

CALIFORNIA DEPARTMENT OF CORRECTIONS & REHABILITATION
DIVISION OF JUVENILE JUSTICE
Prison Rape Elimination Act (PREA)
Annual Report – Calendar Year 2017

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. In addition, this policy provides guidelines for the successful community re-entry of youth offenders.

DJJ continues to remain diligent in investigating all allegations of sexual abuse, staff sexual misconduct, and sexual harassment against youth. Staff and youth are educated on the Department's zero tolerance policy and provided information on multiple ways to report an allegation, including 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	2017
Substantiated	0	1	0
Unsubstantiated	3	7	2
Unfounded	0	0	1
Ongoing investigation	0	0	0
Total:	3	8	3

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 2017, the overall number of allegations for Youth on Youth Nonconsensual Sex Acts decreased by five, which equates to a decrease of 62.5 percent. There were no substantiated allegations in this category. The data for 2017 is very similar to that found in 2015, suggesting that 2016 was an unusual year. As

mentioned in the previous year's report, a great deal of PREA-related information was provided directly to youth in 2016 with policy revisions, training and an increase in posters or placards being placed in common areas, which may have led to an increase in reported allegations.

► **Youth on Youth Abusive Sexual Contact**

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

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. However, one allegation was sustained in 2016, whereas all were unsubstantiated in 2015. In 2017, there were 6 total allegations (an increase of 100 percent), 2 of which were substantiated. Due to the increase, DJJ closely examined the allegations. Three were noted to be consensual youth sexual acts. Although such sexual conduct is not permitted by policy, it does not meet the criteria of a PREA abusive or nonconsensual act. However, out of an abundance of caution and sensitivity, these allegations spawned a full PREA investigation, which led to the increase in the total number of incidents recorded for 2017.

► **Youth on Youth Sexual Harassment**

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

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 sustained allegation, resulting in an increase of 100 percent. In 2017, there was a substantial increase in allegations of Youth on Youth Sexual Harassment. When examining these particular allegations, it appears that several youth had multiple allegations against them, or in turn accused their accusers of sexual harassment. Given the high rate of unsubstantiated allegations as compared to those substantiated, it appears that, in 2017, some youth utilized the PREA allegation process as a tool against other youth. Despite this, it is vital to note that each allegation was individually investigated, and that only three of the ten were found substantiated.

► Staff on Youth Sexual Misconduct

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

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 decreased to a total of six allegations. There was one substantiated allegation of Staff on Youth Sexual Misconduct.

► Staff on Youth Sexual Harassment

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

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. This decrease is attributed to the completed training, reminders of zero tolerance for such behavior, ongoing communication, and staff accountability.

Total Number of PREA Allegations by Year:

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

SUMMARY:

Overall, the number of PREA allegations submitted in calendar year 2017 decreased 19 percent from 2016; however the number of substantiated claims remained unchanged at six. Staff misconduct allegations represented only 24 percent of all allegations, whereas Youth on Youth allegations comprised 76 percent. This is a substantial shift from previous years, when 58 percent of allegations were against staff in 2016, and 67 percent were against staff in 2015. The cause of this reduction may be multi-pronged, relating to improved staff training and rapport, as well as youth's awareness of what constitutes a violation of PREA.

It is also encouraging that all but one allegation was made to local staff instead of an outside reporting agency (i.e., Office of Inspector General or a local Rape Crisis Center). This indicates that youth feel comfortable and safe in raising concerns directly to the facility staff without fear of retribution or shame. Given that the overall number of allegations has remained relatively steady year over year, it also suggests that youth are well-educated on their rights and the PREA allegation process. Additionally, it is believed the dissemination of the revised DJJ PREA policy has allowed youth to feel more confident in reporting allegations.

DJJ has also engaged in the following efforts to ensure compliance with PREA Standards during the previous calendar year:

- Revisions were made to all PREA DJJ forms.
- Revisions were made to the Youth PREA Orientation handbook, brochure, and booklet, which are shared during youth PREA Orientation.
- The establishment of a division-wide DJJ PREA allegation tracking system was completed.
- Revisions were made to the facility and headquarters' level review process of all PREA allegations, and implementation of the Division PREA Review Committee (DPRC) was completed.
- PREA announcement reminder stickers were placed at the entrance of every living unit facility door to prompt staff to announce entry when required. Stickers were placed in plexiglass on the high core living units with the assistance of facility plan operations office.
- DJJ entered into a Memorandum of Understanding for circular auditing with the Rape Crisis Center for the Ventura Youth Correctional Facility (VYCF). This included the production of flyers that educated youth on how to contact the local rape crisis center via telephone or in writing.
- Specialized local designated investigative training material was established, with training provided in the first half of 2018 to most investigative staff and PREA Compliance Managers.
- A Video Relay Service System from Tidal Wave Telecom was installed as a pilot at the NACYCF, which is a service that allows youth who are hearing impaired to place a call to any approved telephone number.
- Teletypewriter Text phone/Telecommunications device for the deaf (TTY/TDD) have been installed and are readily available at all DJJ facilities and camp for youth that are hearing impaired.

Additional improvements that further enhance safety and youth monitoring at VYCF for the purpose of addressing PREA allegations made in 2017 are noted below:

- Mounted televisions were installed on Alborado living unit so that female youth are facing the security station and staff have a better view to monitor and supervise youth.

- A privacy screen was added to the individual shower stalls on Alborado living unit to add more privacy when a youth is showering. The privacy screen allows for staff to safely monitor showers while providing the youth with more privacy from below the neck to the legs.
- Dome mirrors were installed in the Central Kitchen for better visibility throughout the kitchen area.
- A door was added in the Central Kitchen work area to eliminate access to trash can washing area. In addition, another locked door was ordered to install for the adjacent room that stores kitchen tools.
- A scullery gate was ordered for Central Kitchen to prevent youth from wandering into "blind" spots by requiring staff to "buzz" open the gate, or physically open the gate before a youth enters the area, and to increase safety and reduce PREA-related concerns.

The Pine Grove Youth Correctional Camp enhanced the middle privacy barrier in the shower for more privacy during youth showers.

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 by a trained investigator 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, 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. On September 25, 2017, the VYCF completed the preliminary phase of a PREA compliance audit.

The NACYCF completed the preliminary phase of a PREA audit on April 15, 2018. The remaining DJJ facilities will undergo the same process in the fall of 2018. Results from those audits and other continued improvements will be incorporated into the 2018 PREA Annual Report. It is anticipated those results will confirm the DJJ's commitment efforts to not only obtain full PREA compliance, but, more importantly, to create a positive and safe environment for the youth in our care.

Approved for posting

☒ Approved ☐ Not Approved

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6/18/18

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