

SAN JOAQUIN COUNTY SHERIFF'S DEPARTMENT



**Prison Rape Elimination Act (PREA)
Public Law 108-79
Annual Statistical Report
&
Assessment of Data Review
(28 C.F.R. §115.88)
2022**

Background

The Prison Rape Elimination Act of 2003 (PREA) was passed by the U.S. Congress and was created for the protection of inmates against sexual assaults by other inmates or staff members while confined in various adult and juvenile facilities or institutions. The goal is to prevent, detect, and respond to such incidents of sexual assault and abuse of an inmate.

The San Joaquin County Sheriff's Department maintains a zero-tolerance regarding inmate-on-inmate sexual assault, staff sexual abuse, sexual misconduct, and/or sexual harassment toward any inmate. The Department is working continuously to implement new policies, training requirements for staff and inmates, and developing procedures for detecting, preventing, and responding to incidents of sexual abuse and sexual harassment, and ensuring perpetrators are punished where an investigation substantiates such allegations.

Introduction

The San Joaquin County Sheriff's Department is committed to reviewing PREA incidents from multiple perspectives including: training, policies, procedures, staffing, facility construction and surveillance technology use with the ultimate goal of identifying problem areas, applying appropriate corrective solutions to make improvements.

The San Joaquin County Sheriff's Department is making statistical data available to the public on an annual basis. These findings are published and posted to the Department's website. The Department believes that by providing this information to the public, it will clearly show the amount of cases received annually, the findings of such allegations, and the constant efforts we make to detect, investigate, and prosecute cases accordingly.

In addition, the United States Department of Justice (DOJ), Bureau of Justice Statistics (BJS), and the United States Census Bureau are collaboratively working together to collect data from jails, prisons, and juvenile facilities each year. This is in their efforts in meeting the PREA requirement of a comprehensive statistical review and analysis with regards to the incidences and effects of prison rape. This report contains definitions as specified on the Survey of Sexual Victimization (SSV) provided by DOJ BJS. The collection of data includes all inmate-on-inmate and staff-on-inmate incidents related to nonconsensual sexual acts, abusive sexual contact, sexual harassment, staff sexual misconduct and staff sexual harassment.

In the 2022 SSV, DOJ identifies and defines these (2) two categories; inmate-on-inmate sexual victimization and staff-on-inmate sexual abuse, with further detail in the following paragraphs.

Inmate-on-Inmate Sexual Victimization

For purposes of SSV, inmate-on-inmate sexual victimization is categorized as nonconsensual sexual acts, abusive sexual contact, and sexual harassment. All are defined below.

Nonconsensual Sexual Acts

Sexual contact of any person without his or her consent, or of a person who is unable to consent or refuse;

AND

Contact between the penis and the vulva or the penis and the anus including penetration, however slight;

OR

Contact between the mouth and the penis, vulva, or anus;

OR

Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument.

Abusive Sexual Contact

Sexual contact of any person without his or her consent, or 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.

EXCLUDE incidents in which the contact was incidental to a physical altercation.

Sexual Harassment

Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate directed toward another.

Staff-on-Inmate Sexual Abuse

For purposes of SSV, staff-on-inmate sexual abuse is categorized as staff sexual misconduct and staff sexual harassment, both are defined below.

Staff Sexual Misconduct

Any behavior or act of a sexual nature directed toward an inmate by an employee, volunteer, contractor, official visitor or other agency representative (exclude family, friends or other visitors).

Sexual relationships of a romantic nature between staff and inmates are included in this definition. Consensual or nonconsensual sexual acts include-
Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks that is unrelated to official duties or with the intent to abuse, arouse, or gratify sexual desire;

OR

Completed, attempted, threatened, or requested sexual acts;

OR

Occurrences of indecent exposure, invasion of privacy, or staff voyeurism for reasons unrelated to official duties or for sexual gratification.

Staff Sexual Harassment

Repeated verbal statements, comments or gestures of a sexual nature to an inmate by an employee, volunteer, contractor, official visitor, or other agency representative (exclude family, friends, or other visitors). Include-

Demeaning references to gender; or sexually suggestive or derogatory comments about body or clothing;

OR

Repeated profane or obscene language or gestures.

Sexual Abuse Investigation Dispositions are as follows:

Substantiated

The event was investigated and determined to have occurred, based on a preponderance of the evidence (28 C.F.R. §115.72).

Unsubstantiated

The investigation concluded that evidence was insufficient to determine whether or not the event occurred.

Unfounded

The investigation determined that the event did NOT occur.

Investigation Ongoing

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

Data Collected

The San Joaquin County Sheriff's Department Custody Division collects, identifies, tracks, and reports any incident as defined above. The Operations Division is responsible for conducting immediate and comprehensive investigations of the detention facilities within San Joaquin County Sheriff's Department and provides the disposition of the investigation. On the next page of this report will be our annual statistical data; this data is summarized as agency wide.

Annual Statistical Data **01/01/22-12/31/22**

Inmate-on-Inmate Allegations

<u>Investigation Disposition</u>	<u>Nonconsensual Sex Acts</u>	<u>Abusive Sexual Contact</u>	<u>Sexual Harassment</u>
<u>Substantiated</u>	<u>0</u>	<u>0</u>	<u>1</u>
<u>Unsubstantiated</u>	<u>3</u>	<u>5</u>	<u>7</u>
<u>Unfounded</u>	<u>0</u>	<u>0</u>	<u>2</u>
<u>Investigation Ongoing</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u>Total</u>	<u>3</u>	<u>5</u>	<u>10</u>

Staff-on-Inmate Allegations

<u>Investigation Disposition</u>	<u>Nonconsensual Sex Acts</u>	<u>Abusive Sexual Contact</u>	<u>Sexual Harassment</u>
<u>Substantiated</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u>Unsubstantiated</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u>Unfounded</u>	<u>0</u>	<u>0</u>	<u>1</u>
<u>Investigation Ongoing</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u>Total</u>	<u>0</u>	<u>0</u>	<u>1</u>

In 2021, allegations of Inmate-on-Inmate were (7) Nonconsensual Sexual Acts and (5) Abusive Sexual Contacts, and (8) Sexual Harassment. Allegations of Staff-on-Inmate were (0) Staff Sexual Misconduct and (0) Staff Sexual Harassment.

In 2022, allegations of Inmate-on-Inmate were (3) Nonconsensual Sexual Acts and (5) Abusive Sexual Contacts, and (10) Sexual Harassment. Allegations of Staff-on-Inmate were (0) Staff Sexual Misconduct and (1) Staff Sexual Harassment.

In comparison of 2021 and 2022 of the Inmate-on-Inmate allegations, the amount of Nonconsensual Sexual Acts reported decreased to 3, the amount of Abusive Sexual Contacts reported remained at 5; and claims of Sexual Harassment increased to 10. There was a total of 3 allegations involving Inmate-on-Inmate misconduct, which has decreased by 4 cases from 2021; 3 cases were closed as Unsubstantiated, 0 cases were closed as Unfounded, and 0 cases are still Ongoing. Data shows Staff Sexual Misconduct allegations remained at 0 and allegations of Staff Sexual Harassment increased by 1. In 2021 there were 2 reported PREA incidents that were referred to the District Attorney's Office. This reduced to only 1 incident referred to the DA's Office in 2022.

§ 115.87 Data collection

- (a) The agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.
- (b) The agency shall aggregate the incident-based sexual abuse data at least annually.
- (c) The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.
- (d) The agency shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.

§ 115.88 Data review for corrective action

- (a) The agency shall review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:
 - (1) Identifying problem areas;
 - (2) Taking corrective action on an ongoing basis; and
 - (3) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.
- (b) Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.
- (c) The agency's report shall be approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means.

(d) The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility but must indicate the nature of the material redacted.

Problem Areas Identified

This review of incident-based data collected and aggregated revealed the following problem areas:

1. Need for a non-affiliated resource for victims to report PREA incidents.
2. Continued education to enhance inmate understanding of PREA rights.
3. Due for an audit from a Department of Justice certified PREA auditor.

Corrective Actions

The following corrective actions were taken to address the problem areas identified above:

1. Secured an agreement with PREVAIL, formerly known as Women's Center – Youth and Family Services to provide a confidential reporting line with 24/7 access.
2. Informational videos have been added to the inmate tablet systems as well as playing daily in housing units in English (with ASL) and Spanish.
3. All available information for inmates has been updated and posted throughout the facilities.
4. A contract has been entered to conduct an audit this year to gain full compliance.

Summary

The San Joaquin County Sheriff's Department continues to bring awareness to inmates of their rights against sexual abuse in our detention facilities. In reviewing incidents from the last year it appears that the majority of the incidents occurred inside of the accuser's cell. Title 15 stipulates that no video monitoring is allowed inside the inmates' cells. After each substantiated and unsubstantiated sexual assault incident, the area where the alleged abuse occurred is looked at to assess if there are any areas which enabled the abuse; so far no enabling factors have been identified. Staff security rounds are the primary deterrent to potential perpetrators and the importance of this has been stressed to our staff.

We are continuing the process of educating staff on PREA, to include their roles and responsibilities in preventing, detecting, and responding to sexual abuse in our facilities. While our past training has helped to minimize allegations, there is always room for improvement. In order to prevent future claims of sexual harassment our staff is also trained on how to professionally communicate with the inmates within our facilities.

These corrective actions will be conducted on an ongoing basis, bringing the agency closer to our goal of zero incidents of sexual abuse/harassment within our Adult Detention Facilities.