

# **GWINNETT COUNTY**

## **DEPARTMENT OF CORRECTIONS**

Prison Rape Elimination Act (PREA)

Annual Report 2018



The Gwinnett County Department of Corrections has a zero tolerance policy regarding the sexual assault, abuse, or harassment of any offender in our custody or control. Whenever anyone is alleged to have committed any form of sexual assault, abuse or harassment a criminal and/or administrative investigation will be thoroughly conducted. Criminal investigations will be conducted by the Gwinnett County Police Department. Any person determined to have committed a criminal offense will be referred to the Gwinnett County District Attorney for criminal prosecution. Administrative investigations will be conducted internally by specially trained investigators. Any person that has committed a violation of a county policy or procedure will be referred for administrative disciplinary action up to and including termination of employment.

### **PREA History**

Prison Rape Elimination Act (PREA) is a federal law that was passed by both houses of the U.S. Congress and subsequently signed by President George W. Bush on September 4, 2003. This law aims to curb prison rape through a "zero-tolerance" policy. The act also provides for research and information gathering. This law called for developing national standards to prevent incidents of sexual violence in prison. This law applies to all offenders in the United States starting from the moment they are taken into custody and ending when the person is no longer under any supervision of the criminal justice system.

The Department of Justice issued a final rule, effective August 20, 2012, adopting national standards to prevent, detect, and respond to prison rape, as required by the Prison Rape Elimination Act of 2003 (PREA).

This was not a new concept and Georgia already had a law to prevent such abuse that was enacted on March 16, 1983 which stated:

- "16-6-5.1. (a) As used in this Code section, the term:
  - (1) 'Actor' means a person accused of sexual assault.
  - (2) 'Intimate parts' means the genital area, groin, inner thighs, buttocks, or breasts of a person.
  - (3) 'Sexual contact' means any contact for the purpose of sexual gratification of the actor with the intimate parts of a person not married to the actor.
- (b) A person commits sexual assault when he engages in sexual contact with another person who is in the custody of law enforcement or who is detained

in or is a patient in a hospital or other institution and such actor has supervisory or disciplinary authority over such other person...”

## 2017 Issues / Corrective Actions

1. This facility remains fully compliant with the Federal PREA Standards. Prior to the implementation of the Federal PREA Standards there were laws, policies, and procedures in place to protect offenders from sexual abuse and sexual harassment.

*Lieutenant Keith Phinney of the Support Services Division is designated as the PREA Compliance Manager and leads the efforts of the department to remain compliant with all of the standards established in the federal statutes.*

2. Lieutenant Phinney completes annual review of the policies and procedures of the Gwinnett County Department of Corrections to ensure the department is fully compliant with all standards.

*Lieutenant Phinney continues to serve as a member of the MDT (Multi Disciplinary Task Force) to remain in contact with the other law enforcement agencies in the county responsible for investigating and prosecuting crimes of sexual assault and abuse in order to keep current on the trends and new technologies.*

3. The second phase of the new video monitoring system is being completed. The new video system has been useful in investigating allegations. We continue to review the surveillance system for possible issues regarding cross-gender viewing but we have had no allegations during this entire year regarding the video system.

*Best practice is to avoid any cross-gender viewing. The facility has posted signs in the facility to inform all offenders of the presence of recording cameras and explaining the steps required for privacy while dressing or undressing.*

4. We discussed cross gender viewing in the shower and bathroom areas as this remains an area of significant allegations.

*Additional information needs to be presented to offenders regarding viewing and recording in the restroom and shower areas as there continues to be numerous allegations regarding staff entering the restrooms during official counts and security rounds. All staff were trained regarding the best practices for avoiding cross gender viewing in shower and restrooms and this is reiterated during in-service training for all staff.*

5. We discussed the facility response to a sexual assault and have completed an emergency plan for such a response.

*We are still working on the final plans for a mock sexual assault event. We have tentatively set a date in early 2019 for this training event. This event plans to include Gwinnett County Corrections, Georgia Department of Corrections PREA Coordinator and Office of Professional Standards Investigators, Gwinnett County Police and Investigators from the Special Victims Unit, Mosaic Georgia, and the Gwinnett County District Attorneys Office. This event will be a planned walk through as if it were an actual event. We plan to make this exercise as real as possible and follow through all of the steps to see where improvements can be made prior to any actual needs for a response. We continue to have excellent support from the Gwinnett County Police Department's Special Victim's Unit. All of the new investigating detective's in the Special Victim's Unit have completed the online training provided by the National Institute of Corrections (NIC) for specialized training for investigating sexual assault in confinement settings.*

**Definitions:**

*Sexual Abuse* of an offender, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the offender, detainee, or resident:

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

2. Contact between the mouth and the penis, vulva, or anus;
3. 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;
4. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
5. 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;
6. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1) through (5) of this definition;
7. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an offender, detainee, or resident.
8. Voyeurism by a staff member, contractor, or volunteer. Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an offender, detainee, or resident by staff for reasons unrelated to official duties.

*Sexual Harassment or Sexual Misconduct* includes:

1. Repeated and unwelcomed sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one offender, detainee, or resident directed toward another; and
2. Repeated verbal comments or gestures of a sexual nature to an offender, 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.

*Substantiated Allegation* means an allegation that was investigated and determined to have occurred.

*Unsubstantiated Allegation* means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

*Unfounded Allegation* means an allegation that was investigated and determined not to have occurred.

*Referral to Outside Agency* means that an allegation was investigated by another agency with sufficient legal authority to complete the investigation and take the appropriate action.

## 2018 Statistics

**Total Allegations Reported in 2018: 23**

Substantiated	Unsubstantiated	Unfounded	Referral to Outside Agency
2	7	14	0

**Inmate on Inmate Harassment: 5**

Substantiated	Unsubstantiated	Unfounded	Referral to Outside Agency
1	1	0	0

**Inmate on Inmate Abuse: 2**

Substantiated	Unsubstantiated	Unfounded	Referral to Outside Agency
0	0	0	0

**Staff on Inmate Harassment: 28**

Substantiated	Unsubstantiated	Unfounded	Referral to Outside Agency
0	3	11	0

**Staff on Inmate Abuse: 1**

Substantiated	Unsubstantiated	Unfounded	Referral to Outside Agency
1	3	3	0

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Lieutenant Keith Phinney, CCM  
PREA Compliance Manager



Warden Darrell Johnson