BOP staff and reduces staff morale. We found that the BOP had inadequate data on inmate-on-staff sexual harassment and was not always identifying the gender of the victim, whether the victim was an inmate or staff, and the specific inmate behavior within the prohibited act, all of which could have prevented it from fully realizing the scope of the problem. While the BOP's implementation of the Discipline and Administration Reintegration Tracking System (DARTS) appears to be a positive step in reporting and tracking inmate-on-staff sexual harassment, it is too early to determine whether the system will be successful in aiding the BOP to more effectively collect and analyze inmate-on-staff sexual harassment data. Despite the BOP's varied approaches to reporting, tracking, and monitoring inmate-on-staff sexual harassment, we found, inmate-on-staff sexual harassment occurs across BOP institutions and BOP staff believe that it particularly affects female employees. Further, we found that the BOP has taken some action to respond to allegations of inmate-on-staff sexual harassment and to mitigate the risks of inmate-on-staff sexual harassment for BOP staff; however, until the BOP fully identifies the prevalence and scope of inmate-on-staff sexual harassment, the BOP will not be able to fully address the associated problems, which, in addition to placing staff safety and security at risk, has the potential for financial and legal consequences.

Finally, we concluded that, while the BOP includes some information related to inmate-on-staff sexual harassment in staff training, BOP staff are divided about whether the training, as it stands, is useful in preventing and responding to this issue and that the BOP could do more to educate its staff on inmate-on-staff sexual harassment. Additionally, there were varied opinions among staff interviewees as to the effectiveness of the inmate-on-staff sexual harassment sections of the BOP's Annual Refresher Training, which we conclude can cause confusion among staff, as well as adding to lack of transparency in the processes and procedures for handling inmate-on-staff sexual harassment across BOP institutions. We believe that the BOP could do more to educate its staff on inmate-on-staff sexual harassment and that the BOP's training could further emphasize resources to assist staff who witness or experience inmate-on-staff sexual harassment. By not directly addressing inmate-on-staff sexual harassment adequately through training, there is possibility for myriad potentially dangerous attitudes toward this issue, which may take root and lead to decreased staff safety, legal allegations, and costly financial consequences.

Without a full understanding of the scope of the issue, the BOP will continue to lack a complete understanding of the risks and consequences posed by inmate-on-staff sexual harassment to its staff and institutions. These include the detrimental effect these incidents have on staff morale and safety, which continue to lead to increased staff turnover, loss of institutional knowledge, and the potential for financial and legal liability.

Recommendations

To fully ascertain the prevalence and scope of inmate-on-staff sexual harassment, to ensure that the BOP's actions to mitigate inmate-on-staff sexual harassment fully address the associated problems, and to improve the BOP's inmate-on-staff sexual harassment staff training, we recommend that the BOP:

1. Add fields to the Discipline and Administration Reintegration Tracking System that can be easily queried to identify the type of victim (inmate, staff, or other) and gender of the victim for all incidents involving prohibited acts by inmates, and identify the specific inmate behavior under each prohibited act code.
2. Ensure that staff are trained on the updated fields in the Discipline and Administration Reintegration Tracking System and that staff understand which inmate behaviors are associated with each prohibited act code, as well how to articulate the behavior in the corresponding field.
3. Ensure that policies and program statements that address inmate-on-staff sexual harassment are consistent with updates to systems and data tracking mechanisms.
4. Conduct regular risk assessments of the prevalence and severity of inmate-on-staff sexual harassment within individual institutions and across BOP institutions, with a particular emphasis on the risks for female staff.
5. Review the corrective actions from the two class action settlements concerning Federal Correctional Complex (FCC) Coleman and FCC Victorville, and assess all BOP institutions to determine which corrective actions should be implemented BOP-wide or in additional institutions.
6. Develop and implement a comprehensive inmate-on-staff sexual harassment mitigation strategy that includes the appropriate corrective actions from the settlement agreements, addresses the issues identified in the assessment, and is based on the scope of the problem.
7. Share inmate-on-staff sexual harassment mitigation strategies BOP-wide on a regular and recurring basis.
8. Include a training needs assessment as part of the comprehensive mitigation strategy outlined in Recommendation 6, and ensure that inmate-on-staff sexual harassment training addresses the identified needs.
9. Ensure that inmate-on-staff sexual harassment training continues to include content related to reporting, preventing, and mitigating inmate-on-staff sexual harassment, as well as including the resources available to staff who witness or experience this harassment.

Appendix 1: Purpose, Scope, and Methodology

Standards

The OIG conducted this evaluation in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation* (January 2012).

Purpose and Scope

The OIG has received multiple congressional inquiries regarding concerns about the BOP's efforts to keep its staff safe; in recent years, civil suits and public reporting detailed inmate-on-staff sexual harassment of Correctional Officers, particularly female officers, by inmates in BOP institutions.³⁹ The OIG initiated this evaluation in May 2019 to assess the prevalence and effects of inmate-on-staff sexual harassment, as well as the BOP's efforts to address this form of inmate behavior.⁴⁰

The focus of the evaluation was BOP inmate-on-staff sexual harassment; it did not cover sexual harassment perpetrated by BOP staff toward inmates, other staff, or contract staff and did not cover sexual harassment perpetrated by inmates toward other inmates. This evaluation examined conditions only in federal correctional facilities owned and operated by the BOP, including correctional institutions, detention centers, and U.S. penitentiaries, which we collectively refer to as "BOP institutions." The scope of this evaluation did not include the setting or staff of private contract prisons or Residential Reentry Centers.

Methodology

This evaluation examined relevant DOJ policies and assessed BOP policies and program statements. The majority of our fieldwork centered on staff experiences, perceptions, and beliefs as of 2019, though our interviews and survey also encompassed historical experiences and our data analysis of inmates sanctioned for relevant prohibited acts that are sexual in nature extended to as early as 2015. We conducted over 100 interviews with BOP staff in positions at BOP Central Office, regional offices, and several BOP institutions across the country and conducted three focus groups to gain insight from staff on their

³⁹ Senators Dianne Feinstein and Ron Johnson, letters to the Honorable Michael E. Horowitz, Inspector General, U.S. Department of Justice, November 29, 2018, and December 11, 2018, respectively. The congressional inquiries referenced a news media investigation of sexually abusive behaviors and harassment that female employees experienced while working in BOP institutions. "[Hazing, Humiliation, Terror: Working While Female in Federal Prison](https://www.nytimes.com/2018/11/17/us/prison-sexual-harassment-women.html)," *The New York Times*, November 17, 2018, www.nytimes.com/2018/11/17/us/prison-sexual-harassment-women.html (accessed June 10, 2022).

⁴⁰ At the outset of the coronavirus disease 2019 pandemic in March 2020, the OIG shifted resources to extensive pandemic-related oversight, which delayed our completion and issuance of this report.

Inmate-on-staff "sexual harassment" and "sexual misconduct" refer to a range of behaviors that are consensual or unwanted, with the inmate's intent to harass staff or for sexual gratification. These behaviors could include persistent sexual advances or remarks about physical appearance. They could also include threats of force to coerce staff to engage in sexual behavior, such as nonconsensual or unwanted touching, sexual penetration, oral sex, anal sex, or nonviolent attempts or requests to engage in these behaviors. For purposes of this evaluation, the OIG uses the term "sexual harassment" to encompass all forms of sexual misconduct.

experiences, perceptions, and beliefs related to inmate-on-staff sexual harassment. Additionally, we spoke with BOP inmates and external stakeholders to obtain their perspectives on this issue. We performed in-person, on-site visits at three BOP institutions; to obtain input from a wider population, we deployed an anonymous online survey, addressing staff experiences and perceptions of sexual harassment by inmates, to all staff employed by the BOP in September–October 2019. In addition, we obtained updated information in FY 2021 on BOP training documents concerning sexual harassment. At the time of this evaluation, the BOP did not have a reliable accounting of all allegations of inmate-on-staff sexual harassment, so we could analyze only the number of sanctioned incidents in the BOP. Additionally, inmate-on-staff sexual harassment has yet to be widely researched and studied.

Interviews, Focus Groups, and Site Visits

We conducted 100 interviews with BOP staff in positions at BOP Central Office, regional offices, and several BOP institutions across the country. We also interviewed external stakeholders at a U.S. Attorney's Office, at the U.S. Department of Labor Occupational Safety and Health Administration (OSHA), and in a private law firm to obtain their perspectives on this issue.

We received several requests from staff who wanted to share additional information concerning their experiences of inmate-on-staff sexual harassment in their institutions. We conducted three focus groups that were composed of seven BOP Psychologists and a Staff Nurse.

In 2019, we conducted site visits to Federal Correctional Institution (FCI) Jesup, Federal Correctional Complex Coleman, and FCI Miami, where we spoke with BOP staff in various positions and a few inmates.

Survey

In September–October 2019, we deployed an anonymous online survey to all BOP employees to better understand staff experiences of inmate-on-staff sexual harassment. The survey was open for 3 weeks, and we received 7,334 total survey responses. Of the 7,334 survey responses, nearly 40 percent (2,597) of the respondents identified as female, 59 percent (3,842) identified as male, and 1.6 percent (104) identified as other, while an additional 10.8 percent (791) of respondents provided an incomplete response.

Case File Review and Data Analysis

The evaluation focused on data from FY 2015 through FY 2021. We examined documents summarizing different BOP training sessions, which took place between FY 2015 and 2021 and which BOP personnel said were related to inmate-on-staff sexual harassment. We also examined BOP budget data and in particular budget data related to lawsuits and settlements for inmate-on-staff sexual harassment. Similarly, we reviewed settlement documents in three U.S. Equal Employment Opportunity Commission matters, as well as BOP-provided information pertaining to seven additional lawsuits in various stages of litigation and settlement. We also reviewed the demographic characteristics of inmates incarcerated in BOP institutions at the time that we launched the BOP-wide staff survey. We examined 22 BOP institutions' strategies to mitigate inmate-on-staff sexual harassment. Additionally, we reviewed the OSHA-issued serious violation for unsafe working conditions at FCI Miami.

Further, related to Prohibited Act Code 114, 205, 206, 225, and 229 violations between FYs 2015 and 2021, we reviewed the monthly numbers of sanctions at the 122 BOP institutions and the BOP's annual number of sanctions.

Policy, Program Statement, and Document Review

We reviewed policy, procedures, and guidance related to harassment, sexual harassment, and equal employment for DOJ and the BOP. We reviewed 16 BOP program statements that have a nexus with sexual harassment. We also reviewed the BOP's Inmate Admission & Orientation (A&O) Handbook template that is used by each institution as a framework for its own A&O Handbook. Further, we examined BOP organizational charts, memoranda related to inmate-on-staff sexual harassment, union documents, and the activation schedule for the BOP's Discipline and Administration Reintegration Tracking System.

From three states we reviewed department of corrections and criminal justice directives, manuals, and handbooks related to sexual harassment. We also examined congressional testimony and news articles related to inmate-on-staff sexual harassment.

The OIG and the U.S. Government Accountability Office have not conducted any previous reviews of inmate-on-staff sexual harassment (for reviews and studies related to sexual harassment in general, see [Appendix 4](#)). To gain a broader understanding of sexual harassment in the workplace, we reviewed several federal reports and academic articles pertaining to harassment issues in the workplace, as well as gender-related issues in the federal government. This body of work helped to provide more context for particular aspects of inmate-on-staff sexual harassment.

Appendix 2: Corrective Actions for Federal Correctional Complexes Coleman and Victorville

The settlement agreements in the U.S. Equal Employment Opportunity Commission (EEOC) class actions *White v. Department of Justice* and *Ferguson v. Department of Justice* require the BOP to conduct programmatic relief at Federal Correctional Complexes (FCC) Coleman and Victorville, respectively. The settlements outline a substantially similar system of programmatic relief at both facilities in nine major areas of corrective action. Under the terms of the agreements, the programmatic relief is to remain in effect for a 4-year period at each facility, measured from the date of preliminary approval of the respective settlement agreements. The nine major areas of corrective action, and the specific corrective actions under each, are summarized below.⁴¹

Tracking and Processing Incident Reports

- Email Resource Box:
 - Both FCCs will require staff members to send an email notification, to a newly established email resource box, for each incident report concerning inmate sexual misconduct toward staff submitted to the Lieutenants' office, in addition to submitting the incident report to the Lieutenant's office.
- Updating the Discipline Hearing Officer (DHO) Docket Sheet:
 - Both FCCs will add a column to the DHO docket sheet identifying the original charge(s) for which the staff member wrote the incident report and an additional column identifying whether the incident report was expunged.
- DHO Training:
 - At both FCCs, the Regional Discipline Hearing Administrator will review each incident report involving inmate sexual misconduct toward staff that has been expunged or downgraded for the purposes of future training on these issues.

Disciplinary Rules

- Explanation of 205 Violations:
 - Both FCCs will provide training that (a) all relevant facts should be described in a 205 incident report and (b) no one fact is determinative on its own as to whether the incident report will be sustained, including whether the staff member saw the inmate's

⁴¹ Settlement Agreement, *White v. Dep't of Justice*, EEOC No. 510-2012-00077X (Dec. 5, 2016), and Settlement Agreement, *Ferguson v. Dep't of Justice*, EEOC No. 480-2016-00563X (Nov. 9, 2018).

exposed genitals. If a staff member believes that an inmate was engaging in sexual misconduct toward staff, the staff member must submit an incident report even if he or she has not seen the inmate's exposed genitals.

- Explanation of the Differences Between 200 and 300 Level Violations:
 - Both FCCs will provide training regarding the differences between 200 and 300 Level inmate sexual misconduct violations, the use of the “attempt” provisions, and the 299/399 provisions. The FCCs will also provide training regarding the 225 violation.
- Possibility of Upgrading Engaging in a Sexual Act to a 100 Level Violation (FCC Coleman settlement only):
 - The BOP will recommend a regulation change to establish a 100 Level misconduct charge addressing inmate sexual activity toward staff within the timeframe set forth in the FCC Coleman settlement agreement.

Practices to Deal with Inmate Sexual Misconduct Toward Staff

- Oral Harassment and Window Banging:
 - Both FCCs will include in the training provided to all staff methods to address conduct such as oral harassment (e.g., “cat-calls,” whistling, comments, etc.) and banging on unit windows and will issue related guidance to staff in a memorandum.
 - The memorandum will state, and the training will provide, the following:
 - If the inmate who commits oral harassment can be identified, a staff member must write an incident report for the identified inmate.
 - When a staff member encounters oral harassment and cannot definitively identify the perpetrator, the staff member will notify a Lieutenant or other management official and the staff member and Lieutenant or management official will work to identify and may question the inmates or otherwise address the behavior through appropriate measures.
 - If the perpetrators cannot be identified, methods to address repeated incidents may include holding town halls on units to clarify expectations of behavior; withdrawal of certain privileges (e.g., microwave access, television access, commissary access, the order in which units go to the dining hall for meals, etc.) as appropriate, per the Warden or a designee; or other measures as appropriate.
 - Both FCCs will number cell windows on the outside of the buildings to assist in identifying inmates engaging in this behavior. Staff will be required, if able, to assist in the identification

of inmates who are engaging in oral harassment. If these measures are not effective in combating oral harassment, other measures will be considered.

- Prosecution:
 - Both FCCs will follow evidence recovery protocols whenever possible, to include the collection and preservation of substances that may be semen, and will instruct staff to follow those protocols in the training provided to all staff.
 - Both FCCs will refer to the respective U.S. Attorney's Office for prosecution all appropriate matters of inmate sexual misconduct toward staff.

Threat Assessment and Staff Notification

- Threat Assessment:
 - Both FCCs will conduct a threat assessment on any inmate that a staff member reports as posing a threat to safety or security. The agency will reiterate this in the training provided to all staff. For inmates housed in the Special Housing Unit (SHU), staff should request that a threat assessment be performed as soon as possible after the inmate is sent to the SHU, including while the inmate is pending investigation or disciplinary segregation.
- Staff Notification:
 - When an inmate who has been placed in the SHU for sexual misconduct toward staff is released to general population, the institution Captain will notify the reporting staff member prior to the inmate's release unless exigent circumstances prevent prior notice. If prior notice is not possible and the reporting staff member is absent at the time the inmate is released from the SHU, the Captain will make reasonable efforts to notify the staff member before that member enters the institution.

Measures to Reduce Opportunities for Inmate Sexual Misconduct Toward Staff

- Inmate Uniforms:
 - FCC Coleman will initiate the procurement of inmate uniforms without front/side pockets for the general population and the SHU and will purchase such uniforms unless cost, quality, or other concerns make it unreasonable to do so. FCC Coleman will require inmates to be appropriately clothed in all common areas of the institution, including by wearing a shirt during recreation.
 - FCC Victorville has initiated the procurement of inmate uniforms without front/side pockets for all inmates. FCC Victorville will require inmates to be appropriately clothed in all common areas of the institution, including by wearing a shirt during recreation. Inmates in

the SHU will wear jumpsuits with no pockets between the hours of 6 a.m. and 6 p.m.; procurement of such jumpsuits will be initiated as soon as possible.

- Reduction of Exposure of Staff at the U.S. Penitentiary (FCC Coleman Settlement Only):
 - For FCC Coleman, G Corridor and East Corridor Correctional Officers are available to provide assistance in the Education and Recreation Departments. When it is necessary that G or East Corridor Correctional Officers be removed from the G or East Corridor areas, the Operations Lieutenant will notify staff in the Education and Recreation Departments and will provide additional monitoring of these areas as appropriate, e.g., frequent watch calls, camera monitoring, other staff rounds, etc.
- Safeguarding Staff When There Is a Threat of Imminent Safety:
 - At both FCCs, when a staff member is concerned for his or her imminent safety as a result of inmate sexual misconduct toward staff, the staff member should report it to the Captain or other appropriate management official, who will immediately safeguard the staff member by separating the inmate from the staff member by reassigning the inmate to another housing unit, assigning the inmate to the SHU, or moving the inmate via intra-complex transfer.
- Posted Picture File:
 - FCC Coleman will include inmates who have been found to have committed sexual misconduct toward staff in the Posted Picture File consistent with its policy.
 - FCC Victorville Psychology Services will generate quarterly a “hot list” of inmates who have previously engaged in sexual misconduct, and staff will have access to the list through desktop computer. Additionally, FCC Victorville will include inmates who have been found to have committed sexual misconduct in the Posted Picture File consistent with its policy.
- TRUSCOPE:
 - Staff training will include instruction on how to use TRUSCOPE to assist in monitoring inmate behavior.

Communication to Inmates

- Institution Intake Screening Questionnaire:
 - Both FCCs will ask as part of the social intake screening whether the inmate has a history of sexual misconduct toward staff and will instruct staff who conduct the social intake screening by memorandum to specifically ask and record information on the form about sexual misconduct toward staff.

- For FCC Victorville only, during intake a recording advising inmates that Victorville has a “zero tolerance” policy for inmate sexual misconduct will be played.
- Admissions & Orientation (A&O):
 - Both FCCs will include information about the prohibition of inmate sexual misconduct toward staff in their A&O materials and will emphasize the same during the A&O, including, among other topics, the prohibition of oral harassment.
- Notification on Inmate Televisions:
 - Both FCCs will place language on the inmate television screens during lockdowns reminding inmates that the FCC has zero tolerance for inmate sexual misconduct toward staff.
- Town Halls:
 - At both FCCs, the Wardens of each institution (or the Associate Warden, when necessary) will hold town halls in each unit concerning the prohibition of inmate sexual misconduct toward staff.
- TRULINCS:
 - At both FCCs, after the town halls a notice will be placed on the electronic bulletin board of the TRULINCS system for 60 days reminding inmates that the FCC has a zero tolerance for inmate sexual misconduct toward staff.

Behavior Modification and Psychology Treatment Programs

- Psychology Referrals and Interventions:
 - Inmates who arrive at the FCC with any history of sexual misconduct will be seen by Psychology Services within 30 days of arrival at FCC Coleman under the settlement agreement governing that facility and within 3 business days of arrival at FCC Victorville under the settlement agreement governing that facility, regardless of the inmate’s Mental Health Care Level (MHCL).
 - Inmates who engage in sexual misconduct toward staff while at FCC Coleman and FCC Victorville, and who are at MHCL 2 or above, will be referred to Psychology Services. MHCL 1 inmates will also be referred to Psychology Services after repeated instances of sexual misconduct toward staff. Based on Psychology Services’ interactions with inmates, appropriate mental health interventions will be incorporated into individualized treatment plans (e.g., individual therapy, medications, group counseling, etc.). Inmates who have been convicted of a sex offense will be referred to Psychology Services for assessment of whether the sex offender management program or ex-offender treatment program is appropriate. A

representative from the National Psychology Services Office will provide guidance and interactive training to Psychology Services at the facilities and will serve as a resource for psychologists if they have questions about implementation of these provisions or inmate treatment.

- Referrals for Civil Commitment Pursuant to the Adam Walsh Child Protection and Safety Act of 2006 § 302(4), 18 U.S.C. § 4248 (Adam Walsh Act):
 - At both FCCs, Unit Team staff may refer inmates who have engaged in sexual misconduct toward staff for consideration under the Adam Walsh Act. Staff should consider the seriousness of incidents in making Adam Walsh Act referrals. Inmates will be notified during the town halls and in the A&O materials that they may be referred for possible civil commitment pursuant to the Adam Walsh Act if they engage in sexual misconduct toward staff. Case Managers will remind inmates, and document the reminder in the inmate's file, after an inmate engages in sexual misconduct toward staff, of the possibility of referral for civil commitment under the Adam Walsh Act.
- General Programming:
 - Both FCCs will offer general programming regardless of inmates' MHCL (e.g., anger management, cognitive behavioral therapy groups, etc.).

Special Housing Unit

- Inmate Cell Placement:
 - At both FCCs, a memorandum will be issued to SHU Lieutenants and staff, instructing them that: (1) the SHU Lieutenant, or other staff member making cell placement decisions, will take into consideration whether an inmate has a history of sexual misconduct toward staff, along with other factors, when placing an inmate into a specific cell, and (2) the SHU Lieutenant, or other staff making cell placement decisions, may consider placing an inmate in a cell at the back of the range or on the range with cells only on one side.
- Video Cameras:
 - Both FCCs will allow use of video cameras in the SHU for purpose of evidence collection if a staff member requests it and an inmate has continued to engage in sexual misconduct toward staff after being housed in the SHU.
- Clarification of Policy Regarding Incident Reports for Inmates in the SHU:
 - Both FCCs will instruct staff to continue to use the inmate discipline process for inmates in the SHU, including preparing incident reports for inmates who violate the Inmate Discipline Policy regardless of the possibility of transfer of the inmate.

- Rolling Medical Screens:
 - Both FCCs will purchase and provide rolling medical screens for staff to use at their discretion.

- Inmate Uniforms in the SHU:
 - For FCC Coleman, the agency will instruct inmates in the SHU to be clothed at all appropriate times, including during recreation and except when sleeping, showering, using the bathroom, etc.
 - For FCC Victorville, the agency will instruct inmates in the SHU to be clothed during the hours of 6:00 a.m. to 6:00 p.m. (i.e., in jumpsuits with no pockets), as well as at all other appropriate times, to include during recreation and except when sleeping, showering, using the bathroom, etc.

- Uniforms and Consistent Enforcement of Policies:
 - Both FCCs will apply policies, procedures, and sanctions consistently for effective management.

General

- Managerial Performance Appraisals:
 - At both FCCs, supervisors may consider staff's actions, positive or negative, taken regarding inmate sexual misconduct toward staff under existing performance work plan standards. Additionally, incidents of staff misconduct in responding or failing to respond to inmate sexual misconduct toward staff may be referred for investigation under current policies for possible disciplinary action. Staff will be reminded in training of performance and conduct responsibilities and of the possible consequences of failing to comply with those responsibilities.

- Ability to Identify Issues or Make Suggestions Confidentially or Anonymously:
 - At both FCCs, the Internal Coordinator, Class Representative, and Facilitators may receive anonymous complaints from staff. Staff members will be reminded in training that they are required to report inmate misconduct that violates a disciplinary code or employee conduct that violates a standard of employee conduct.

- Social Climate Survey and Institution Character Profile:
 - At both FCCs, language regarding inmate sexual misconduct will be added to the Social Climate Survey and Institution Character Profile. The Internal Coordinator and Class Representative will be interviewed as part of these tools and will be given the results related to this issue.

- Initial Training:
 - In addition to other training, both FCCs shall provide an initial mandatory training to all staff. The settlement agreements detail procedures for considering and implementing changes to the initial training. In addition, at this initial training session and during annual refresher training, the agency will provide training on additional topics as stated in the settlement agreements.

- DHO Training:
 - Each FCC's DHOs will be provided training concerning the elements of offenses, including the issues outlined in the Disciplinary Rules, progressive discipline, the ability to return incident reports to the reporting officer for more information, and other topics the agency deems necessary.

- Training for Standing Committee and Facilitators:
 - Prior to the training provided to all staff, each FCC will provide training for the Standing Committee and Facilitators regarding incident report writing, communication skills, and review of institution databases to help with research.

Notes: There are two additional areas related to the roles and responsibilities of the Internal Coordinator, Standing Committee, and Facilitators under the terms of the agreements' programmatic relief.

For FCC Victorville, there is an additional action not related to the plaintiffs' claims about inmate-on-staff sexual harassment.

Appendix 3: BOP Institutions by Number of Staff Reporting Inmate-on-Staff Sexual Harassment Incidents in the OIG Survey and Institution Security Levels

BOP Institution	Number of Survey Respondents Reporting Sexual Harassment	Institution Security Level(s)
FCC Coleman	168	Minimum, Low, Medium, & High
FCC Florence	127	Minimum, Medium, High, & Administrative
FCC Victorville	120	Minimum, Medium, & High
FCC Butner	82	Minimum, Low, Medium, High, & Administrative
FCC Allenwood	80	Low, Medium, & High
FCC Hazelton	72	Minimum, Medium, & High
FCC Pollock	70	Minimum, Medium, & High
FCC Tucson	69	Minimum, Medium, & High
FCC Beaumont	64	Minimum, Low, Medium, & High
USP Lewisburg	63	Minimum & Medium
FCC Terre Haute	61	Minimum, Medium, & High
MCFP Springfield	58	Administrative
FCC Yazoo City	55	Minimum, Low, Medium, & High
USP Big Sandy	47	Minimum & High
USP Thomson	43	Minimum & High
USP Atwater	42	Minimum & High
FTC Oklahoma City	40	Administrative
USP McCreary	38	Minimum & High
FMC Lexington	38	Administrative & Minimum
FCI Berlin	35	Minimum & Medium
FMC Devens	35	Administrative & Minimum
USP Canaan	33	Minimum & High
FMC Rochester	33	Administrative
MDC Brooklyn	33	Administrative
FCC Forrest City	29	Minimum, Low, & Medium
FCI Williamsburg	29	Minimum & Medium
USP Marion	28	Minimum & Medium
FCI Danbury	27	Minimum & Low
FCI Memphis	27	Minimum & Medium
USP Atlanta	26	Minimum & Medium
FMC Carswell	25	Administrative & Minimum
FCI Edgefield	25	Minimum & Medium
FCC Petersburg	24	Minimum, Low, & Medium
USP Leavenworth	24	Minimum & Medium
FCI Jesup	24	Minimum, Low, & Medium
FCI Englewood	23	Minimum & Low
FCI Fort Dix	22	Minimum & Low
FCI Greenville	22	Minimum & Medium
FDC SeaTac	21	Administrative

BOP Institution	Number of Survey Respondents Reporting Sexual Harassment	Institution Security Level(s)
FCI Seagoville	20	Minimum & Low
FCI Phoenix	20	Minimum & Medium
FDC Philadelphia	20	Administrative
USP Lee	20	Minimum & High
FCC Lompoc	20	Minimum, Low, & Medium
FCI Talladega	19	Minimum & Medium
FCI Fairton	18	Minimum & Medium
FCI Beckley	18	Minimum & Medium
FCI Waseca	18	Low
FDC Houston	18	Administrative
FDC Miami	17	Administrative
FCI McKean	17	Minimum & Medium
FCI Bennettsville	17	Minimum & Medium
FCI Milan	17	Low
FCI Three Rivers	16	Minimum & Medium
FMC Fort Worth	15	Administrative
FCI Manchester	15	Minimum & Medium
FCI Sheridan	15	Minimum & Medium
FCI Tallahassee	15	Low
FCI Dublin	15	Minimum & Low
FCI El Reno	15	Minimum & Medium
FCC Oakdale	14	Minimum & Low
FCI Sandstone	14	Low
MDC Los Angeles	14	Administrative
FCI Otisville	13	Minimum & Medium
MCC Chicago	13	Administrative
FDC Honolulu	12	Administrative
FCI Elkton	12	Low
FCI Miami	12	Minimum & Low
FCI Oxford	12	Minimum & Medium
FCI Cumberland	11	Minimum & Medium
FCI Gilmer	11	Minimum & Medium
MDC Guaynabo	11	Administrative
FCI Estill	11	Minimum & Medium
FCI Bastrop	10	Minimum & Low
FCI Mendota	10	Minimum & Medium
FCI Herlong	10	Minimum & Medium
FCI Pekin	10	Minimum & Medium
FCI McDowell	9	Minimum & Medium
FCI Ray Brook	9	Medium
MCC New York	9	Administrative
FCI Big Spring	9	Minimum & Low
FCI La Tuna	8	Minimum & Low
FCI Aliceville	8	Minimum & Low
FCI Texarkana	8	Minimum & Low

BOP Institution	Number of Survey Respondents Reporting Sexual Harassment	Institution Security Level(s)
FPC Bryan	7	Minimum
FCI Marianna	7	Minimum & Medium
FCI Schuylkill	7	Minimum & Medium
FPC Alderson	6	Minimum
MCC San Diego	6	Administrative
FCI Terminal Island	6	Low
FCI Ashland	5	Minimum & Low
FCI Loretto	4	Minimum & Low
FCI Morgantown	4	Minimum
FPC Duluth	4	Minimum
FPC Yankton	3	Minimum
FCI Safford	3	Minimum
FPC Pensacola	1	Minimum
FPC Montgomery	1	Minimum
Total	2, 571	

Notes: FCC=Federal Correctional Complex; FCI=Federal Correctional Institution; FDC=Federal Detention Center; FMC=Federal Medical Center; FPC=Federal Prison Camp; FTC=Federal Transfer Center; MCC=Metropolitan Correctional Complex; MCFP=Medical Center for Federal Prisoners; MDC=Metropolitan Detention Center; USP=U.S. Penitentiary. Institutions are listed from most self-reported incidents of sexual harassment to least.

Source: OIG analysis of survey data

Appendix 4: Related Reviews and Studies

The DOJ OIG and the U.S. Government Accountability Office (GAO) have not conducted any previous reviews specific to inmate-on-staff sexual harassment. The reports listed below relate to staff-on-inmate sexual abuse and staff misconduct; inmate-on-inmate sexual abuse; and, in general, U.S. government workplace sexual harassment and are included to provide insight into other forms of sexual abuse and harassment.

U.S. Department of Justice Office of the Inspector General

[Deterring Staff Sexual Abuse of Federal Inmates](#) (April 2005)

This report examined sexual abuse of federal inmates by correctional staff and current law's effect on deterrence of staff sexual abuse.⁴²

[The Department of Justice's Efforts to Prevent Staff Sexual Abuse of Federal Inmates](#) (September 2009)

This review examined DOJ's efforts to deter the sexual abuse of federal inmates by correctional and law enforcement employees and to detect and prosecute those employees who have sexually abused federal inmates.⁴³

[Enhanced Screening of BOP Correctional Officer Candidates Could Reduce Likelihood of Misconduct](#) (September 2011)

This review examined whether the BOP's hiring process could more effectively identify potentially unsuitable applicants for Correctional Officer positions.⁴⁴

[Management of the Special Programs Unit at the Federal Bureau of Prisons Metropolitan Detention Center in Brooklyn, New York](#) (September 2015)

This review focused on whether weaknesses in management controls, policies, procedures, and practices contributed to an inmate's alleged disruption of the safety and security of inmates and staff in the Special Programs Unit from March 2011 through August 2012 and whether any such issues reflected more general problems that need to be addressed at the facility.⁴⁵

⁴² DOJ OIG, [Deterring Staff Sexual Abuse of Federal Inmates](#) (April 2005), oig.justice.gov/sites/default/files/legacy/special/0504/final.pdf.

⁴³ DOJ OIG, [The Department of Justice's Efforts to Prevent Staff Sexual Abuse of Federal Inmates](#), E&I Report I-2009-004 (September 2009), oig.justice.gov/reports/review-department-justices-effort-prevent-staff-sexual-abuse-federal-inmates.

⁴⁴ DOJ OIG, [Enhanced Screening of BOP Correctional Officer Candidates Could Reduce Likelihood of Misconduct](#), E&I Report I-2011-002 (September 2011), oig.justice.gov/reports/enhanced-screening-bop-correctional-officer-candidates-could-reduce-likelihood-misconduct.

⁴⁵ DOJ OIG, [Management of the Special Programs Unit at the Federal Bureau of Prisons Metropolitan Detention Center in Brooklyn, New York](#), E&I Report 15-08 (September 2015), oig.justice.gov/reports/management-special-programs-unit-federal-bureau-prisons-metropolitan-detention-center.

[Review of the Federal Bureau of Prisons' Monitoring of Contract Prisons \(August 2016\)](#)

As part of this review of the BOP's management of its contract prisons, the OIG analyzed two types of sexual misconduct data: (1) guilty findings on disciplinary charges of inmates committing sexual misconduct against other inmates and (2) allegations of staff sexual misconduct against inmates.⁴⁶

U.S. Government Accountability Office

[Women in Prison: Sexual Misconduct by Correctional Staff \(June 1999\)](#)

The GAO provided information on staff-on-inmate sexual misconduct in women's prisons, focusing on the applicable laws, policies, and procedures for addressing such misconduct and the number, nature, and outcome of allegations.⁴⁷

[Department of Justice: National Standards to Prevent, Detect, and Respond to Prison Rape \(August 2012\)](#)

The GAO found that DOJ's final rule adopts national standards to prevent, detect, and respond to prison rape, as required by the Prison Rape Elimination Act, and that DOJ complied with the applicable requirements in promulgating the rule.⁴⁸

[Workplace Sexual Harassment: Experts Suggest Expanding Data Collection to Improve Understanding of Prevalence and Costs \(September 2020\)](#)

This report examined (1) what is known about the prevalence and costs of U.S. workplace sexual harassment, including the federal workforce; (2) the extent to which the U.S. Equal Employment Opportunity Commission collected sexual harassment data; and (3) data collection approaches that experts recommended to improve available information.⁴⁹

⁴⁶ DOJ OIG, [Review of the Federal Bureau of Prisons' Monitoring of Contract Prisons](#), E&I Report 16-06 (August 2016), oig.justice.gov/reports/review-federal-bureau-prisons-monitoring-contract-prisons.

⁴⁷ GAO, [Women in Prison: Sexual Misconduct by Correctional Staff](#), GAO/GGD 99-104 (June 1999), www.gao.gov/assets/ggd-99-104.pdf (accessed June 10, 2022).

⁴⁸ GAO, [Department of Justice: National Standards to Prevent, Detect, and Respond to Prison Rape](#), GAO-12-1005R (August 2012), www.gao.gov/assets/gao-12-1005r.pdf (accessed June 10, 2022).

⁴⁹ GAO, [Workplace Sexual Harassment: Experts Suggest Expanding Data Collection to Improve Understanding of Prevalence and Costs](#), GAO-20-564 (September 2020), www.gao.gov/assets/gao-20-564.pdf (accessed June 10, 2022).

Appendix 5: BOP Staff Suggestions for Mitigating Inmate-on-Staff Sexual Harassment

During interviews and focus groups, BOP staff provided suggestions they believe the BOP could standardize across institutions to further improve staff safety, convey to inmates the seriousness of engaging in inmate-on-staff sexual harassment, and enhance the BOP's ability to more fully address the issue. The OIG did not assess the feasibility, permissibility, or effectiveness of these efforts. Categorized below are examples of those staff suggestions:

- **Enhancing Guidance and Training Provided to Inmates.** Upon entry into BOP custody, inmates receive an institution-specific Inmate Admission & Orientation Handbook that conveys, among other topics, prohibited sexual acts and information related to inmates being victims of sexual harassment and misconduct.⁵⁰ Some interviewees indicated that the handbook should address inmate-on-staff sexual harassment more specifically and include a training component to convey to inmates that this behavior is not tolerated and will be severely disciplined. Further, a few interviewees indicated that, if the BOP developed inmate-on-staff sexual harassment training for inmates, such training could also become part of a rehabilitative process for inmates who have committed inmate-on-staff sexual harassment.
- **Transferring Inmates to Higher Security Institutions.** Some BOP staff believe that transferring inmates who engage in inmate-on-staff sexual harassment to higher security institutions or higher security housing units could help deter the behavior, and some interviewees suggested that the BOP consider a special transfer program specific to inmate-on-staff sexual harassment offenders to convey that the BOP takes such harassment seriously. A Warden we interviewed said that the ability to transfer an inmate to a penitentiary from a medium security facility would be a good disciplinary strategy and one of the greatest deterrents.
- **Providing Body Alarms to All Staff.** Some staff indicated that ensuring that all staff have body alarms could be an effective method to reduce risks to staff safety.
- **Requiring All Staff to Wear Uniforms.** Some staff stated that all BOP staff should wear the same uniform (minus the carried weapons) as Correctional Officers as a way to mitigate risks to staff safety. Some staff indicated that non-correctional staff wear professional (office) attire, which can pose a safety risk. This was especially related to footwear, as well as the quality of the professional attire and the potential for it to tear or be removed more easily than would a Correctional Officer's uniform.
- **Reducing the Use of Augmentation and Hiring More Correctional Officers.** Many interviewees stated that hiring more Correctional Officers and reducing augmentation could help deter inmate-

⁵⁰ BOP, Inmate Admission & Orientation Handbook Template, May 8, 2014.

on-staff sexual harassment and improve staff safety.⁵¹ More specifically, some interviewees at Federal Correctional Institution (FCI) Jesup explained that inmates recognize when staff are being augmented and see that as an opportunity to take advantage of the situation, especially sexually.

- **Activating More Working Cameras.** Some interviewees said that having more working cameras would (1) help deter inmate-on-staff sexual harassment, (2) help staff with documenting an incident when it does occur, and (3) help in prosecuting inmates for inmate-on-staff sexual harassment that is criminal in nature.⁵² In discussing some of the biggest legal challenges that the BOP faces in addressing inmate-on-staff sexual harassment, an interviewee from the BOP Office of General Counsel said that the BOP might not have the video necessary for the U.S. Attorney's Office (USAO) to prosecute.
- **Prosecuting and Requiring Sex Offender Registration for Inmates Who Engage in Inmate-on-Staff Sexual Harassment of a Criminal Nature.** Most staff we interviewed agreed that criminal prosecution for criminal sexual misconduct committed by an inmate during the inmate's incarceration is the most effective deterrent for inmates. In addition, some interviewees said that designating inmates who engage in certain types of inmate-on-staff sexual harassment as sex offenders and including them on the Sex Offender Registry upon release is one of the most effective deterrents.⁵³ During our interview with a Warden, the Warden stressed that prosecuting and registering inmates as sex offenders will be the biggest deterrents against inmate-on-staff sexual harassment. According to the Warden, no inmate wants to explain to his or her family that, although he or she entered prison as a robber, for example, he or she is leaving as a sex offender.

⁵¹ Augmentation is the assignment of a non-custody staff member to a custody role, whereby the staff member's primary task becomes the custody and supervision of inmates. For more information on augmentation, see GAO, *Bureau of Prisons: Opportunities Exist to Better Analyze Staffing Data and Improve Employee Wellness Programs*, GAO-21-123 (February 2021), www.gao.gov/products/gao-21-123 (accessed November 16, 2022).

⁵² For more information on the BOP's security camera system, see the [Prison Camera Reform Act of 2021](#), Pub. L. No. 117-321, 136 Stat. 4430 (2022), [www.congress.gov/bill/117th-congress/senate-bill/2899/text#:~:text=Engrossed%20in%20Senate%20\(10%2F20%2F2021\)&text=To%20require%20the%20Director%20of,safety%20of%20employees%20and%20inmates](http://www.congress.gov/bill/117th-congress/senate-bill/2899/text#:~:text=Engrossed%20in%20Senate%20(10%2F20%2F2021)&text=To%20require%20the%20Director%20of,safety%20of%20employees%20and%20inmates) (accessed February 16, 2023).

DOJ OIG, *Management Advisory Memorandum: Notification of Needed Upgrades to the Federal Bureau of Prisons' Security Camera System*, E&I Report 20-011 (October 2021), oig.justice.gov/reports/management-advisory-memorandum-notification-needed-upgrades-federal-bureau-prisons-security; *Management Advisory Memorandum: Notification of Security Concerns at the Federal Bureau of Prisons Camp Locations*, Investigations Division Report 21-080 (June 2021), oig.justice.gov/reports/management-advisory-memorandum-notification-security-concerns-federal-bureau-prisons-camp; *Review of the Federal Bureau of Prisons' Contraband Interdiction Efforts*, E&I Report 16-05 (June 2016), oig.justice.gov/reports/review-federal-bureau-prisons-contraband-interdiction-efforts; and *Findings of Misconduct by a Bureau of Prisons Warden for Failing to Address a Lack of Heat in Housing Units, Failing to Maintain a Functioning Camera System Throughout the Facility, and Lack of Candor*, Investigations Division Report 21-111 (August 2021), oig.justice.gov/reports/findings-misconduct-bureau-prisons-warden-failing-address-lack-heat-housing-units-failing.

⁵³ The Adam Walsh Act requires a sex offender, defined as "an individual who was convicted of a sex offense," to "register, and keep the registration current, in each jurisdiction where the offender resides, where the offender is an employee, and where the offender is a student." 34 U.S.C. §§ 20911, 20913. For initial registration purposes only, a sex offender must also register where convicted if that jurisdiction is different from the jurisdiction of residence. 34 U.S.C. § 20913.

Other interviewees also suggested that requiring inmates who engage in certain types of inmate-on-staff sexual harassment to register as sex offenders also deters other inmates from such behaviors because they do not want to be labeled as a sex offender.

We learned from interviewees that some BOP institutions have great relationships with the Federal Bureau of Investigation (FBI) and USAO in their district; however, many others do not have such relationships and the BOP does not standardize relationships across institutions. According to an interviewee from the BOP Office of General Counsel, “The United States Penitentiary in Lee County was the first facility that successfully prosecuted an inmate for [indecent] exposure.” Since that prosecution, other BOP institutions were successful in working with the local FBI and USAO to prosecute other inmates for inmate-on-staff sexual harassment; however, those prosecutions were at the individual facility level and not standardized or overseen by the BOP Central Office.

An Assistant U.S. Attorney described the process to prosecute inmate-on-staff sexual harassment: first the BOP has to refer the allegations to the FBI and then the FBI has to refer the case to the USAO. The USAO handles inmate-on-staff sexual harassment on a case-by-case basis and considers issues such as the inmate’s release date, conduct, and previous convictions (to name a few examples). If there is previous conduct of the same nature, the USAO is able to submit a motion pursuant to Federal Rule of Evidence 404(b), which is a legal tool used to request that previous similar conduct of the defendant be considered at trial.⁵⁴ We also learned from this Assistant U.S. Attorney that, because many forms of inmate-on-staff sexual harassment violate state but not federal criminal law, the USAO uses the Assimilative Crimes Act, 18 U.S.C. § 13, when inmates commit acts of inmate-on-staff sexual harassment that violate state law.⁵⁵ When using this statute, USAOs are required to include the respective state offense under which inmate-on-staff sexual harassment falls. The BOP’s Criminal Matter Referrals Program Statement provides some guidance on tracking and referring matters for prosecution.⁵⁶

- **Referring Offenders of Inmate-on-Staff Sexual Harassment for Civil Commitment in Appropriate Cases.** The BOP’s Certification and Civil Commitment of Sexually Dangerous Persons Program Statement articulates standards and procedures for the BOP to certify individuals to be considered for civil commitment as sexually dangerous persons in accordance with federal law and pursuant to proceedings in federal district court.⁵⁷ Some interviewees indicated that this

⁵⁴ The same Assistant U.S. Attorney noted that, while a 404(b) motion is helpful, inmate-on-staff sexual harassment cases can be prosecuted successfully without prior conduct of the same nature documented. For more information, see Federal Rules of Evidence, “[Rule 404. Character Evidence; Other Crimes, Wrongs, or Acts](#),” 4, www.uscourts.gov/sites/default/files/federal_rules_of_evidence_-_december_0.pdf (accessed October 4, 2022).

⁵⁵ The Assimilative Crimes Act, among other things, brings under federal law and makes applicable on federal property certain criminal laws of the state where the federal property is situated. 18 U.S.C. § 13.

⁵⁶ BOP Program Statement 1350.01, [Criminal Matter Referrals](#), January 11, 1996, www.bop.gov/policy/progstat/1350_001.pdf (accessed June 10, 2022).

⁵⁷ BOP Program Statement 5394.01, [Certification and Civil Commitment of Sexually Dangerous Persons](#), February 1, 2016, www.bop.gov/policy/progstat/5394.01.pdf, citing 18 U.S.C. § 4248 (accessed June 10, 2022).

designation could serve as a deterrent and allow for civil commitment of offenders deemed at risk of committing sex offenses in the community upon release from BOP custody.

- **Providing Incentives for Good Behavior.** Some interviewees and focus group participants said that incentivizing good behavior has potential to help curb harassment. An Assistant Warden suggested sending inmate success stories via email or newsletters to inmates as a way to demonstrate good behavior and emphasized the benefits of good behavior to incentivize inmates not to engage in inmate-on-staff sexual harassment. We learned from a couple of interviewees that moving to a lower level security facility is another potential incentive. An interviewee at FCI Miami said “that the green space, lake, and wildlife at FCI Miami helps to keep inmates calm. It also incentivizes them not to misbehave because they do not want to be transferred elsewhere.”

Appendix 6: The BOP's Response to the Draft Report



U.S. Department of Justice

Federal Bureau of Prisons

Office of the Director

Washington, DC 20534

January 26, 2023

MEMORANDUM FOR RENE ROCQUE LEE
ASSISTANT INSPECTOR GENERAL
EVALUATION AND INSPECTIONS

FROM: Colette S. Peters
Director

A handwritten signature in blue ink, reading "Colette S. Peters", is written over the typed name and title.

SUBJECT: Response to the Office of Inspector General's (OIG) Draft Report:
*Evaluation of the Federal Bureau of Prisons' Efforts to Address
Sexual Harassment and Sexual Assault Committed by Inmates
Toward Staff - S-2019-002*

The Bureau of Prisons (BOP) appreciates the opportunity to provide a formal response to the Office of the Inspector General's above referenced report. The BOP has completed our review and offer the following comments regarding the recommendations.

The BOP appreciates OIG's work and notes it is in large part a historical survey of BOP's incident reporting system as it existed prior to the implementation of the Discipline and Administration Reintegration Tracking System (DARTS). OIG indicates the fieldwork for this evaluation occurred in Fiscal Years 2018 and 2019 and that limited follow-up work was conducted during Fiscal Year 2021. However, in March 2022 and following the conclusion of this fieldwork, BOP successfully implemented DARTS, an electronic incident report system, at all BOP facilities. DARTS changed BOP's method for both reporting and tracking incident reports. OIG indicates it opted not to evaluate DARTS because its fieldwork had already concluded. BOP communicated its concern to OIG during the drafting process and also explained that additional changes have since occurred, including BOP's correctional officer training program.¹

¹ BOP notes that the delay between fieldwork and the drafting of this report could impact miscellaneous conclusions within OIG's draft report. For example, OIG concludes a risk of inconsistent reporting of underreporting of sexual harassment and related behaviors could exist if employees are not trained on how to categorize inmate-on-staff sexual harassment. However, BOP's current trainings for employees address sexual harassment and OIG has not explained how this conclusion fits with BOP's DARTS program.

Recommendation 1: Add fields to the Discipline and Administration Reintegration Tracking System that can be easily queried to identify the type of victim (inmate, staff, or other) and gender of the victim for all incidents involving prohibited acts by inmates, and identify the specific inmate behavior under each prohibited act code.

BOP Response: BOP concurs with this recommendation insofar as it recommends adding fields to DARTS that can be easily queried to identify the type of victim (inmate, staff, or other) and gender of the victim for sexual acts incidents. At this time, only 100-200 series level acts relating to the following codes mandate additional tracking identifiers (ATI) and only the Disciplinary Hearing Officer is authorized to key ATI.

- 100 - Killing
- 101 - Assaulting with Serious Injury
- 107 - Taking A Hostage
- 114 - Sexual Assault by Force
- 203 - Threatening Bodily Harm
- 205 - Engaging in Sexual Acts
- 206 - Making Sexual Proposal/Threat
- 224 - Assaulting W/O Serious Injury
- 225 - Stalking
- 229 - Sexual Assault without Force

Recommendation 2: Ensure that staff are trained on the updated fields in the Discipline and Administration Reintegration Tracking System and that staff understand which inmate behaviors are associated with each prohibited act code, as well how to articulate the behavior in the corresponding field.

BOP Response: While BOP concurs with this recommendation, it already has systems in place to address its substance. Specifically, Program Statement Program Statement 5270.09 CN-1, Inmate Discipline Program, Table 1, Prohibited Acts and Available Sanctions, breaks down the Prohibited Act by severity level. Additionally, on the BOP internal website, guides are provided to BOP employees on the use of DARTS and which behaviors are associated with each prohibited act code.

Recommendation 3: Ensure that policies and program statements that address inmate-on-staff sexual harassment are consistent with updates to systems and data tracking mechanisms.

BOP Response: BOP concurs with this recommendation and notes that its work is limited by the fact that relevant regulatory language that is in the process of being updated. These updates will have a significant impact on Program Statement 5270.09 CN-1, Inmate Discipline Program and relate in part to inmate-on-staff sexual misconduct. Once the final rule is issued, BOP will be able to update its policy to add new/modified inmate discipline codes and incorporate DARTS and other additions or modifications.

Recommendation 4: Conduct regular risk assessments of the prevalence and severity of inmate-on-staff sexual harassment within individual institutions and across BOP institutions, with a particular emphasis on the risks for female staff.

BOP Response: BOP concurs with this recommendation and will conduct regular risk assessments of the prevalence and severity of inmate-on-staff sexual harassment within individual institutions and across BOP institutions, with a particular emphasis on the risks for female staff.

Recommendation 5: Review the corrective actions from the two class action settlements concerning Federal Correctional Complex (FCC) Coleman and FCC Victorville, and assess all BOP institutions to determine which corrective actions should be implemented BOP-wide or in additional institutions.

BOP Response: BOP concurs with this recommendation and will review the corrective actions from the two class action settlements concerning Federal Correctional Complex (FCC) Coleman and FCC Victorville, and assess all BOP institutions to determine which corrective actions should be implemented BOP-wide or in additional institutions.

Recommendation 6: Develop and implement a comprehensive inmate-on-staff sexual harassment mitigation strategy that includes the appropriate corrective actions from the settlement agreements, addresses the issues identified in the assessment, and is based on the scope of the problem.

BOP Response: BOP concurs with this recommendation and will Develop and implement a comprehensive inmate-on-staff sexual harassment mitigation strategy that includes the appropriate corrective actions from the settlement agreements, addresses the issues identified in the assessment, and is based on the scope of the problem.

Recommendation 7: Share inmate-on-staff sexual harassment mitigation strategies BOP-wide on a regular and recurring basis.

BOP Response: BOP concurs with this recommendation and will share inmate-on-staff sexual harassment mitigation strategies BOP-wide on a regular and recurring basis.

Recommendation 8: Include a training needs assessment as part of the comprehensive mitigation strategy outlined in Recommendation 6 and ensure that inmate-on-staff sexual harassment training addresses the identified needs.

BOP Response: BOP concurs with this recommendation and will include a training needs assessment as part of the comprehensive mitigation strategy outlined in Recommendation 6 and ensure that inmate-on-staff sexual harassment training addresses the identified needs.

Recommendation 9: Ensure that inmate-on-staff sexual harassment training continues to include content related to reporting, preventing, and mitigating inmate-on-staff sexual harassment, as well as including the resources available to staff who witness or experience this harassment.

BOP Response: BOP concurs with this recommendation and will continue to include content related to reporting, preventing, and mitigating inmate-on-staff sexual harassment, as well as including the resources available to staff who witness or experience this harassment. BOP appreciates OIG's acknowledgment that BOP's most recent trainings already incorporate this work and based on the same, BOP's understanding is that no further action is necessary to meet this recommendation.

Appendix 7: OIG Analysis of the BOP's Response

The Office of the Inspector General provided a draft of this report to the BOP for its comment. The BOP's response is included in [Appendix 6](#) to this report.

In its response, the BOP raised concern with the OIG's ability to write recommendations concerning the Discipline and Administration Reintegration Tracking System (DARTS) without having the ability to fully assess it during fieldwork. While the OIG did not fully evaluate DARTS by analyzing the inmate-on-staff sexual harassment data in the system, we examined the DARTS user manual, assessed DARTS training content, and interviewed BOP staff in July 2022 about the system and how the BOP is using it for reporting and tracking inmate misconduct. The OIG found that DARTS initially did not include fields for the specific inmate behavior or victim and gender identifiers. Without these fields, the BOP did not have the ability to easily determine specific inmate behavior, whether victims were staff or inmates, or the gender of the victims and could not easily identify trends in inmate behaviors and victimization. The OIG's recommendations are intended to assist the BOP in ensuring that DARTS includes all of the information needed to assess the scope of inmate-on-staff sexual harassment, and the recommendations are fully supported by the evidence the OIG collected.

The BOP also stated that it has changed its Correctional Officer training program to address sexual harassment and asserted that the OIG does not explain how the conclusion that there is a risk of inconsistent reporting or underreporting of sexual harassment comports with the updated training or DARTS. As described in the report, the OIG reviewed the training related to sexual behavior to assess how the BOP defines and explains prohibited act codes and found that the training lacked clarity related to the specific behavior under each prohibited act code. As further explained in the OIG's report, we believe that this lack of clarity creates a risk that BOP staff may not know which forms of sexual harassment qualify as prohibited acts under each code. If staff are not able to properly categorize sexual harassment when identifying inmate disciplinary incidents, there is a risk of inconsistent reporting or underreporting of sexual harassment and these types of behaviors, which would affect the BOP's ability to fully identify and track the prevalence and scope of inmate-on-staff sexual harassment through DARTS. Thus, the OIG acknowledged and assessed the updated training in the evaluation report; however, the training did not fully address the OIG's associated recommendations.

The OIG's analysis of the BOP's response to the recommendations and the actions necessary to close the recommendations are discussed below.

Recommendation 1

Add fields to the Discipline and Administration Reintegration Tracking System that can be easily queried to identify the type of victim (inmate, staff, or other) and gender of the victim for all incidents involving prohibited acts by inmates, and identify the specific inmate behavior under each prohibited act code.

Status: Resolved.

BOP Response: The BOP partially concurred with the recommendation, in that it agreed to add fields to DARTS to identify the type and gender of victims. However, instead of agreeing to add a field that identifies

the inmate's behavior, the BOP said that only 100 and 200 Level acts mandate additional tracking identifiers and only the Disciplinary Hearing Officer is authorized to key these identifiers.

OIG Analysis: The BOP's planned actions are partially responsive to the recommendation. By May 26, 2023, please provide evidence of the addition of all three fields to DARTS. Additionally, explain why the BOP believes that the 300 and 400 Level acts do not need the additional field that identifies the inmate's behavior.

Recommendation 2

Ensure that staff are trained on the updated fields in the Discipline and Administration Reintegration Tracking System and that staff understand which inmate behaviors are associated with each prohibited act code, as well how to articulate the behavior in the corresponding field.

Status: Resolved.

BOP Response: The BOP concurred with the recommendation, adding that it already has processes to ensure that staff are trained in DARTS and understand which inmate behaviors are associated with each prohibited act code. The BOP said that Table 1 of Program Statement 5270.09 CN-1 is sufficient in that it lists the prohibited act codes. The BOP added that its internal website has guides available to employees on the use of DARTS and which behaviors correspond with each prohibited act code.

OIG Analysis: The BOP's planned actions are partially responsive to the recommendation. While the BOP stated that it concurs with the recommendation, it also stated that it believes that its current guidance is adequate to enable employees to understand which behaviors correspond with each prohibited act code. However, the OIG found that the BOP's current program statements and training do not fully explain or detail the variety of inmate behaviors associated with each prohibited act code. By May 26, 2023, please describe how staff will be trained on the updated fields in DARTS. Also, describe how the BOP will increase its staff's understanding of which inmate behaviors are associated with each prohibited act code. Finally, provide copies of the guides on the use of DARTS and which behaviors are associated with each prohibited act code from the BOP's internal website.

Recommendation 3

Ensure that policies and program statements that address inmate-on-staff sexual harassment are consistent with updates to systems and data tracking mechanisms.

Status: Resolved.

BOP Response: The BOP concurred with the recommendation while noting that its ability to respond to the recommendation is limited because "relevant regulatory language" is currently being changed. The BOP added that the changes will alter Program Statement 5270.09 CN-1. Once the regulatory language is changed, the BOP will be able to update its policy by adding new and modified discipline codes, incorporating information about DARTS and including other relevant additions or modifications.

OIG Analysis: The BOP's planned actions are responsive to the recommendation. By May 26, 2023, please provide an update on the ongoing process to update the relevant regulatory language or, if completed, provide a copy of the updated regulatory language, the updated policies and program statements related to new/modified inmate discipline codes, evidence of DARTS incorporation, and other relevant additions or modifications.

Recommendation 4

Conduct regular risk assessments of the prevalence and severity of inmate-on-staff sexual harassment within individual institutions and across BOP institutions, with a particular emphasis on the risks for female staff.

Status: Resolved.

BOP Response: The BOP concurred with the recommendation and said that it will conduct regular risk assessments of the prevalence and severity of inmate-on-staff sexual harassment, both within individual institutions and BOP-wide. The BOP will emphasize the risks that inmate-on-staff sexual harassment has for female staff.

OIG Analysis: The BOP's planned actions are responsive to the recommendation. By May 26, 2023, please provide an update on, or the results of, the BOP's risk assessment of the prevalence and severity of inmate-on-staff sexual harassment within individual institutions and across BOP institutions.

Recommendation 5

Review the corrective actions from the two class action settlements concerning Federal Correctional Complex (FCC) Coleman and FCC Victorville, and assess all BOP institutions to determine which corrective actions should be implemented BOP-wide or in additional institutions.

Status: Resolved.

BOP Response: The BOP concurred with the recommendation, stating that it will review the corrective actions from the settlements concerning FCC Coleman and FCC Victorville. The BOP will also assess all BOP institutions to discern corrective actions that can be implemented both BOP-wide and specific to certain institutions.

OIG Analysis: The BOP's planned actions are responsive to the recommendation. By May 26, 2023, please provide a description of how the component will both assess the corrective actions and discern their ability to be used in other BOP institutions.

Recommendation 6

Develop and implement a comprehensive inmate-on-staff sexual harassment mitigation strategy that includes the appropriate corrective actions from the settlement agreements, addresses the issues identified in the assessment, and is based on the scope of the problem.

Status: Resolved.

BOP Response: The BOP concurred with the recommendation and said that it will develop and apply a thorough strategy to mitigate inmate-on-staff sexual harassment, which includes corrective actions from settlement agreements, addresses issues identified in the assessment, and is based on the scope of the problem.

OIG Analysis: The BOP's planned actions are responsive to the recommendation. By May 26, 2023, please provide a copy of the strategy to mitigate inmate-on-staff sexual harassment or a description of how the BOP will develop and apply the strategy across the BOP.

Recommendation 7

Share inmate-on-staff sexual harassment mitigation strategies BOP-wide on a regular and recurring basis.

Status: Resolved.

BOP Response: The BOP concurred with the recommendation and stated that it will share strategies to mitigate inmate-on-staff sexual harassment across the BOP on a regular and recurring basis.

OIG Analysis: The BOP's planned actions are responsive to the recommendation. By May 26, 2023, please provide evidence that the BOP is sharing mitigation strategies BOP-wide on a regular and recurring basis.

Recommendation 8

Include a training needs assessment as part of the comprehensive mitigation strategy outlined in Recommendation 6, and ensure that inmate-on-staff sexual harassment training addresses the identified needs.

Status: Resolved.

BOP Response: The BOP concurred with the recommendation and stated that it will include a training needs assessment as part of its wider inmate-on-staff sexual harassment mitigation strategy.

OIG Analysis: The BOP's planned actions are responsive to the recommendation. By May 26, 2023, please provide an update or the results of the training needs assessment.

Recommendation 9

Ensure that inmate-on-staff sexual harassment training continues to include content related to reporting, preventing, and mitigating inmate-on-staff sexual harassment, as well as including the resources available to staff who witness or experience this harassment.

Status: Resolved.

BOP Response: The BOP concurred with the recommendation and stated that it will continue to provide training on the reporting, prevention, and mitigation of inmate-on-staff sexual harassment, as well as including the resources available to staff who witness or experience this harassment. The BOP appreciated the OIG's acknowledgment that the BOP's most recent trainings already incorporate this work and believes that there is no further action needed to meet this recommendation.

OIG Analysis: The BOP's actions are partially responsive to the recommendation. The BOP's training content from FY 2022 had information pertaining to reporting, preventing, and mitigating sexual harassment; but it did not contain information about the resources available to staff that witness or experience inmate-on-staff sexual harassment. To close this recommendation, please provide copies of the training content that include information about the resources available to staff who witness or experience inmate-on-staff sexual harassment by May 26, 2023.