



Maintaining Zero-tolerance in Kansas



**2018
Annual
Report**

Executive Summary

The Kansas Department of Corrections (KDOC) is making significant progress toward full PREA compliance in the areas of prevention, detection and response to incidents of sexual abuse and harassment. The Prison Rape Elimination Act (PREA) Federal Standard 115.88 requires that each facility collect and review data "...in order to assess and improve the effectiveness of sexual abuse prevention, detection, and response policies, practices and training." This report works to meet this standard as well as:

- Identify action taken to address problem areas in the past year;
- Compare PREA related data to previous year's data;
- Share positive steps the KDOC has taken to implement PREA in collaboration with other agencies;
- Identify problem areas to be addressed in the future; and,
- Set goals for PREA and KDOC.

KDOC has interpreted the federal PREA standards as a foundation rather than best practices. The goal is to develop strategies and practices that build on that foundation, continuously improving prevention, detection, response, investigation across the agency, not just in the facilities as specifically addressed by the standards. Any level of sexual abuse anywhere within the agency is not acceptable.

KDOC continues to work diligently to incorporate PREA into the culture of the department and will continue this important work. KDOC will endeavor to keep people safe – our staff, the offender population, and those who live in Kansas communities.

KDOC is proud of these accomplishments and is confident that established strategies coupled with staff dedication will continue to enhance these efforts.

Our History

In 2009, KDOC received technical assistance from the National Institute of Corrections (NIC) to review KDOC's policies and training procedures related to staff sexual misconduct and cross gender supervision. In the resulting report, the NIC commended the KDOC for its commitment to addressing the issue of sexual abuse and acknowledged that the KDOC has undertaken a number of progressive strategies. These strategies include training investigations staff in proper investigatory techniques and processes, changing the investigative processes and response timetables, developing an inmate orientation DVD, implementing a new Prison Rape Elimination Act (PREA) policy, developing training for volunteers, working with community organizations, implementing a sexual abuse hotline, instituting a critical incident review process, implementing a medical protocol that includes a sexual assault nurse examiner, working to develop gender responsive training materials and exploring the creation of a risk-needs assessment to identify vulnerable and aggressive offenders.

The NIC criminal justice consultants wrote, "All of these efforts demonstrate the Department's awareness of this important issue, and their attention to continual improvement." NIC recommended KDOC focus time and resources to improve the sexual safety of its offenders by:

- Reviewing the amount of time and delivery strategy for PREA related training; and ensure that all staff participates in annual refresher training, including the prevention and detection of staff sexual misconduct;
- Developing a gender responsive training curriculum;
- Clearly defining for staff, behaviors that would constitute undue familiarity, as well as those behaviors that would not;
- Reviewing offender perceptions and behavior regarding reporting staff sexual misconduct, as well as any barriers to reporting incidents when they occur;
- Reviewing staff perceptions regarding reporting incidents of staff sexual misconduct;
- Reviewing the grievance process to determine whether changes may be necessary to promote greater offender confidence in the process, including additional means of providing assurances that there will be no retaliation for the filing of grievances;
- Building upon the KDOC's process for reviewing sexual abuse incidents and emphasize the importance of the strategy; and,
- Ensure long-term offenders have the opportunity to receive PREA orientation training.

In October 2011, the Kansas Department of Corrections (KDOC) was awarded a Prison Rape Elimination Act: Demonstration Projects to Establish "Zero Tolerance" Cultures for Sexual Assault Programs. With this funding, the KDOC implemented an internal classification instrument/system and created a full-time PREA coordinator position, hired a Corrections Counselor II for the Reception & Diagnostic Unit (RDU) at El Dorado Correctional Facility (EDCF), and hired a Corrections Counselor II position for the Enhanced Management Unit (EMU) at Hutchinson Correctional Facility (HCF).

The KDOC continually strives to improve the areas noted on the NIC recommendations while also examining the KDOC's compliance with PREA standards.

Additional System Implementation



Contract Monitoring

PREA standards require that language is included in each contract about the contracted entity's requirement to comply with the PREA standards. Standards also require that any new contracts or contract renewals include provision for KDOC to monitor the contracted entity to ensure they are complying with the standards. KDOC currently contracts to house offenders in two (2) county jails: Cloud County and Jackson County Jails; and one (1) Youth Residential Center II placement: Pratt County Achievement Place. KDOC has implemented a system of self-assessments, site visits, and DOJ certified audit reviews to ensure these facilities achieve and maintain compliance with PREA standards to ensure the safe housing of its offenders.

Education

The KDOC continues work to enhance education for staff and offenders. PREA orientation is provided to offenders who enter KDOC Reception and Diagnostic Unit (RDU) and includes specific written information related to victim advocacy services and the reporting processes. There is also a Spanish version for offenders with limited English proficiency. Interpretive services are available on an as needed basis. Offenders are also provided a summarized PREA orientation when they transfer between KDOC facilities and must always sign an acknowledgement of understanding and offender education brochures, that are facility specific, are intended to facilitate the acceptance of reporting.

All newly hired KDOC staff, contractors and volunteers are required to attend Basic PREA training that is commensurate with the level of contact they will have with the offender population. Each staff member receives a PREA handbook and they are required to sign an acknowledgment of their understanding of the training presented. Annual PREA training is left to the individual facility whether it is offered on line or in a classroom setting. Basic PREA Training is reviewed and updated as needed based upon feedback received and/or PREA updates.

KDOC has worked hard to increase knowledge and professionalism in relation to the Lesbian, Gay, Bi-sexual, Transgender and Intersex (LGBTI) population. PREA training starts the conversation for staff and works to increase understanding the needs of these offenders. Training includes the proper way to conduct pat searches of transgender and intersex offenders.

Work continues to create policies and procedures that meet federal standards with regards to LGBTI offenders in correctional settings. When an offender identifies as transgender or intersex, a multidisciplinary team consisting of medical and behavior health staff meet to review the needs of the offender and determine housing commensurate with the safety and security of the offender and facility.

Incident Reviews

During the formal review of all substantiated and unsubstantiated offender-on-offender sexual abuse and staff-on-offender sexual misconduct investigations, the location of the incident is evaluated regarding staffing plans, procedures and policy. Also reviewed is whether the PREA protocol process was initiated and followed as outlined in policy and according to the criteria set out in the PREA standards.

Reporting

The KDOC has developed a PREA reporting system for staff and offenders to ensure all allegations of sexual misconduct and retaliation are reported.

When a staff member receives information (verbally, in writing or third party) about an allegation or incident of sexual abuse or sexual harassment, they are required to immediately report the information. Failure to report suspected sexual abuse or sexual harassment may result in disciplinary action.

Offenders are provided with multiple venues through which they can report an allegation of sexual abuse or sexual harassment. These include:

- Verbal reports, Request to Staff (Form 9) and written statements to staff
- Confidential PREA Hotline (#50)
- Grievances
- Legal mail addressed to the Secretary of Corrections, KDOC PREA Coordinator or Legal Services for Prisoners
- Third party reports through family, friends, or community members

The PREA Hotline (#50) was assessed for issues with the voicemail becoming full and no more messages could be left on it until the old messages were deleted. Now when offenders call the hotline, the calls are reaching a virtual number that sends an email alert to the facility EAI distribution group for review and investigation as needed in a timely fashion.

Risk Assessment

Upon arrival to the RDU and subsequent transfers between facilities, each offender is assessed within the first 72-hours for their risk of victimization or predation. The assessment includes current and past crime(s), age, stature, behavior characteristics, past discipline and the offender's perception of his/her vulnerability, to include gender identify or perception thereof. Each offender is reassessed within 30 days to ensure there have been no changes. The assessment is then administered annually, unless new information is made available to warrant a new assessment or if they identify as transgender or intersex, then the assessment is administered bi-annually. The results of these assessments are used to determine housing, job and program assignments.

Due to non-compliance issues during the 2018 PREA audits, rework was begun on the assessment tool within the PREA Application to ensure it is compliant with every component of PREA standard 115.41. The Sexual Victimization and Abusiveness Assessments are being completed manually on all offenders and forwarded to the PREA Coordinator for tracking. Each facility is also responsible for developing a tracking system to ensure that the timelines are being met.

Victim Advocacy

Partnerships were established between Community Rape Crisis Centers and KDOC facilities to provide support services to incarcerated victims of sexual abuse. In an effort to gain better understanding of the dynamics of sexual victimization in a correctional setting, strengthen protocols regarding forensic medical examinations, and streamline offender access to available services, collaboration between KDOC, the facilities and the community partners has been occurring over the past several months. Victim advocates from the community partners have scheduled tours of the facilities and Memorandum of Understandings have been reviewed and revised as needed. During the past year, staff members from each facility were provided training to meet the definition of qualified staff to provide emotional support services to offender victims in those rare occasions when an outside advocate was not available.

KDOC's PREA Coordinator continues to collaborate with the Kansas Coalition Against Sexual and Domestic Violence (KCSDV) to reinforce and expand services available to offenders.

Governor Certification

Each year, the governor must provide assurance/certification of compliance for all applicable agencies. The Governor of Kansas has not been able to certify 100% compliance but indicates we will continue to work towards compliance.

PURPOSE

This section serves as a review to assess and improve the effectiveness of sexual abuse prevention, detection, and response to policies, practices, and training in the KDOC, pursuant to §115.88, §115.388, §115.89 and §115.389 of the national PREA standards. Therein the Department is required to:

1. Review and aggregate incident-based sexual abuse data annually in order to improve the effectiveness of sexual abuse prevention, detection, and response policies, practices, and training to include:
 - a. Identify problem areas;
 - b. Taking corrective action on an on-going basis; and,
 - c. Preparing an annual report of its findings.
2. Compare the current year's data and corrective actions with those from prior year's providing an assessment of the agency's progress in addressing sexual abuse.
3. Publish an annual report on the KDOC website of its findings and corrective actions for each facility as well as for the agency.

AGGREGATED DATA

The KDOC collects data from referrals for investigation of sexual abuse and sexual harassment: offender on offender, and staff on offender. The data in this section is based on calendar years 2014 – 2018 and includes nonconsensual touching and sexual harassment. The Kansas Department of Corrections has eight adult facilities (seven male and one female) and one juvenile male/female facility.

All allegations are entered and tracked through a secure electronic database; the Enforcement, Apprehension, and Investigations (EAI) Case Log.

The reported data for Nonconsensual Sexual Acts allegations significantly decreased in 2018 from previous reporting years. The number of unsubstantiated allegations is still relatively high, given the small number reported. Often this is a direct result of late reporting by the offender population, so efforts continue to deliver the message about timely reporting throughout the facilities. Investigators also attended a 2-day training to ensure more thorough investigations are conducted and reports are more detailed to contain all the elements of PREA Standard 115.71/115.371.

The allegations of Abusive Sexual Contacts increased significantly this year, again with most of the cases being unsubstantiated. Although the agency remains attentive to fostering a positive reporting environment, the totality of the summary data continues to be a small percentage of the total offender population.

The incidents of reported Staff Sexual Misconduct decreased by about 40 percent and almost half of these reported allegations were determined to be Unfounded. Consistent application of policies and procedures, continual training, quality supervision and staff professionalism all contributed to reduce situations which tend to produce these types of allegations. Although there were still unsubstantiated allegations, the decline in the overall allegations is significant in the movement toward zero tolerance.

STATEWIDE TOTALS – Adult Facilities

| 2014 Agency Totals | Substantiated | Unsubstantiated | Unfounded | Ongoing Investigation | Total |
|--------------------------|---------------|-----------------|-----------|-----------------------|-------|
| Inmate Sexual Harassment | 9 | 28 | 55 | 0 | 92 |
| Abusive Sexual Contact | 3 | 17 | 25 | 0 | 45 |
| Nonconsensual Sexual Act | 3 | 16 | 31 | 0 | 50 |
| Staff Sexual Harassment | 2 | 6 | 194 | 0 | 202 |
| Staff Sexual Misconduct | 7 | 8 | 54 | 0 | 69 |
| Totals | 24 | 75 | 359 | 0 | 458 |

| 2015 Agency Totals | Substantiated | Unsubstantiated | Unfounded | Ongoing Investigation | Total |
|--------------------------|---------------|-----------------|-----------|-----------------------|-------|
| Inmate Sexual Harassment | 11 | 41 | 52 | 0 | 104 |
| Abusive Sexual Contact | 5 | 13 | 16 | 0 | 34 |
| Nonconsensual Sexual Act | 2 | 17 | 24 | 0 | 43 |
| Staff Sexual Harassment | 4 | 17 | 246 | 0 | 267 |
| Staff Sexual Misconduct | 5 | 6 | 40 | 0 | 51 |
| Totals | 27 | 94 | 378 | 0 | 499 |

| 2016 Agency Totals | Substantiated | Unsubstantiated | Unfounded | Ongoing Investigation | Total |
|--------------------------|---------------|-----------------|-----------|-----------------------|-------|
| Inmate Sexual Harassment | 17 | 39 | 66 | 0 | 122 |
| Abusive Sexual Contact | 7 | 20 | 16 | 2 | 45 |
| Nonconsensual Sexual Act | 1 | 17 | 13 | 0 | 31 |
| Staff Sexual Harassment | 4 | 19 | 124 | 0 | 147 |
| Staff Sexual Misconduct | 3 | 21 | 26 | 1 | 51 |
| Totals | 32 | 116 | 245 | 3 | 396 |

| 2017 Agency Totals | Substantiated | Unsubstantiated | Unfounded | Ongoing Investigation | Total |
|---------------------------|----------------------|------------------------|------------------|------------------------------|--------------|
| Inmate Sexual Harassment | 12 | 21 | 41 | 0 | 74 |
| Abusive Sexual Contact | 0 | 9 | 13 | 0 | 22 |
| Nonconsensual Sexual Act | 2 | 12 | 22 | 4 | 40 |
| Staff Sexual Harassment | 5 | 5 | 31 | 0 | 41 |
| Staff Sexual Misconduct | 3 | 11 | 48 | 0 | 62 |
| Totals | 22 | 58 | 155 | 4 | 239 |

| 2018 Agency Totals | Substantiated | Unsubstantiated | Unfounded | Ongoing Investigation | Total |
|---------------------------|----------------------|------------------------|------------------|------------------------------|--------------|
| Inmate Sexual Harassment | 4 | 20 | 19 | 3 | 46 |
| Abusive Sexual Contact | 4 | 21 | 16 | 2 | 43 |
| Nonconsensual Sexual Act | 1 | 5 | 4 | 4 | 14 |
| Staff Sexual Harassment | 2 | 7 | 10 | 0 | 19 |
| Staff Sexual Misconduct | 8 | 7 | 12 | 0 | 27 |
| Totals | 19 | 60 | 61 | 9 | 149 |

*10 substantiated cases were referred for prosecution. Two (2) of these were declined by the county attorney's office.

**Two (2) of the substantiated cases included more than one victim.

***There were nine (9) non-KDOC reports from the female offenders at TCF there were referred to the jurisdiction that the allegation was made from that **ARE NOT** included in the total numbers above.

STATEWIDE TOTALS – Juvenile Facilities

| 2014 Agency Totals | Substantiated | Unsubstantiated | Unfounded | Ongoing Investigation | Total |
|---------------------------|----------------------|------------------------|------------------|------------------------------|--------------|
| Inmate Sexual Harassment | 14 | 9 | 8 | 0 | 31 |
| Abusive Sexual Contact | 0 | 1 | 0 | 7 | 8 |
| Nonconsensual Sexual Act | 0 | 3 | 2 | 0 | 5 |
| Staff Sexual Harassment | 2 | 3 | 6 | 0 | 11 |
| Staff Sexual Misconduct | 1 | 3 | 11 | 0 | 15 |
| Totals | 17 | 19 | 27 | 7 | 70 |

| 2015 Agency Totals | Substantiated | Unsubstantiated | Unfounded | Ongoing Investigation | Total |
|---------------------------|----------------------|------------------------|------------------|------------------------------|--------------|
| Inmate Sexual Harassment | 14 | 19 | 9 | 0 | 42 |
| Abusive Sexual Contact | 5 | 5 | 5 | 0 | 15 |
| Nonconsensual Sexual Act | 2 | 0 | 4 | 0 | 6 |
| Staff Sexual Harassment | 1 | 8 | 8 | 0 | 17 |
| Staff Sexual Misconduct | 1 | 6 | 12 | 0 | 19 |
| Totals | 23 | 38 | 38 | 0 | 99 |

| 2016 Agency Totals | Substantiated | Unsubstantiated | Unfounded | Ongoing Investigation | Total |
|---------------------------|----------------------|------------------------|------------------|------------------------------|--------------|
| Inmate Sexual Harassment | 8 | 8 | 1 | 0 | 17 |
| Abusive Sexual Contact | 2 | 2 | 0 | 0 | 4 |
| Nonconsensual Sexual Act | 1 | 0 | 0 | 0 | 1 |
| Staff Sexual Harassment | 0 | 0 | 0 | 0 | 0 |
| Staff Sexual Misconduct | 0 | 5 | 3 | 0 | 8 |
| Totals | 11 | 15 | 4 | 0 | 30 |

| 2017 Agency Totals | Substantiated | Unsubstantiated | Unfounded | Ongoing Investigation | Total |
|----------------------------|----------------------|------------------------|------------------|------------------------------|--------------|
| Resident Sexual Harassment | 1 | 2 | 2 | 0 | 5 |
| Abusive Sexual Contact | 0 | 2 | 3 | 0 | 5 |
| Nonconsensual Sexual Act | 0 | 0 | 1 | 0 | 1 |
| Staff Sexual Harassment | 0 | 0 | 0 | 0 | 0 |
| Staff Sexual Misconduct | 0 | 0 | 0 | 0 | 0 |
| Totals | 1 | 4 | 6 | 0 | 11 |

| 2018 Agency Totals | Substantiated | Unsubstantiated | Unfounded | Ongoing Investigation | Total |
|----------------------------|----------------------|------------------------|------------------|------------------------------|--------------|
| Resident Sexual Harassment | 4 | 0 | 1 | 0 | 5 |
| Abusive Sexual Contact | 1 | 2 | 1 | 0 | 4 |
| Nonconsensual Sexual Act | 0 | 0 | 0 | 0 | 0 |
| Staff Sexual Harassment | 0 | 1 | 1 | 0 | 2 |
| Staff Sexual Misconduct | 0 | 2 | 1 | 0 | 3 |
| Totals | 5 | 5 | 4 | 0 | 14 |

COMPLIANCE

The second PREA audit cycle began August 20, 2016 and will end August 19, 2019. KDOC conducted internal audits of all the KDOC facilities prior to their DOJ certified audits during 2018.

KDOC continued the membership in the Midwest Consortium with California and Indiana for the remainder of year three of the second audit cycle. Kansas DOC staff members assisted with five (5) California audits during the months of June, July, August of 2018; and January and February of 2019. September 13, 2018 a letter from Secretary of Corrections Joe Norwood was sent to the Indiana Department of Corrections Commissioner and the California Department of Corrections and Rehabilitation Division of Adult Institutions Director notifying them of the KDOC's intent to withdraw from the consortium at the end of the second audit cycle (August 19, 2019).

Topeka Correctional Facility was the first facility audited during the second audit cycle. The audit was conducted by certified auditors from Louisiana on July 24 & 25, 2017 and resulted in full compliance with four (4) standards marked as exceeded.

Winfield Correctional Facility / Wichita Work Release Facility was audited October 23 – 26, 2017 by certified auditors from Louisiana, also resulting in full compliance with three (3) standards marked as exceeded.

Hutchinson Correctional Facility was audited December 12 -14, 2017 by certified auditors from Louisiana. The interim report was completed January 5, 2018 noting two (2) standards not being met:

- 1) 115.41 (b and f): KDOC has established internal classification procedures for screening offenders for risk of sexual victimization and/or sexual aggression. HCF staff complete the Sexual Victimization and Abusiveness Assessment form at initial screening of intake, and a follow-up assessment to ensure the offender feels safe in his assigned housing unit. During interviews with the intake supervisor he provided a spreadsheet to track all incoming offenders initial and follow-up assessment. It was evident that all offenders are receiving a screening; however, the 72-hour and 30-day follow-ups are not in compliance. This was discussed with facility staff and will increase tracking to gain compliance in this area.
- 2) HCF mandates that if Sexual Victimization and Abusiveness Assessment indicates that an offender has experienced prior sexual victimization or previously perpetrated sexual abuse, whether in an institution or in the community, the facility offers the offender follow-up with a medical or mental health practitioner within 14 days of the screening. Through interviews with mental health staff it was discovered that medical or mental health staff is not following up with the offender after a report of prior sexual victimization or prior sexual abuse on the SVAA. This was discussed with the PCM and PREA Coordinator and they will implement using a form WCF utilizes for notification.

HCF immediately went into Corrective Action and addressed the areas noted and supplied the requested/required documentation to the auditor. The final report was received June 4, 2018 noting all standards were met.

Larned Correctional Mental Health Facility underwent a DOJ certified audit conducted by the state of Indiana on May 22 – 24, 2018. An Interim Report was provided on July 20, 2018 detailing the non-compliance for eight (8) standards. The LCMHF went in to Corrective Action Planning and achieved full compliance December 11, 2019 with one noted as exceeding the standard.

El Dorado Correctional Facility, to include the Reception and Diagnostic Unit and the Southeast Unit (Oswego Correctional Facility) underwent a DOJ certified audit conducted by the state of Indiana June 26 – 29, 2018. An Interim Report was provided August 14, 2018 detailing non-compliance of ten (10) standards. The EDCF went in to Corrective Action Planning and worked towards full compliance; however when the final report was issued on February 22, 2019, it was noted that nine (9) of the ten (10) were in compliance, two (2) standards were noted as exceeding the standard but consistent time frames were met for the 72-hour and 30-day follow up risk of sexual victimization and abusiveness assessment (115.41).

Ellsworth Correctional Facility underwent a DOJ certified audit conducted by the state of Indiana July 10 – 12, 2018. An Interim Report was provided on August 24, 2018 detailing the non-compliance for six (6) standards. The ECF went in to Corrective Action Planning and achieved full compliance March 15, 2019 with two standards noted as exceeding.

Norton Correctional Facility's certified PREA audit is scheduled for June 4-6, 2019 and Lansing Correctional Facility is scheduled for June 18 – 20, 2019; both being conducted by auditors from the state of Indiana.

KDOC/Juvenile Services contracted with PREA Auditors of America LLC to conduct a DOJ certified audit of the Kansas Juvenile Correctional Facility December 5 and 6, 2018. A final report was received January 27, 2019 noting full compliance.

All PREA Final Reports are available for review on the KDOC's public website at <https://www.doc.ks.gov/publications/kdoc-facilities-management/prea/audits>.

Summary:

The agency continues to identify compliance issues through internal audits and DOJ certified audits. Non-compliance issues are reviewed and assessed, and corrective action plans developed as needed to ensure full compliance with the PREA standards. The number of PREA reports continues to decrease.

In addition to PREA audits, the PREA Coordinator observes and assists with Basic PREA training at the facilities to ensure the fidelity of information being shared with staff. The PREA Coordinator continues to provide training and technical assistance as needed to the facilities on the PREA web-based system.

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