



2015-2016

# **PRISON RAPE ELIMINATION ACT** **ANNUAL REPORT**

**AN INCIDENT OVERVIEW OF SEXUAL MISCONDUCT REPORTING  
IN LARIMER COUNTY CRIMINAL JUSTICE SERVICES FACILITIES:**

**LARIMER COUNTY COMMUNITY CORRECTIONS  
LARIMER COUNTY ALTERNATIVE SENTENCING**

INCLUDING INCIDENT SYNOPSES, STATISTICS, RESPONSES, AND FINDINGS





## CRIMINAL JUSTICE SERVICES DIVISION

### Criminal Justice Planning Unit

2307 Midpoint Drive, Fort Collins, CO 80524 / Phone (970) 980-2671

### Alternative Sentencing Department

2307 Midpoint Drive, Fort Collins, CO 80525 / Phone (970) 980-2600 / Fax (970) 980-2610

### Community Corrections Department

2255 Midpoint Drive, Fort Collins, CO 80525 / Phone (970) 498-7530 / Fax (970) 498-7511

## Prison Rape Elimination Act Annual Compliance Report

### Background

In 2003, Congress enacted the Prison Rape Elimination Act (PREA) mandating that correctional facilities nation-wide implement measures to prevent, detect, and respond to sexual misconduct and sexual violence in America's prisons, jails, and community confinement facilities. The Act directed the Attorney General to create national standards applicable to all correctional facilities, public and private, in the United States. In 2013, specific standards required by this legislation were disseminated nationally by the Department of Justice, and a time table for compliance and a subsequent federal compliance audit were set.

This legislation, along with the national standards and audit requirements, stem from a fundamental belief that American prisons and jails should be as safe as possible, and that no matter the crime committed, being sexually assaulted while in custody is never a part of the sentence.

In late 2013, both the Community Corrections Facility and the Alternative Sentencing Work Release Facility, operated by Larimer County, began the task of forming the policies, procedures, best practices, and community partnerships necessary to meet Federal requirements.

PREA standards require that an annual report be published detailing statistics regarding sexual harassment, abuse, and assault of offenders in our custody. The annual report is required to aggregate the data collected from PREA-qualifying incidents, provide an explanation of what measures were taken in investigating and responding to the data collected, and indicate what additional measures, if any, are needed and/or being taken to address the safety of offenders from incidents of sexual violence while in custody.

Additionally, the annual report should present the data from this year in contrast to data from previous years. As this is the inaugural year of PREA protocols, no past data is included.

Finally, the annual report is to be published publically, on the agency's web-site, for review and comment by interested parties.

The data presented in this annual report was compiled using the 2013 Survey of Sexual Violence (form SSV-IA) from the United States Department of Justice. Data was obtained from victim and perpetrator statements and interviews, police reports, witness statements and interviews, video surveillance review, and confidential source statements. All personal indentifying information has been redacted from the annual report, as has information which, if disseminated, could pose a threat or danger to the safety and security of offenders in custody and/or the staff responsible for supervising them.

## **Section 1- Reporting Statistics**

- 1.1 Number of Reports
- 1.2 Nature of the Reports
- 1.3 Substantiated Reports and Report Characteristics
- 1.4 Unsubstantiated Reports and Report Characteristics
- 1.5 Unfounded Reports and Report Characteristics

### **1.1 Number of Reports**

Between April of 2015 and April of 2016, fifteen (15) reports of sexual misconduct were reported by offenders which met PREA's reporting guidelines. Other reports were received which did not fall under the requirements of PREA, such as reports of past sexual abuse (both in confinement and in the community,) sexual abuse while in custody by an employer or co-worker, or sexual abuse while outside the facility by a stranger while at work.

Three reports were made by offenders alleging sexual misconduct by offenders or staff at other correctional facilities. In all cases, notification was made to the Director or Warden of the facility at which the alleged misconduct took place.

One of the most positive by-products of implementing PREA protocols in our facilities has been the openness and willingness of past and current victims to come forward to gain the resources necessary, whether through PREA obligations or on their own, to move forward after being sexually assaulted.

The 17 reports listed meet the criteria of offender-on offender or staff on offender sexual abuse allegations, and do not contain data from these other reports.

### **1.2 Nature of Reports.**

PREA Reports are broken down in a manner designed to a) identify who the alleged abuser is, b) identify what type of sexual misconduct occurred, and c) indicate whether the report was substantiated. For the purpose of this report, the alleged abuser will be identified as either staff or offender. The type of sexual abuse will be identified as either harassment or abuse. Finally, each report will be determined to be either substantiated (a preponderance of evidence exists to show that the incident occurred,) unsubstantiated (no determination could be made to determine whether the incident occurred based on available evidence,) or as unfounded (preponderance of evidence indicated that the incident reported never took place.) Lastly, each report concludes with a review of the incident by a team of experts to determine if changes can be made to policy, procedure, or best practices to prevent a similar event from occurring in the future. This information is presented below, in 1.3 through 1.5.

### **1.3 Substantiated Reports**

Of the 15 reports, ten were determined to be substantiated, indicating that enough evidence was found during the investigation to indicate that the report was made in good faith, was accurate, and actionable. The reports are listed below. Information concerning the names of those involved, and the specific locations at which the event(s) occurred have been redacted for security purposes.

Report 1      Substantiated      Harassment      Made May 5, 2015 at Community Corrections.

Male Offender reported he was being sexually harassed and bullied by another person in his dorm room. The harassment was described as degrading and demeaning. An investigation was initiated. Information was scarce initially as most in the room were afraid of the alleged perpetrator. Shortly after, the alleged perpetrator was arrested on new charges, and removed from custody. At that point, more information became available which substantiated the allegation. Counseling and education were provided for the victim and other members of the room in which this was taking place.

Report 2      Substantiated      Abuse      Made July 29, 2015 at Community Corrections.

Female Offender reported to Parole Board that she was sexually assaulted while in custody. Though victim was not in custody at time of report, incident was reported to Law Enforcement for investigation. Internal review was shared with Parole, who removed alleged offender from custody immediately. New charges for sexual assault were filed by arresting agency.

Report 3      Substantiated      Harassment      Made September 26, 2015 at Alternative Sentencing.

Female offender reported being sexually harassed by a male contract worker while at work in the CJSD kitchen. An investigation was completed, which concluded that substantiated sexual harassment and inappropriate professional conduct had taken place. The contract worker was removed from the grounds and terminated by the contracting agency the following day. No Law Enforcement was involved as the victim refused to make a formal complaint.

Report 4      Substantiated      Harassment      Made October 4, 2015 at Community Corrections.

Female offender reported sexual harassment and bullying in her dorm room by two other offenders who would repeatedly take their clothes off and expose the nude bodies and genitalia to other offenders (particularly new offenders) and demand that they then reciprocate, and intimidate them into doing so. An investigation was conducted which revealed that the alleged activity was indeed taking place. None of the alleged victims would cooperate with Law Enforcement, though a report # was pulled. The two perpetrators were removed from the program, and placed into secure custody.

Report 5      Substantiated      Abuse      Made December 17, 2015 at Community Corrections.

Female offender reported that another offender was repeatedly taking her clothes off and exposing herself to other women in the dorms and dayroom. An investigation resulted in corroboration by multiple other offenders and by the perpetrator herself, who admitted her actions. At the same time, the perpetrator was found to be using a controlled substance illegally and was terminated from the program.

Report 6      Substantiated      Harassment      Made December 31, 2015 at Community Corrections.

Male offender reported being sexually harassed and bullied by another male offender in his dorm room. An administrative investigation was conducted which substantiated the allegation. The alleged perpetrator had high mental health needs, and it was recommended to the classification team that he continue in treatment to address those needs. The victim was moved to a different housing unit.

Report 7      Substantiated      Harassment      Made December 31, 2015 at Community Corrections.

Staff observed two males engaging in a simulated sexual act, with one bent over a table and the other rubbing against him through their clothes. Both were interviewed and maintained they were just goofing around and having fun. The incident was characterized as horseplay, and disciplined as such.

Report 8      Substantiated      Harassment      Made February 5, 2016 at Alternative Sentencing.

Male offender reported being sexually harassed and bullied by another male offender in his dorm room. An administrative investigation was conducted which substantiated the allegation. The offender is question was removed from his room and placed into another room, with stricter supervision, and was placed on a 7 day lockdown for his behavior.

Report 9      Substantiated      Abuse      Made February 24, 2016 at Community Corrections.

Female Offender reported being coerced and then forced into unwanted sexual activity while at an NA meeting. Subsequent interviews were conducted that provided enough circumstantial evidence to substantiate the allegation. Victim refused to cooperate with Law Enforcement. Internal report was relayed to Parole Liaison who removed alleged perpetrator from the program and placed him back into custody.

Report 10      Substantiated      Harassment      Made April 2, 2016 at Community Corrections.

Female Offender reported being slapped on the buttocks while bending over by another offender. Witnesses and video confirmed the action, and the perpetrator confessed it saying she was just messing around. Perpetrator informed action was unwelcome and inappropriate, disciplined, and moved housing areas.

#### **1.4 Unsubstantiated Reports.**

Unsubstantiated reports are reports which, upon investigation, fail to provide a preponderance of evidence as to whether an alleged event occurred or not. These reports can include third party reports in which not enough information is given to identify a victim and/or a perpetrator despite efforts to do so, reports in which no evidence exists other than an allegation of one party and a denial by the other, or reports in which conflicting reports, evidence, or data make it impossible to determine if the incident happened as described, happened differently than described, or didn't happen at all.

If an incident is determined to be unsubstantiated, victim services are still offered to the victim, and action will be taken to make sure the victim and alleged assailant are separated, counseled, and monitored closely. Without direct evidence, however, no disciplinary action may be taken, or criminal charges filed, against an alleged perpetrator.

Of the fifteen reports, two were determined to be unsubstantiated. The reports are summarized below.

Report 1      Unsubstantiated      Harassment      Made October 12, 2015 at Community Corrections

Victims reported that another female in their dorm room was touching them and staring at them throughout the night. Other dorm members could not corroborate, alleged perpetrator had no memory of the events. Alleged perpetrator has extremely high mental health needs, and was removed from the room for safety, and referred to her treatment team for further follow up.

Report 2      Unsubstantiated      Harassment      Made May 22, 2014 at Alternative Sentencing

Female victim approached staff and reported being sexually harassed, threatened, and intimidated by her dorm mates. Victim refused to give specifics, and refused to give names of perpetrators. Victim had significant mental health needs. Interviews with dorm mates indicated that victim was not well liked, and that she frequently tried to pick fights with them and yelled at them. All claimed that no sexual harassment or other bullying was taking place, but that they had told her to change her behavior. The victim was placed on an extra monitoring list, and the other women in the room were counseled to approach staff any time an issue arose and not to handle it themselves. There was insufficient evidence to substantiate the claim, but no direct evidence that her allegations were untrue. She was not moved rooms due to her PREA classification status as a known victim.

**1.5      Unfounded Reports**

Unfounded reports are reports which, upon investigation, are deemed to have no basis in fact, malicious (false reporting), or simply don't meet the criteria to be investigated and reported as an incident under PREA standards. According to the Federal Bureau of Investigation's Uniform Crime Index, the false reporting rate for sexual assault is just less than 5 percent- on par with most other violent crimes. Of the fifteen reports received, three were deemed to be unfounded, and none were deemed to be maliciously and falsely reported. The reports are summarized below.

Report 1      Unfounded      Harassment      Made August 30, 2015 at Community Corrections

Staff observed two offenders engaging in sexual activity. An internal investigation was completed and the activity was deemed to be consensual sexual activity, which is not a violation of PREA, but is a violation of Community Corrections rules and requirements. Both offenders were disciplined.

Report 2      Unfounded      Harassment      Made October 4, 2015 at Community Corrections

Staff observed two offenders engaging in "mock" sexual acts. They were separated and interviewed. Both said they were just "messing around," and that nothing truly sexual in nature was taking place. The incident was unfounded and categorized as horseplay. Both were disciplined with internal sanctions.

Report 3      Unfounded      Abuse      Made March 25, 2016 at Community Corrections

Staff observed two offenders engaging in sexual activity. An internal investigation was completed and the activity was deemed to be consensual sexual activity, which is not a violation of PREA, but is a violation of Community Corrections rules and requirements. Both offenders were disciplined.

**Section 2- Analysis of Data/Actions Taken**

- 2.1- Number of Reports
- 2.2- Coordination of Response
- 2.3- Offender Education
- 2.4- Staff Education

## 2.1 Number of Reports

**Analysis:** The number of reports in 2015-2016 are down by two reports from 2014-2015. That number is not statistically significant. What is significant are the number of substantiated reports. The agency has developed more thorough investigation techniques, including training and utilizing designated PREA investigators. Additionally, staff and offender education efforts are bringing forward more legitimate cases and fewer “is this PREA?” cases.

**Action Taken:** **Continued education efforts for offenders** has been identified as a high priority. **Building self-esteem and increasing awareness about the damage that sexual misconduct can cause is a high priority for our offender population.** Classes and programs- designed to elicit character, healthier lifestyles, stronger decision making, and better problem solving- are offered throughout offenders’ sentences, and resources are given to offenders upon release to allow them to continue their growth.

**Fear of retaliation** is a real and difficult roadblock to navigate when looking at reasons for not reporting. Community Corrections and Alternative Sentencing are not secure facilities, and have extremely limited ability to truly separate offenders and keep them safe from retaliation. Even should we accomplish this inside the facility, offenders are released to work, attend counseling, etc in the community. **Continued vigilance in enforcing strict zero tolerance policies against sexual misconduct and retaliation** for reporting is a focus for continued staff education and practice.

**Continued efforts in breaking down barriers between offenders and staff and other law enforcement personnel need to be made.** Reporting sexual violence can be a frightening and harrowing experience for most people. Given the mistrust that many offenders already hold toward law enforcement, it is not surprising that many victims of sexual violence do not come forward. **Victims will report to people they trust, and establishing trusting relationships with appropriate boundaries is ultimately the key to getting victims the help they need.**

## 2.2 Coordination of Response

**Analysis:** Significant improvement has been made in this area. First responders have been doing a very good job of recognizing situations which may be sexual in nature and immediately intervening in the situation and reporting it to the Sexual Abuse Response Team. The SART has grown more confident and discerning as each report comes to us. PREA legislation and standards are clear, but cannot provide a provision for every circumstance in every case. Having two trained PREA investigators coordinate with the PREA Coordinator on each investigation has helped immensely in determining the outcome of each report and investigation. Work still needs to be done on determining what information needs to be disseminated to counseling and case management teams when an incident arises. PREA standards call for privacy and a limited dissemination of information to only those who “need to know,” but this is at times at odds with the team management model used for supervising offenders and their cases

**Action Taken:** A representative of the case management team has been added to the SART, and the Clinical Director has been asked to remain on the team, despite initial plans to replace him. These two representative will be able to much more appropriately guide the SART in what information is necessary for their teams, but to also act as a liaison to their teams in explaining the need for privacy and limiting information

### **2.3 Offender Education**

**Analysis:** Every offender that enters either Community Corrections or Alternative Sentencing is given an orientation to PREA that includes a video and an assessment for potential victimization. They are also given a brochure which advises them of the agency's zero tolerance policy towards sexual abuse and harassment, as well as different reporting options if they are, or have knowledge of, a victim of sexual abuse or harassment.

**Action Taken:** Emphasis continues to be placed on staff interaction with offenders during orientation. A video, assessment, and brochure do not, by themselves, sufficiently educate the offender population concerning sexual violence in a confinement setting. Further, the professional relationship necessary to encourage reporting and vigilance in this area needs to be established immediately upon intake by staff who take the time to explain how important this information is, and how committed the agency is to preventing sexual violence in our facilities.

### **2.4 Staff Education**

**Analysis:** All staff attend a mandatory training on PREA protocols and sexual assault responses upon hire. All staff are re-trained at least annually on topics directly related to PREA responses and sexual violence prevention. Staff education remains the single most important characteristic of our successful culture in preventing, detecting, and responding to sexual violence.

**Action Taken:** Continued training on issues specific to this issue will remain ongoing. Binders with first responder information, emergency/crisis contact information, victim interview guides, and security procedures have been placed in all staff work areas to aid them in their response to a PREA allegation. Annual training will continue to be held on the subject, including education about high risk populations, trauma-informed care, and sexual assault investigation. Our partnership with SAVA remains strong, and continued intervention by their staff in incidents of sexual abuse, and training conducted by their staff will remain a strong component of our staff training.

**Conclusion**

The data above (represented graphically in appendix A) seems to indicate that reports of sexual misconduct are down slightly from 2014-2015. Anecdotal evidence contradicts this. Staff and offenders alike have frequently contacted the SART to ask questions about things that would have been reported in the past, unnecessarily. This continued dialogue has helped all involved to make better decisions about what and when to report. The slightly lower number of reports is indicative not of fewer incidents, but of more discerning reporting and judgement.

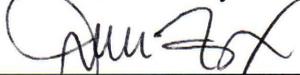
In fact, the number of incidents that SART was called in on grew in 2015-2016, though we do not have numbers of cases which were deemed not PREA-conforming but which were nevertheless worth of being addressed through counseling, discipline, or both.

  
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Sean Grogan, PREA Coordinator

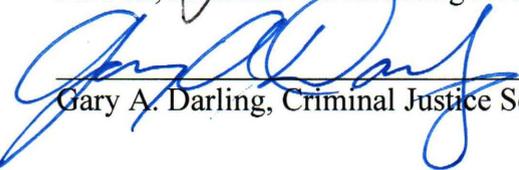
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Tim Hand, Community Corrections Director

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Jill Fox, Alternative Sentencing Acting Director

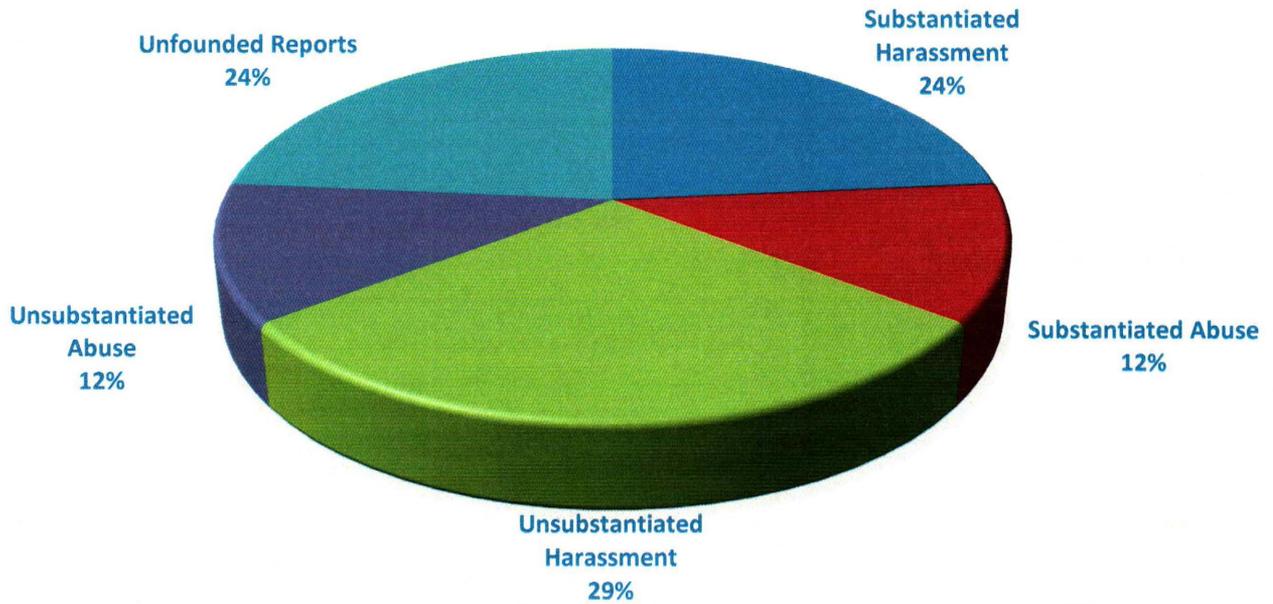
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Gary A. Darling, Criminal Justice Services Director

9/5/17  
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Figure 1- Investigative Outcomes.

### 2014-2015 ALL REPORT TYPES AND OUTCOMES- 17 TOTAL REPORTS



### 2015-2016 ALL REPORT TYPES AND OUTCOMES- 15 TOTAL REPORTS

