



Date: October 20, 2016
To: Rob Wood, Division Director
Thru: Barb Murray, Deputy Director of Administration and Programs
Dennis Weston, Deputy Director of Operations
From: Matt Davidson, PREA Coordinator
Subject: 2015 Prison Rape Elimination Act Annual Report

Introduction:

The Division of Juvenile Justice is committed to the safety of all juveniles under its care and to the standards of the Prison Rape Elimination Act (PREA). The Division of Juvenile Justice (DJJ) is working to come into full compliance with the PREA Standards for juvenile facilities released in 2012.

The division has zero tolerance for all forms of sexual abuse and sexual harassment of juveniles. The division is committed to the prevention and detection of this conduct and immediately responds to all allegations, pursues appropriate disciplinary action, and refers for investigation and prosecution all those who perpetrate criminal conduct.

PREA requires that the division collect and review data "...in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training." (PREA Standard 115.388 a). This review is intended to meet this standard and:

- Identify problem areas and corrective action taken on an ongoing basis for each facility and the agency as a whole;
- Compare the current year's data and corrective actions with those from prior years; and
- Assess the agency's progress in addressing sexual abuse. (standard 115.388 a and b)

2015 Prevention Measures

During calendar year 2015, the division continued its efforts toward full PREA compliance:

- **AUDITING of five facilities for PREA compliance-** Facilities in Kenai, Mat-Su, Juneau, Nome, and Fairbanks were all successfully audited for PREA compliance during calendar year 2015.

- **Revision of the PREA policy** in March, 2015 to address issues raised during the first three PREA audits.
- **Implementation Risk Screening policy and Screening tool.** The division now conducts a screening of all juveniles entering DJJ facilities within 72 hours of admission.
- **Implementation of PREA staff training.** The new computer-based training replaces the existing PREA training. The new training meets the PREA juvenile standards and provides Alaska DJJ specific information to staff, teachers, and others who have contact with juveniles in our facilities.
- **Implementation of the new youth orientation and education materials.** The division developed and implemented a PREA education video for all juveniles entering a division detention or treatment facility.
- **Implementation of new Reference Check Policy.**
- **Revisions to the Background Check policy, Incident Notification and Reporting policy, and Administrative Investigations Policy**

Sexual Violence Reporting

Since calendar year 2004, the Division has been participating in the annual Survey of Sexual Violence conducted by the US Census on behalf of the US Department of Justice. The summary of this reporting through calendar year 2015 (figure 1) shows the low number of sexual abuse and harassment incidents occurring in DJJ facilities- even prior to full implementation of PREA related policies and practices.

The division has zero tolerance for sexual abuse and harassment and is actively working to eliminate these activities in our facilities. The sexual abuse and harassment definitions used for the Survey of Sexual Violence and the division's incident reporting mirror the definitions from the PREA juvenile standards. These definitions are included as an appendix to this report.

Figure 1. Survey of Sexual Violence- DJJ Summary of Reports

| Calendar Year | Allegations of Youth Sexual Assault | Substantiated Youth Sexual Assault | Allegations of Youth Abusive Sexual Contact | Substantiated Youth Abusive Sexual Contact | Allegations of Youth Sexual Harassment | Substantiated Youth Sexual Harassment* | Allegations of Staff Sexual Misconduct | Substantiated Staff Sexual Misconduct | Allegations of Staff Sexual Harassment | Substantiated Staff Sexual Harassment |
|---------------|-------------------------------------|------------------------------------|---|--|--|--|--|---------------------------------------|--|---------------------------------------|
| 2004 | 1 | 0 | 0 | 0 | * | * | 0 | 0 | 0 | 0 |
| 2005 | ? | 0 | ? | 0 | * | * | 1 | 1 | 0 | 0 |
| 2006 | ? | 0 | ? | 0 | * | * | 0 | 0 | 0 | 0 |
| 2007 | 0 | 0 | 3 | 3 | * | * | 1 | 1 | 1 | 1 |
| 2008 | 0 | 0 | 5 | 0 | * | * | 2 | 2 | 0 | 0 |
| 2009 | 0 | 0 | 2 | 2 | * | * | 2 | 0 | 0 | 0 |
| 2010 | 0 | 0 | 3 | 1 | * | * | 4 | 0 | 0 | 0 |
| 2011 | 2 | 0 | 1 | 1 | * | * | 2 | 0 | 0 | 0 |
| 2012 | 0 | 0 | 2 | 1 | * | * | 1 | 0 | 1 | 0 |
| 2013 | 0 | 0 | 2 | 2 | 4 | 4 | 0 | 0 | 3 | 0 |
| 2014 | 0 | 0 | 3 | 2 | 6 | 4 | 0 | 0 | 2 | 0 |
| 2015 | 0 | 0 | 3 | 1 | 7 | 5 | 4 | 2 | 6 | 0 |
| Total | 3 | 0 | 24 | 13 | 17 | 13 | 17 | 6 | 13 | 1 |

Calendar year 2015 PREA related incidents

As noted above, the division's PREA related efforts have been ongoing for several years, however major training, educational, and screening components primarily went into effect in CY 2015. As expected, the implementation of the juvenile educational video led to an increase in allegations of PREA related incidents involving both other juveniles and staff. The facility staff, PREA compliance managers, and superintendents handled this increase in a professional manner, especially considering the sensitive nature of allegations against staff members.

As described below, allegations against McLaughlin Youth Center staff members dominated DJJ's PREA incident response activities in the past year.

Allegations of PREA Sexual Harassment between juveniles

In calendar year 2015, a total of 7 allegations of sexual harassments between youth were reported at DJJ facilities. Of the allegations, 5 were found to be substantiated. These substantiated youth on youth sexual harassment incidents occurred at McLaughlin Youth Center, Nome Youth Facility, Mat-Su Youth Facility, Kenai Peninsula Youth Facility, and Bethel Youth Facility. None of the allegations resulted in criminal charges.

The identification and review of sexual harassment continues to be a challenge in our PREA reporting efforts. DJJ documents all instances of sexual harassment, not just *repeated* instances as defined by the

PREA standards. Further, identifying when an inappropriate comment is sexual harassment vs. crude, but not sexual can be subjective. DJJ has erred on the side of caution and absent clear intent, reports these instances in our PREA sexual harassment data. The results of this caution bare out in the number of reports of youth on youth sexual harassment.

Allegation of Youth Abusive Sexual Contact

In 2015, the division received 3 allegations of abusive sexual contact between juveniles. One of these allegations, from McLaughlin Youth Center, was found to be substantiated, the other two were unsubstantiated. None of the allegations resulted in criminal charges.

This is a very low number of incidents of youth on youth abusive sexual contact. Credit goes to the high level of supervision in DJJ facilities and the orientation and educational materials provided to youth on expectations related to appropriate conduct and the seriousness of PREA related offenses.

In all cases, staff and supervisors responded appropriately to the allegations. Actions included:

- Immediate separation of alleged victim and perpetrator
- Comprehensive criminal and/or administrative investigations
- Documentation and notification under the PREA policy and statewide facility Notification and Reporting Policy
- Immediate protection of youth from retaliation
- Periodic follow-up monitoring by the local PREA Compliance Manager

Allegations of PREA Incidents between Juveniles and Staff

In calendar year 2015, the division received 6 allegations of sexual harassment of juveniles, and 4 allegation of sexual misconduct between staff and a juvenile. After internal incident reviews and criminal investigation by law enforcement, two incidents of staff sexual misconduct were identified as substantiated for the purpose of DJJ's PREA reporting. None of the staff sexual harassment incidents were substantiated, although in a few cases staff were counseled on appropriate boundaries with youth.

The allegations of staff sexual misconduct were reviewed at the request of the Director by the MYC PREA Incident Review Team. This confidential review included recommendations for prevention, detection, and reporting of similar incidents in the future.

In all cases, staff and supervisors responded appropriately to the allegations. Actions included:

- Immediate separation of alleged victim and perpetrator.
- If the allegation results a referral to law enforcement, staff are placed on administrative leave.

- Comprehensive criminal and/or administrative investigations in coordination with law enforcement.
- If an allegation of staff sexual misconduct is substantiated, termination proceedings are initiated.
- Documentation and notification under the PREA policy and statewide facility Notification and Reporting Policy
- Referral to a facility Mental Health Clinician and outside victim services organizations upon request
- Immediate protection of youth from retaliation
- Periodic follow-up monitoring by the local PREA Compliance Manager
- Temporary / Permanent Reassignment of staff to another duty post
- Additional staff training and guidance on maintaining appropriate boundaries with youth.

Recommended Corrective Actions:

Following the allegations of staff sexual misconduct the Division implemented a mandatory Red Flags, Professional Boundaries, and Self Assessment training and staff discussion for all DJJ personnel. The response to this training was positive. This report recommends incorporating much of the material in the training into the Moodle-based PREA training for all staff, volunteers, teachers, and contractors.

Additional corrective actions pending the release of the Executive Summary of the MYC Incident Review.

APPENDIX: Sexual Abuse Definitions

Abusive Sexual Contact (by juveniles): Non-penetrative contact of any person without his/her consent, or of a person who is unable to consent or refuse. This includes one or more of the following behaviors:

- (1) intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks;
- (2) sexual contact does not include unintentional contact or kicking, grabbing, or punching genitals when the intent is to harm or debilitate rather than sexually exploit.

Sexual Assault/Nonconsensual Sexual Act (between juveniles): An incident in which one or more of the following acts occurs WITHOUT consent between the parties involved:

- (1) contact between the penis and the vagina or the penis and the anus involving penetration, however slight. It does not include kicking, grabbing, or punching genitals when the intent is to harm rather than sexually exploit;
- (2) contact between the mouth and the penis, vagina, or anus;
- (3) penetration of the vagina or anus of another person by hand, finger, or other object.

Sexual Harassment (by staff or between juveniles): Repeated unwelcome sexual advances, request for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, sexually offensive language, comments or gestures or any physical conduct that is of a sexual nature or sexually suggestive when:

- (1) influencing, promising, or threatening a juvenile's safety, custody, or security level (including recommendations for court actions), privacy, housing, privileges, work detail or program status in exchange for sexual favors;
- (2) submission to or rejection of such conduct by an individual is used as the basis for decisions affecting such individual;
- (3) such conduct has the purpose or effect an intimidating, hostile, or offensive environment for a juvenile or others by engaging in or permitting, sexually offensive behavior or language that is directed at or observed by a juvenile or others; and/or
- (4) Creating or encouraging an atmosphere of intimidation, hostility or offensiveness as perceived by any individual who observes the sexually offensive behavior or language.

Staff sexual misconduct (includes one or more of the following behaviors):

- a) Consensual or non-consensual sexual acts, including verbal or written communication, involving a juvenile and staff.
- b) Any behavior of a sexual nature, that involves touching, directed toward a juvenile by staff.
- c) Intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire. It does not include kicking, grabbing, or punching genitals when the intent is to harm or debilitate rather than to sexually exploit.
- d) All completed, attempted, threatened, or requested sexual acts between staff and the juvenile.
- e) Incidents of indecent exposure, voyeurism, or invasion of privacy for sexual gratification.