

**CALIFORNIA DEPARTMENT OF CORRECTIONS & REHABILITATION
 DIVISION OF JUVENILE JUSTICE
 Prison Rape Elimination Act (PREA)
 Annual Report – Calendar Year 2016**

The Federal Prison Rape Elimination Act (PREA) of 2003 was established to address the sexual abuse and sexual harassment of offenders in confinement settings. On August 20, 2012, the PREA Standards Final Rule, to help prevent, detect, and respond to sexual abuse, staff sexual misconduct, and sexual harassment behind bars, was released, prompting the revision of the California Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Justice (DJJ) PREA policy. DJJ’s PREA policy establishes zero tolerance for sexual abuse, staff sexual misconduct, sexual harassment, and provides guidelines for the prevention, detection, response, investigation, and tracking of allegations against DJJ offenders. In addition, this policy provides guidelines for the successful community reentry of youth offenders.

DJJ continues to remain diligent in investigating all allegations of sexual abuse, staff sexual misconduct, and sexual harassment against offenders. Staff and offenders are educated on the Department’s zero tolerance policy and provided information on multiple ways to report an allegation, to include third-party reporting.

DEFINITIONS:

- Substantiated allegation – an allegation that was investigated and determined to have occurred.
- Unsubstantiated allegation – an allegation that was investigated and insufficient evidence was obtained to determine if the allegation did or did not occur.
- Unfounded allegation – an allegation that was investigated and proven not to have occurred.
- Ongoing investigation – the investigation was initiated and is ongoing.

STATISTICS:

The following are statistics of reported allegations within DJJ, by category:

► **Youth on Youth Nonconsensual Sexual Acts**

	2015	2016
Substantiated	0	1
Unsubstantiated	3	7
Unfounded	0	0
Ongoing investigation	0	0
Total:	3	8

Youth on Youth Nonconsensual Sexual Acts are defined as contact of any person without his or her consent, or by coercion; or contact of a person who is unable to consent or refuse and contact between the penis and vagina or the penis and the anus including penetration, however slight; or contact between the mouth and the penis, vagina, or anus including penetration, however slight; or contact between the mouth and the penis, vagina, or anus or penetration of the anal or genital opening of another person by the hand, finger, or other object.

In 2016, the number of allegations for Youth on Youth Nonconsensual Sex Acts increased by 5 and equates to an increase of 167 percent. This increase is attributed to updated policy and procedures in 2016 and staff and youth’s awareness of reporting mandates. In addition to educating all DJJ youth on

the revised PREA policy, DJJ facilities also increased communication with youth, including posting information detailing the policy and contact information for both departmental and outside community resources. With the implementation of the policy, staff, volunteers, and contractors were provided training and resources. This training included the identification of triggers and signs of abuse. The training also assisted staff with reporting procedures and providing assistance to youth.

► **Youth on Youth Abusive Sexual Contact**

	2015	2016
Substantiated	0	1
Unsubstantiated	3	2
Unfounded	0	0
Ongoing investigation	0	0
Total:	3	3

Youth on Youth Abusive Sexual Contact is defined as contact of any person without his or her consent, or by coercion, or contact of a person who is unable to consent or refuse and intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.

In 2015 and 2016, the number of allegations for Youth on Youth Abusive Sexual Contact remained the same. One change was the single allegation sustained in 2016. DJJ has consistently had low numbers of youth allegations. The low numbers are believed to be attributed to the overall treatment environment of DJJ. Youth at all facilities have daily access to address concerns. DJJ youth have custody, treatment, medical, mental health, and education staff to address concerns.

► **Youth on Youth Sexual Harassment**

	2015	2016
Substantiated	0	1
Unsubstantiated	1	1
Unfounded	0	0
On-going investigation	0	0
Total:	1	2

Youth on Youth Sexual Harassment is defined as repeated and unwelcome sexual advances; requests for sexual favors; or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by a youth toward another youth.

In 2015, the number of allegations for Youth on Youth Sexual Harassment was one. There was a slight increase in 2016, and one reported allegation sustained, resulting in an increase of 100 percent. Again, the consistent number of reported youth on youth sexual harassment is attributed to youth's ability to report allegations to staff if needed.

► **Staff on Youth Sexual Misconduct**

	2015	2016
Substantiated	0	2
Unsubstantiated	6	11
Unfounded	0	1
Ongoing investigation	0	0
Total:	6	14

Staff on Youth Sexual Misconduct is defined as any threatened, coerced, attempted, or completed sexual contact, assault or battery between staff and offenders. Any sexual misconduct by staff directed toward an offender, as defined in Title 15, California Code of Regulations Section 3401.5 and Penal Code Section 289.6. The legal concept of “consent” does not exist between staff and offenders; any sexual behavior between them constitutes sexual misconduct and shall subject the staff to disciplinary action and/or to prosecution under the law.

Staff is inclusive of employees, volunteers, and independent contractors assigned to a facility, youth conservation camp, or headquarters. DJJ’s zero tolerance policy holds all staff accountable when it is proven that they have violated the policy.

In 2015, the number of allegations for Staff on Youth Sexual Misconduct was 6 and in 2016 the number rose to 14, an increase of 134 percent. This increase is attributed to the youth’s awareness of the PREA reporting mandates. The recent PREA policy changes and PREA posters and communication have led to an increase in reporting.

► **Staff on Youth Sexual Harassment**

	2015	2016
Substantiated	0	1
Unsubstantiated	7	3
Unfounded	1	0
Ongoing investigation	0	0
Total:	8	4

Staff on Youth Sexual Harassment (towards an offender) is defined as repeated verbal comments or gestures of a sexual nature to an offender by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

In 2015, the number of allegations for Staff on Youth Sexual Harassment was 8, and in 2016 the number decreased to 4, resulting in a 50 percent decrease. This decrease is attributed to the revised policy, training, and communication, resulting in allegations reported as staff misconduct.

SUMMARY:

DJJ has also engaged in the following efforts to ensure compliance with PREA Standards:

- Revisions to the PREA policy, Policy Bulletin (PB) 17-18, Institution & Camps Manual (I&C) 1445 to guarantee compliance with state and federal laws.
- Revisions to DJJ PREA staff training materials to support staff in providing a safe and secure environment for the youth in our care.
- Modification of the youth education materials on sexual abuse.
- Establishment of a process to protect against retaliation.
- Establishment of a facility level review of all PREA allegations.

DJJ continues to progress in addressing sexual abuse by monitoring all allegations of sexual abuse, staff sexual misconduct, and sexual harassment. Each allegation is investigated and reviewed by the facility's hiring authority. If any issues or trends are identified, they are addressed immediately. This may include modifications to existing policy, procedures, education, and/or training. This could also take into consideration physical plant limitations and the need for video monitoring equipment.

DJJ is committed to providing a safe, humane, secure environment, free from sexual abuse and harassment. As we move forward with this commitment, DJJ is currently partnering with outside agencies to review and audit our policies and practices. In 2017, the Ventura Youth Correctional Facility completed the preliminary phase of a PREA audit in order to ensure compliance. The remaining DJJ facilities will undergo the same process in 2018. DJJ continues to make progress in areas such as victim advocacy, specialized investigations training for staff, resident reporting, and data collection. Our commitment is to have a safe environment for our youth and staff.

Approved for posting

Approved Not Approved


RALPH DIAZ, Undersecretary

1-12-18
Date

Approved Not Approved


SCOTT KERNAN, Secretary

1-12-18
Date