

**CALIFORNIA DEPARTMENT OF CORRECTIONS & REHABILITATION
DIVISION OF JUVENILE JUSTICE
Prison Rape Elimination Act (PREA)
Annual Report – Calendar Year 2018**

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 youth offenders.

This report lays out the allegations of sexual abuse, staff sexual misconduct, and sexual harassment against youth received by the division. DJJ investigates each allegation it receives from youth, staff, or via third-party reports.

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	2017	2018
Substantiated	0	1	0	0
Unsubstantiated	3	7	2	0
Unfounded	0	0	1	0
Ongoing investigation	0	0	0	0
Total:	3	8	3	0

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 2018, there were zero allegations in this category for Youth on Youth Nonconsensual Sex Acts.

► **Youth on Youth Abusive Sexual Contact**

	2015	2016	2017	2018
Substantiated	0	1	2	0
Unsubstantiated	3	2	4	5
Unfounded	0	0	0	0
Ongoing investigation	0	0	0	0
Total:	3	3	6	5

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, there were three allegations of Youth on Youth Abusive Sexual Contact. For the following year, 2017, there were six total allegations (an increase of 100 percent), two of which were substantiated. In 2018, there were five total allegations (a decrease of 16%), all of which were unsubstantiated.

► **Youth on Youth Sexual Harassment**

	2015	2016	2017	2018
Substantiated	0	1	3	1
Unsubstantiated	1	1	7	3
Unfounded	0	0	0	0
On-going investigation	0	0	0	0
Total:	1	2	10	4

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, and there were two in 2016. In 2017, there was a substantial increase in allegations of youth on youth sexual harassment, only some of which were substantiated. In 2018, there were 4 total allegations of Youth on Youth Sexual Harassment, one of which was substantiated and resulted in disciplinary action. This decrease returns the incidence rate to a more typical level after an abnormal 2017.

► **Staff on Youth Sexual Misconduct**

	2015	2016	2017	2018
Substantiated	0	2	1	0
Unsubstantiated	6	11	5	3
Unfounded	0	1	0	1
Ongoing investigation	0	0	0	0
Total:	6	14	6	4

Staff on Youth Sexual Misconduct is defined as any threatened, coerced, attempted, or completed sexual contact, assault or battery between staff and youth. The legal concept of “consent” does not exist between staff and offenders; any sexual behavior between them constitutes sexual misconduct and staff shall be subject to disciplinary action and/or to prosecution under the law.

The term “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 six. In 2016 the number rose to 14 and, in 2017 it returned to a total of six allegations. In 2018, it decreased to four incidents, none of which were substantiated.

► **Staff on Youth Sexual Harassment**

	2015	2016	2017	2018
Substantiated	0	1	0	0
Unsubstantiated	7	3	0	1
Unfounded	1	0	0	0
Ongoing investigation	0	0	0	0
Total:	8	4	0	1

Staff on Youth Sexual Harassment (towards youth) is defined as repeated verbal comments or gestures of a sexual nature to a youth 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 eight. In 2016, the number decreased to four and, in 2017 there were zero allegations of Staff on Youth Sexual Harassment. In 2018, there was a single allegation of Staff on Youth Sexual Harassment, which was determined to be unsubstantiated.

Total Number of PREA Allegations by Year:

	2015	2016	2017	2018
Substantiated	0	6	6	1
Unsubstantiated	20	24	18	12
Unfounded	1	1	1	1
Total:	21	31	25	14

SUMMARY:

Overall, the number of PREA allegations reported in calendar year 2018 decreased 44 percent from 2017. There was only one substantiated claim. Staff misconduct allegations represented 36 percent of all allegations, whereas Youth on Youth allegations comprised 64 percent. Although this is a slight increase over 2017, overall, there has been a downward trend in staff misconduct allegations. In 2015, 67 percent were against staff, 58 percent of allegations were against staff in 2016, and 23 percent were against staff in 2017. Generally, we see a downward trajectory of allegations, for which there are several possible explanations. First, as the quality and depth of investigations improve, and awareness and understanding of the purpose of PREA increase, youth may be less likely to make false allegations. Nevertheless, DJJ is committed to taking every allegation seriously and conducting a full investigation.

Second, the improvements in youth and staff training and awareness may truly be reducing any type of sexual impropriety in DJJ. Notably, auditors have reported that youth in the facilities report that they feel safe from sexual abuse and are well-educated on PREA and how to report concerns or allegations.

One relevant change in 2018 that runs counter to the downward trend was an increase in historical PREA allegations (an allegation reported in the calendar year, but where the alleged event occurred in a prior year). This appears to be occurring as more and more jurisdictions around the country become PREA-compliant and ask questions related to previous histories of sexual abuse. In the last six months of 2018, three allegations were sent to DJJ from two other states, and one county jail. Of these, one did not provide enough information to confirm that they were ever in DJJ, the second was released prior to being interviewed, and the third, who was confirmed to have been incarcerated at DJJ, refused to provide information when interviewed. The most recent of these allegations was 1999, while the others stretched back to 1991 and 1989, a full thirty years ago. It is anticipated that DJJ will continue to see historical allegations in the coming years, which may reflect an increase in the number of overall allegations, as they are counted in the year disclosed rather than revising previous year's annual reports.

OTHER PREA RELATED ACTIVITIES:

DJJ also engaged in the following efforts to ensure compliance with PREA Standards during 2018:

- Initiated process to gain access to the Child Abuse Central Index (CACI) from the Department of Justice to perform further background checks on staff and volunteers.
- Entered into a Memorandum of Understanding with the local Rape Crisis Centers for the N.A. Chaderjian Youth Correctional Facility (NACYCF), O.H. Close Youth Correctional Facility (OHCYCF), and Pine Grove Youth Conservation Camp (PGYCC). This included posters that were reproduced for youths to contact the local rape crisis center via telephone or in writing.
- Enhanced the PA system at PGYCC and added an alert light to ensure youth are aware of female staff when present.
- Division's PREA Coordinator participated in a PREA Resource Center funded workgroup in Washington, D.C. to help draft a model policy for incarcerated transgender and gender-nonconforming youth.
- Additional revisions were made to the DJJ PREA and Conducting Searches policies to reflect updated best practices.
- Additional revisions were made to various PREA DJJ forms, including:
 - A new DJJ 8.139, Notification to Youth form to provide written, signed proof of practice for addressing PREA Standard §115.37, Reporting to Residents.
 - New templates/forms were created to assist in conducting reviews of reported allegations at each Institutional PREA Review Committee (IPRC).
- Ongoing PREA Block and Locally Designated Investigator (LDI) training for staff.
- New and simple half-sheet First Responder Guides were produced and sent to every DJJ facility and camp for posting on workstations in each living unit.
- New Third Party Posters were produced and sent to every DJJ facility and camp for posting on living units, visiting and the education areas.

Three DJJ facilities were audited in 2018, including the NACYCF (April 24 - 25, 2018) OHCYCF (September 26-27, 2018, and PGYCC (September 25, 2018). Corrective action plans were put into place for items that were found to be non-compliant, and led to additional improvements that will be reflected in future audits.

The DJJ continues to progress in achieving PREA compliance by monitoring all allegations of sexual abuse, staff sexual misconduct, and sexual harassment. Each allegation is investigated by a trained investigator and reviewed by the facility's hiring authority and an additional layer of review at headquarters. Issues or trends are addressed immediately, but thoughtfully. This may include modifications to existing policy,


procedures, education, or training. This can also take into consideration physical plant limitations and the need for additional 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 has partnered with outside agencies to review and audit policies and practices. Community partnerships with local Rape Crisis Centers (RCC) have enabled additional confidential support for youth, and training opportunities for staff and youth.

DJJ is currently working on a new contract to secure an auditor for our next round of audits, to begin in FY 19/20. Results from those audits and other continued improvements will be incorporated into the 2019 PREA Annual Report. It is anticipated those results will reflect DJJ's continued efforts to maintain a positive and safe environment for the youth in our care.

Approved for posting

☒ Approved ☐ Not Approved


KATHLEEN ALLISON
Undersecretary

8/1/19
Date

☒ Approved ☐ Not Approved


RALPH DIAZ
Secretary

8/8/19
Date