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## Prison Rape Elimination Act: Denver Sheriff Department 2015 Annual Report

The Denver Sheriff Department is committed to meeting the requirements of the Prison Rape Elimination Act of 2003 and enhancing the safety of the offenders entrusted into our care. This report is a summary of the agency's efforts in 2015.



## **Background**

The Prison Rape Elimination Act (PREA) was passed unanimously by Congress and signed into law by President George W. Bush in 2003. In 2012, the Department of Justice (DOJ) published final standards to govern implementation of the purposes of PREA which are to enable corrections systems to better detect, prevent, respond, reduce, and punish for sexual violence committed against offenders who are housed in this nation's corrections and confinement systems.

## **Denver Sheriff Department PREA Implementation-**

The Denver Sheriff Department (DSD) takes the safety of the offenders in our custody very seriously. The DSD has a zero-tolerance policy relating to sexual assault, harassment, and sexual misconduct. Sexual conduct between inmates, staff and inmates, and volunteers or contract personnel and inmates is prohibited and subject to administrative and criminal disciplinary action. All allegations are taken seriously and thoroughly investigated with prosecution sought when applicable.

It is the policy of the DSD to create, implement and revise as necessary best practices and procedures that support the prevention and elimination of sexual abuse, sexual harassment or sexual misconduct of or upon any offender in its care and custody, including adoption and compliance with the standards of the Prison Rape Elimination Act (PREA).

The DSD has had a departmental policy in place since 2012 with regards to PREA; however, not all internal processes were directly aligned with the standards to meet total compliance. At the end of 2013, the agency increased efforts to begin to align all internal processes towards full PREA compliance.

Our PREA Department Order, D.O. 4100, was revised to align with all mandated PREA processes and was finalized in December of 2014.

The DSD provides care and custody to offenders within two facilities, the Van-Cise Simonet Detention Center (DDC), and the Denver County Jail (COJL).

The DSD chose to have the County Jail Facility (COJL), 10500 Smith Road Denver, Colorado, 80239 audited in 2014; however, due to working through the auditor selection process, we only were successful in conducting a mock audit in 2014, which occurred in November.

The actual audit of the COJL occurred the week of February 2-5, 2015. The Van Cise-Simonet Detention Center (DDC) has not yet been audited.

Although the DDC has not been audited, this facility, by PREA Department Order, D.O. 4100, still complies with all aspects of PREA compliance and as such will be represented in this report.

### **DSD Progress Towards PREA Compliance in 2015:**

In 2015, we further strengthened our commitment to the Prison Rape Elimination Act (PREA) by receiving certification at our County Jail Facility in September. The County Jail was audited February 2-6. At the conclusion of all audit phases, the facility was found in compliance with all forty-three standards, exceeding four. Our practice of screening inmates for their risk of victimization and abusiveness and our process of coordinated response in how we respond to allegations of PREA as well as access to emergency medical and mental health services were among those standards exceeded.

2015 proved to be a very busy year with regards to PREA within the agency; the following are highlights of DSD's progress:

- ❖ A new Compliance Manager for the County Jail Division was named in February.
- ❖ Strengthened our policy and accountability on announcement of cross-gender supervision.
- ❖ County Jail facility was audited in February.
- ❖ During 180 day corrective period, we added pull curtains in the urinal/toilet area in affected male housing unit(s) that did not provide much of a barrier. (Note- In 2016, stall doors have been added to like areas in the female section)
- ❖ After successfully addressing all audit discrepancies in the 180 day period, the County Jail Division was certified as PREA compliant. I believe that our facility was the first county jail in the greater Denver metro area to receive this certification.
- ❖ Continued to prepare our downtown facility, the Van Cise- Simonet Detention Center (DDC), to be audited at a future date.
- ❖ Discussions began in 2015 regarding the addition of a barrier in the Open Waiting Section of the Intake area of the DDC. This barrier would further separate males and females in the open waiting area where several PREA incidents had occurred. (Note- In 2016 this barrier has been installed)
- ❖ Improved communications between facilities regarding PREA incidents and collaboration towards continued improvements in the detection, prevention and response to PREA.
- ❖ First staff member trained as a PREA Auditor. (Certification received in January 2016).

## **PREA Definitions-**

### ***Sexual Abuse-***

- (1) Sexual abuse of an inmate, detainee, or resident by another inmate detainee or resident.

Sexual abuse of an inmate, detainee, or resident by another inmate detainee or resident includes, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

- Contact between genitalia or between genitalia and anus including penetration, however slight;
- Contact between the mouth and genitalia or anus;
- Penetration of the anal or genital opening of another person by a hand, finger, object, or other instrument.
- Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of another person, excluding contact incidental to a physical altercation.

- (2) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate detainee, or resident:

- Contact between genitalia or between genitalia and anus including penetration, however slight;
- Contact between the mouth and genitalia or anus;
- Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- Penetration of the anal or genital opening, however slight, by a hand, finger, or other instrument, unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described;
- Any display by a staff member, contractor, or volunteer or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident;
- Voyeurism by staff member, contractor, or volunteer.

***Sexual Harassment-***

- (1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive nature by one inmate, detainee, or resident towards another.
- (2) Repeated verbal comments and gestures of a sexual nature to an inmate detainee or resident 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.

*Note: If an investigation reveals that an act was consensual, it is not tracked as a PREA incident; however, the act is still a violation of facility rules and regulations and is addressed through our inmate disciplinary process.*

**Allegation Findings Definitions-**

Substantiated- The allegation was investigated and determined to have occurred, based on a preponderance of the evidence.

Unsubstantiated- The investigation concluded that evidence was insufficient to determine whether or not the allegation occurred.

Unfounded- The investigation determined that the allegation did NOT occur.

Investigation Ongoing- Evidence is still being gathered, processed or evaluated, and a final determination has not yet been made.

## **DSD 2015 Data on PREA Allegations-**

### **I. Internal Affairs Bureau (IAB)-**

\*\*Note- The following PREA allegations were sent directly to the IAB and are not represented in the facility data in Sections II & III.\*\*

#### **A. Van Cise-Simonet Detention Center (DDC)-**

Sexual harassment/abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer,

- *Staff/Inmate- Sexual Abuse- Unsubstantiated*
- *Staff/Inmate- Sexual Abuse- Unsubstantiated*

### **II. County Jail (COJL)**

The Average Daily Population (ADP) of the COJL in 2015 was 695.

#### **A.** Sexual harassment/abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer

- *Sexual Harassment- 4 Allegations*
  - *Substantiated-0*
  - *Unsubstantiated-3*
  - *Unfounded-1*
- *Sexual Abuse- 2 Allegations*
  - *Substantiated-0*
  - *Unfounded-1*
  - *On-Going-1*

**B.** Sexual harassment/abuse of an inmate, detainee, or resident by another inmate detainee or resident,

- *Sexual Harassment- 35 Allegations*
  - *Substantiated-1\**
  - *Unsubstantiated-23*
  - *Unfounded-11*
  
- *Sexual Abuse- 34 Allegations*
  - *Substantiated-0*
  - *Unsubstantiated-25*
  - *Unfounded-9*

\*Inmate made gestures/actions of an offensive nature. After investigation, inmate charged with indecent exposure.

*Note- There was an additional 28 allegations made regarding sexual misconduct between inmates which were, after the investigation, determined to be consensual or not meeting the criteria of a PREA event. (Note: A consensual act is a violation of facility rules and regulations and is addressed through our inmate disciplinary process.)*

**III. Van Cise-Simonet Detention Center (DDC)**

The Average Daily Population (ADP) of the DDC in 2015 was 1319.

**A.** Sexual harassment/abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer

- *Sexual Harassment- 1 Allegation*
  - *On-Going- 1*
  
- *Sexual Abuse- 7 Allegations*
  - *Substantiated-0*
  - *Unsubstantiated-2*
  - *Unfounded-5*

**B.** Sexual abuse of an inmate, detainee, or resident by another inmate detainee or resident,

- *Sexual Harassment- 17 Allegations*
  - *Substantiated-5\**
  - *Unsubstantiated-10*
  - *Unfounded-2*
  
- *Sexual Abuse- 15 Allegations*
  - *Substantiated-3\*\**
  - *Unsubstantiated-8*
  - *Unfounded-4*

\*Synopsis of the five substantiated cases of sexual harassment, (1) verbal comments, (1) one was obscene gestures/actions of a derogatory or offensive nature, (2) were related to indecent exposure, (1) related to sexual advances. These were addressed either through our inmate disciplinary process and/or they were charged criminally.

\*\* Synopsis of the three substantiated allegations of sexual abuse, (1) Public Indecency (2) intentional touching- These were addressed either through our inmate disciplinary process and/or they were charged criminally.

*Note- There was an additional 4 allegations made regarding sexual misconduct between inmates which were, after the investigation, determined to be consensual or not meeting the criteria of a PREA event. (Note: A consensual act is a violation of facility rules and regulations and is addressed through our inmate disciplinary process.)*

### *Corrective Actions-*

In 2015, the DSD worked to implement best practice and the requirements of the PREA standards in order to better address allegations of sexual abuse and sexual harassment of offenders. The DSD is dedicated to on-going monitoring and corrective action, and most importantly to safeguard those entrusted into our care. As an agency, we continue to make progress toward systemic change that fully integrates the intent of the PREA standards with internal processes to achieve a “zero tolerance” culture.

The following is a snapshot of problem areas identified and the corrective action taken:

- ✚ During the audit in February at the COJL, it was determined that the visibility into the urinal/toilet area in Building 24 did not allow for the inmates to have an opportunity to use the facilities without being viewed by cross-gender staff. As such, we installed pull curtains that now provide this opportunity.
- ✚ Building 21 at the COJL, our female section, is the area that accounted for approximately 80% of all PREA allegations at the COJL. In 2015 additional cameras were installed in the female dorms to increase visibility.
- ✚ The announcement of cross gender staff was not consistent. Training reminders through Staff Briefings as well as increased accountability were implemented.
- ✚ During one of our Command Quarterly Inspections, we focused primarily on PREA to re-check and maintain PREA standards.

## *Comparison to 2014 –*

### *Internal Affairs-*

In 2014, Internal Affairs received six allegations that were not reported in either facility. In 2015, this number decreased to two. It would be difficult to attribute this to a specific factor; however, increased confidence in reporting by the inmate population due to education on the PREA process in the facilities and a clear zero tolerance policy may be contributing factors.

### *County Jail-*

In 2015, the County Jail had a total of 103 PREA allegations received and investigated, six against staff, sixty-nine inmate against inmate, and 28 deemed not to be PREA events. This is a significant increase from the 42 in 2014, three allegations against staff, twenty-eight allegations from inmates against inmates, and 11 deemed not to be PREA events. This increase can most likely be attributed to the increase of PREA education of the inmate population through posters and visible reinforcement of our zero tolerance policy listed in the Inmate Handbook. In addition, in preparation for our audit, we re-televised our PREA video in all inmate housing units.

Of the 69 inmate/inmate allegations, 48 were unsubstantiated and 20 unfounded. As stated above, approximately 80% of all allegations are from the female section. In these housing units, it became apparent that the female inmates were using PREA as a tool to get unwanted offenders out of the area even though no PREA violation occurred. While it could not be proved one way or another if the alleged allegation occurred, there were indicators that suggested the aforementioned vindictive process was being used.

28 of the 103 allegations, after investigation, were determined to be consensual and/or not meeting the criteria for a PREA event and as such, the number of actual PREA allegations for the COJL in 2015 was 75.

As you will see below, the DDC has far less allegations than the COJL. This is most likely attributed to the difference in facilities in that the DDC is a pre-sentenced facility compared to the COJL, a sentenced facility, with the exception of a percentage of the female population.

### *DDC-*

In 2015, the DDC had a total of 44 PREA allegations received and investigated, eight against staff, thirty-two inmate against inmate, and 4 deemed not to be PREA events. This is a decrease from the 58 in 2014, fourteen allegations against staff, thirty-eight allegations from inmates against inmates, and six deemed not to be PREA events.

4 of the 44 allegations in 2015, after investigation, were determined to be consensual and/or not meeting the criteria for a PREA event compared to 6 in 2014. As such, the number of actual PREA allegations for the DDC in 2015 was 40 compared to 52 in 2014.

The pattern of allegations at the DDC does not reveal any significant trends. Most of the allegations occurred on the 4<sup>th</sup> Floor which has the most housing Units followed by the 3<sup>rd</sup> Floor. The rest of the allegations occurred mostly even throughout the remaining floors.

A handwritten signature in blue ink, appearing to be 'P. Firman', with a large loop at the top and a horizontal stroke at the bottom.

Sheriff Patrick Firman

A handwritten signature in black ink, appearing to be 'Rick Guerrero', with a large loop at the top and a horizontal stroke at the bottom.

Major Rick Guerrero PREA Coordinator (2015)