



LARIMER COUNTY CRIMINAL JUSTICE SERVICES

# PRISON RAPE ELIMINATION ACT ANNUAL REPORT

2016  
to  
2017

An incident overview of sexual misconduct reporting in  
Larimer County Criminal Justice Services Facilities:

**Larimer County Community Corrections Department**

**Larimer County Alternative Sentencing Department**

Including incident synopses, statistics, responses, and findings



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## **Prison Rape Elimination Act Annual Compliance Report (2016-2017)**

### **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.

Finally, the annual report is to be published publicly, 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 identifying 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 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 2016 and April of 2017, twelve (12) 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, sexual abuse while outside the facility by a stranger while at work, or consensual sexual behavior within the facility (not permitted by facility rule, but not a violation of PREA standards).

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

2017 has seen a marked increase in staff awareness and proper responses to reports of potential sexual harassment, misconduct, and activity. 2016-2017 also saw the beginning of a partnership with the Larimer County Sheriff's Office in which new deputies were trained by CJSD staff in sexual assault response protocols. We are excited about the possibilities of this partnership.

The 12 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 twelve reports, six 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 9, 2016 at Community Corrections

Offenders making inappropriate sexual comments, gestures, and simulated sex acts. All disciplined and counselled concerning appropriate behavior.

Report 2      Substantiated      Harassment      Made August 16, 2016 at Alternative Sentencing

Female offender reported being sexually touched while in the walk-in cooler in the facility kitchen as a kitchen worker. Video was reviewed and interviews took place. Allegation was substantiated and assailant taken into custody and charged with harassment.



Report 3      Substantiated      Harassment      Made September 13, 2016 at Community Corrections

Male offender alleged inappropriate sexual touching by a staff member during a pat down search. Video of the search, as well as video of previous searches, by the staff member were reviewed, and interviews conducted with other offenders, revealing a pattern of improper pat-down technique which resulted in the inappropriate touching. Offender did not want to pursue charges, just wanted the staff member retrained and to show respect for the person being searched. Staff member disciplined and re-trained.

Report 4      Substantiated      Harassment      Made January 18, 2017 at Community Corrections

Male offender reported sexual hazing and harassment going on in his dorm room. Incident was investigated and substantiated. Residents were disciplined, counseled, and re-assigned to different rooms.

Report 5      Substantiated      Harassment      Made January 30, 2017 at Alternative Sentencing

Female Offender reported that a male offender on a work crew made sexually suggestive comments and asked sexually inappropriate questions of her. Incident was investigated, and allegations were substantiated. Male offender was removed from work crew program and remanded to secure custody for duration of his sentence.

Report 6      Substantiated      Harassment      Made April 6, 2017 at Alternative Sentencing

Offender reported being uncomfortable in the kitchen due to sexual innuendo and conversation. Incident was investigated and such conversation was substantiated. Contract kitchen staff and all kitchen workers again counseled about appropriate conversational elements. Most offenders described activity as "just kidding around," but all understood that such conversation was unacceptable while at work, or in this facility.

#### **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 twelve reports, four were determined to be unsubstantiated. The reports are summarized below.



Report 1      Unsubstantiated      Abuse      Made July 20, 2016 at Community Corrections

Therapist reported that offender reported another offender touching him with his sexual anatomy. Victim disclosed only as needed to pass polygraph, and did not want to disclose to law enforcement or in-house investigator. Victim refused to cooperate with investigation. Due to lack of evidence and a cooperating victim, case was not taken by DA. Allegation by definition cannot be substantiated, though it appears likely inappropriate sexual behavior was taking place.

Report 2      Unsubstantiated      Harassment      Made September 6, 2016 at Alternative Sentencing

3<sup>rd</sup> party report made on behalf of a female offender working in the kitchen. Incident was investigated, and the person on whose behalf the claim was made denied any harassment, or discomfort with work conditions. Other witnesses claimed there "is always" some level of conversation that if heard and taken out of context might make others uncomfortable. Kitchen staff reminded of zero tolerance for language of a sexual nature.

Report 3      Unsubstantiated      Harassment      Made September 18, 2016 at Alternative Sentencing

3<sup>rd</sup> party report from an offender working in the kitchen of inappropriate conversation. Investigation revealed that the conversation in question was not inappropriate. Neither party to the conversation saw anything sexual in it, and the person who reported admitted hearing only a snippet of the conversation

Report 4      Unsubstantiated      Harassment      Made February 14, 2017 at Community Corrections

Staff discovered two residents under blankets engaged in what she perceived to be sexual activity. Incident was investigated and deemed to be consensual sexual activity. PREA allegation unsubstantiated but incident referred to case managers for counseling and discipline for violation of facility policy.

### **1.5 Unfounded Reports**

Unfounded reports are reports which, upon investigation, are deemed to be 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 twelve reports received, two 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 December 7, 2016 at Community Corrections

Staff investigated sounds of sexual activity in the hallway. Two offenders were kissing. Both were separated and interviewed independently. Both confirmed that the activity was consensual. Consensual sexual activity does not fall under PREA standards, but is a violation of facility policy. Each was referred to case manager for counseling and discipline.

Report 2      Unfounded      Harassment      Made December 15, 2016 at Community Corrections

Staff came across multiple female inmates undressing in front of each other and posing. All were interviewed, and all agreed activity was aimed at trying on one another's clothes and undergarments to see what looked good. All indicated there was nothing sexual in nature about the activity.



## **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 2016-2017 are down by three reports from 2015-2016. This marks two consecutive years of declining reports. While not enough of a sample size or enough time to draw conclusions, we are encouraged and hopeful that ongoing education and counseling efforts are helping drive these incidents down.

**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.

**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.

Emphasis needs to be placed on educating and involving contract staff (particularly in the kitchen) in PREA prevention efforts. The number of reports coming from the kitchen are growing, and the lack of security staff and interaction among different genders and inmate classifications presents an environment that poses a challenge for curtailing sexual harassment and sexual activity.

**Action Taken:** Additional cameras have been added to the kitchen area for better remote monitoring and evidentiary purposes. PREA staff will work more closely with contract kitchen staff in initial and ongoing PREA education and prevention programs.



## 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. 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.

A new online education system has been brought aboard to more easily facilitate initial and ongoing PREA training and updates.

## Conclusion

The data represented graphically in appendix A seems to indicate that reports of sexual misconduct are down slightly from 2015-2016. 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.

  
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Tim Hand, Community Corrections Director

6/27/18  
Date

  
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Jill Fox, Alternative Sentencing Acting Director

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Date

  
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Gary A. Darling, Criminal Justice Services Director

062718  
Date

Figure 1- Investigative Outcomes for 2014-2015

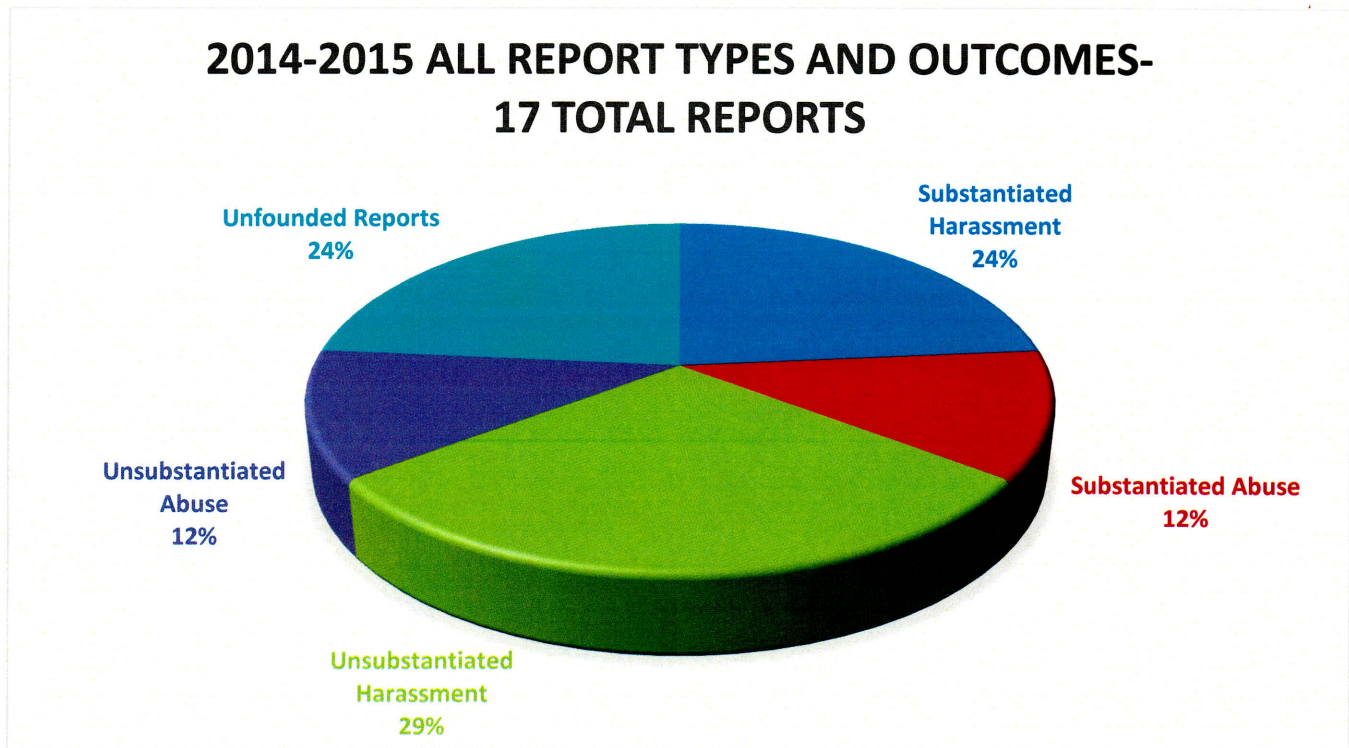


Figure 2- Investigative Outcomes for 2015-2016

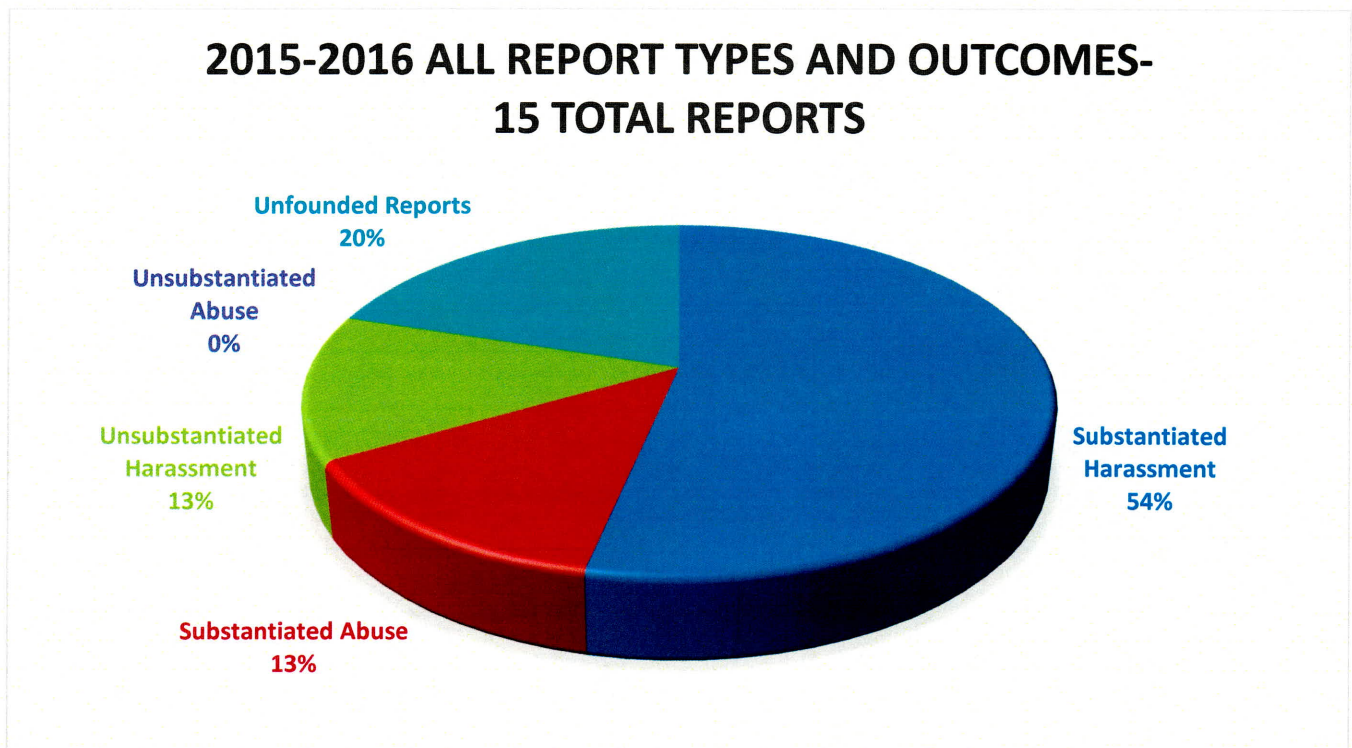




Figure 3- Investigative Outcomes for 2016-2017

## 2016-2017 ALL REPORT TYPES AND OUTCOMES- 12 TOTAL REPORTS

