



**NEW MEXICO CORRECTIONS DEPARTMENT
OFFICE OF THE INSPECTOR GENERAL**

**ANNUAL ASSESSMENT OF
NMCD'S PROGRESS IN
ADDRESSING SEXUAL ABUSE IN
2012**

JANUARY 31, 2013

**GREGG MARCANTEL, CORRECTIONS SECRETARY
AURORA SANCHEZ, DEPUTY SECRETARY OF ADMINISTRATION
JOE BOOKER, DEPUTY SECRETARY OF OPERATIONS**

**POST OFFICE BOX 27116
SANTA FE, NM 87502-8709
PHONE: (505) 827-8242**

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January 31, 2013:

Part 1: Aggregated Data	Page 1
Part 2: Analysis	Page 6
Part 3: Summary	Page 11

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Pursuant to standard §115.88 of the Prison Rape Elimination Act, (PREA), the New Mexico Corrections Department (NMCD) is required to:

1. Aggregate incident based sexual abuse data annually from publicly and privately operated facilities.
2. Use the data to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices and training by:
 - a. Identifying problem areas;
 - b. Tracking corrective action on a on-going basis; and
 - c. Prepare an annual report of its findings.
3. Compare the current year's data and corrective actions with those from the prior year's and provide an assessment of the agency's progress in addressing sexual abuse.
4. Publish the annual report on the NMCD website of its findings and corrective actions for each facility, as well as the agency as a whole.

1. Aggregated Data

During calendar year 2012, the Office of the Inspector General (OIG) collected the referrals for investigations into allegations of inmate-on-inmate and staff-on-inmate sexual abuse. This data is the basis for this section of the report.

In 2011, the NMCD received 23 allegations of sexual victimization and investigated each one. In 2012, the NMCD received 29 allegations of sexual victimization and performed 29 investigations. The number of referrals from each of New Mexico's prison facilities and investigations are shown on the following table:

	Facility	Referrals 2011	Percentage		Referrals 2012	Percentage
1.	NMWCF	8	34.8%		10	34.4%
2.	CNMCF	4	17.4%		5	17.2%
3.	GCCF	3	13.0%		5	17.2%
4.	LCCF	2	8.7%		0	0.0%
5.	PNM	2	8.7%		3	10.3%
6.	WNMCF	2	8.7%		3	10.3%
7.	RCC	1	4.3%		0	0.0%
8.	NENMDF	1	4.3%		3	10.3%
	TOTAL	23	99.9%		29	99.7%

Of the all the investigations completed by December 31, 2011 and December 31, 2012, the types and number of findings are shown in the following table:

	Finding	2011	2012
1.	Inconclusive	7	1
2.	Sustained	3	1
3.	Unfounded	11	12
4.	Pending *	2	15
	TOTAL	23	29

In year 2011, there were two findings of *sustained* at GCCF and one finding of *sustained* at RCC. Two of the cases were referred for prosecution and are detailed in the following table:

	Case Number	Date	Facility	Finding	Detail
1.	11-015	1/30/2011	GCCF	Sustained	Medical examination found injuries consistent with an attempted inmate-on-inmate sexual assault. The case was referred for prosecution by New Mexico State Police.
2.	11-041	3/30/2011	RCC	Sustained	Confidential information and video reviews substantiated the allegation of an inmate-on-inmate sexual assault. A misconduct report was issued and the case was referred for prosecution by the New Mexico State Police.
3.	11-116	9/16/2011	GCCF	Sustained	Two correctional officers observed two inmates engaged in a sexual act. Investigation by Guadalupe County Sheriff's deputies determined that the incident was consensual, precluding prosecution under §30-9-11. Misconduct reports were issued on both inmates.

*The high number of cases still pending in 2012 is due to turnover in the Leadership of the Office of Professional Standards, (OPS) the investigations unit of the NMCD, impacting the timely assignment of cases to investigators.

In year 2012, there was one finding of *sustained* at NMWCF:

	Case Number	Date	Facility	Finding	Detail
1.	12-061	4/14/2012	NMWCF	Sustained	Officer and inmate witness accounts sustained the allegation of inmate-on-inmate sexual harassment as defined by policy CD-090101.B.13. No referral for prosecution. A misconduct report was issued.

The following information on each case was reported to the United States Department of Justice:

Case 11-015:

Facility Location: Guadalupe County Correctional Facility
 Location of Incident: Perpetrator's cell
 Time of Incident: Evening (6:00pm to Midnight)
 Number of Victims: 1
 Victim's Age: 18-24
 Victim's Race/Ethnicity: Hispanic or Latino
 Physical Injury: Bruises on arm, back, and neck
 Incident Reported By: Victim
 After-action taken: Victim was given a medical examination, rape kit test
 Type of Incident: Inmate-on-inmate nonconsensual sex act
 Number of Perpetrators: 1
 Perpetrator's Gender: Male
 Perpetrator's Age: 25-29
 Perpetrator's Race/Ethnicity: Black
 Nature of the Incident: Physical Force
 Type of Pressure or Force: Physically held/restrained the victim
 Sanction imposed on Perpetrator: Placed in segregation, transferred to another facility, loss of good time, referred for prosecution

Case 11-041:

Facility Location: Roswell Correctional Center
Location of Incident: Dormitory
Time of Incident: Evening (6:00pm to Midnight)
Number of Victims: 1
Victim's Age: 18-24
Victim's Race/Ethnicity: American Indian/Alaska Native
Physical Injury: None
Incident Reported By: Victim
After-action taken: Victim was given a medical examination
Type of Incident: Inmate-on-inmate nonconsensual sex act
Number of Perpetrators: 1
Perpetrator's Gender: Male
Perpetrator's Age: 18-24
Perpetrator's Race/Ethnicity: Black
Nature of the Incident: Physical Force
Type of Pressure or Force: Threat of physical harm
Sanction imposed on Perpetrator: Placed in segregation, transferred to another facility, loss of good time, referred for prosecution

Case 11-116:

Facility Location: Guadalupe County Correctional Facility
Location of Incident: Victim's cell
Time of Incident: Evening (6:00pm to Midnight)
Number of Victims: 1
Victim's Age: 45 or older
Victim's Race/Ethnicity: Black
Physical Injury: None
Incident Reported By: Correctional Officer
After-action taken: Victim was given a medical examination
Type of Incident: Voluntary sexual act between adults
Number of Perpetrators: 1
Perpetrator's Gender: Male
Perpetrator's Age: 25-29
Perpetrator's Race/Ethnicity: Hispanic or Latino
Nature of the Incident: Voluntary sexual act between adults
Type of Pressure or Force: Persuaded or talked into sexual activity
Sanction imposed on Perpetrator: Received misconduct report, transferred to another facility.

Case 12-061:

Facility Location:	New Mexico Women's Correctional Facility
Location of Incident:	Common area within a cell block (shower, dayroom)
Time of Incident:	Morning (6:00am to Noon)
Number of Victims:	1
Victim's Age:	30-34
Victim's Race/Ethnicity:	White
Physical Injury:	None
Incident Reported By:	Victim
After-action taken:	None
Type of Incident:	Voyeurism
Number of Perpetrators:	1
Perpetrator's Gender:	Female
Perpetrator's Age:	30-34
Perpetrator's Race/Ethnicity:	Black
Nature of the Incident:	Voyeurism
Type of Pressure or Force:	Attempted persuasion
Sanction imposed on Perpetrator:	Received misconduct report.

2. Analysis

Two significant issues inhibit analysis of the NMCD's efforts to abate incidents of sexual assaults in NMCD prisons.

1. The standards of the Prison Rape Elimination Act were not finalized until August 20, 2012. Until that time, determining what efforts would satisfy the PREA requirements required an educated guess. Further, because the PREA standards were not effective until August 2012, there was no requirement to analyze efforts for 2011 against which to make comparisons, as required by §115.88. As a result, there is no corrective action in 2011 with which to compare corrective actions in 2012.
2. The PREA audit tool has yet to be developed by the USDOJ, compounding the difficulty in determining the expectations of USDOJ, and in particular, what efforts would satisfy those expectations. Nevertheless, NMCD has in good faith made an effort to analyze its efforts and results.

A. Problem Areas:

1. Reporting:

Referrals for investigation increased by 21 percent in 2012 over 2011. This is likely attributable to increased inmate awareness of PREA and NMCD's efforts to inform inmates through video presentations of the multi-track reporting system, including a toll-free number inmates can call to report a sexual assault. Further, recent high-profile cases in the media in which inmates have pursued legal action and have been awarded monetary damages by courts may have increased the belief among inmates that they win money by making allegations.

In spite of the spike in referrals for investigation, cases in which there is a finding of *sustained* decreased from three in 2011 to one in 2012.

2. Increase in cases still pending an outcome:

In year 2012, the Office of Special Investigations and Internal Affairs, (now called the Office of Professional Standards, or OPS) experienced a succession of

turnovers in its leadership that created gaps in the investigation system, with the result that some referrals did not have an investigator assigned in a timely manner and fifteen cases have gone beyond the completion dates established by policy. Even so, inmates filing the complaints were interviewed by facility staff, and when the facility staff determined that possible threat to the security of the institution existed, the inmates were transferred to other locations.

3. Staffing:

Adequate staffing at some NMCD and at some privately operated facilities continues to be a concern.

4. Staff Training:

Though custody staff receives required PREA training at the Academy, non-custody staff do not receive formal training in PREA, with the result that there is some ambiguity on the part of non-custody staff about reporting, and of Section 30-9-11 NMSA 1978. Further, a significant number of correctional officers graduated from the Academy prior to the introduction of PREA training that also need to be trained.

B. Facility Corrective Actions for incidents that occurred in 2012:

1. NMWCF:

- A. Delivery of PREA training to all new Correctional Officers assigned to NMWCF.
- B. Delivery of training on the investigation of sexual assaults in a correctional setting for the facility investigator.
- C. Delivery of specialized PREA training to medical and mental health staff.
- D. Development and delivery of a mandatory PREA training video for inmates.
- E. Regular reviews of staffing levels at NMWCF to ensure adequate levels of staffing to protect inmates

C. Agency Corrective Actions in 2012:

1. Development and Delivery of Training Materials.
 - A. Development and delivery of a mandatory 4-hour PREA training class for correctional officers.
 - B. Development and delivery of an New Mexico Law Enforcement Academy (NMLEA) accredited mandatory 4-hour training on investigating sexual assaults in a correctional setting for investigators.
 - C. Development and delivery of an NMLEA accredited mandatory 4-hour training on PREA for medical and mental health staff.
 - D. Development of mandatory PREA training for volunteers and contractors.
 - E. Development and delivery of a mandatory PREA training video for inmates.

2. Policy Changes that Support PREA Compliance.
 - A. Inclusion of a Zero-Tolerance policy statement in policy CD-150100.
 - B. Development and promulgation of a Coordinated Response Protocol that complies with USDOJ guidelines.
 - C. Development and promulgation of an Incident Checklist for First Responders.
 - D. Implementation of a multiple-route reporting system for inmates and staff.
 - E. Development and promulgation of a policy prohibiting retaliation for reporting sexual misconduct.
 - F. Development and implementation of a prohibition on cross-gender pat down and strip searches.
 - G. Development and implementation of a policy requiring referrals for criminal prosecution when evidence supports such referrals.

3. Collaboration with Community Advocacy Groups.
 - A. Consultation with the New Mexico Coalition of Sexual Assault Programs to develop training materials.
 - B. Partnership with the Albuquerque Sexual Assault Nurse Examiner (SANE) Collaborative to develop the PREA training video for inmates.

4. Implementation of a formal inmate grievance system that complies with PREA and meets the requirements of the Prison Litigation Reform Act, (PLRA).
5. Development of a diagnostic tool to screen inmates for the risk of sexual victimization or sexual abusiveness.
6. Annually aggregating sexual assault incident data and reporting it to the USDOJ.
7. Regular reviews of staffing levels at the privately operated facilities to ensure adequate levels of staffing to protect inmates.

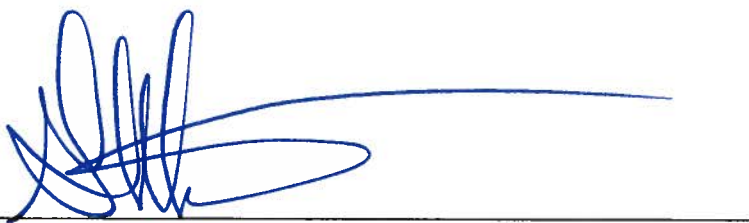
C. Planned efforts for 2013

1. Continued Training Efforts.
 - A. Ongoing training of correctional officer cadets through the New Mexico Corrections Academy.
 - B. March 2013: Complete the training of medical and mental health staff.
 - C. June 2013: Complete the training of non-custody staff in PREA.
 - D. August 2013: Complete the training of veteran correctional officers who graduated prior to the introduction of PREA training at the Academy.
2. Expand the number of collaborations with community advocacy groups.
3. February 2013: Automate the sexual risk screening tool.
4. March 2013: Increase the number of investigators available to investigate allegations of sexual abuse to bring investigations to timely conclusions.
5. August 2013: Schedule audits of four facilities by a USDOJ certified auditor.

3. Summary

The New Mexico Corrections Department has taken numerous meaningful steps in its efforts to comply with the Prison Rape Elimination Act and to prevent sexual abuse in prison facilities, as well as to identify and respond to incidents of sexual abuse when they do occur. As the Department continues its efforts, it can reasonably be expected that the four facilities that are audited by USDOJ auditors will receive findings of substantial compliance with the standards of the Prison Rape Elimination Act.

The NMCD is committed to raising the bar in prison operations, knowing that by demonstrating that commitment, the NMCD can stand in the light of public scrutiny and reinforce the public's confidence that the state's correctional system is in full compliance with constitutional requirements governing the conditions of confinement for offenders in custody. The NMCD is also committed to improving the professional development opportunities for Department employees in the form of improved NMLEA accredited training. This further contributes to the public's confidence in the integrity of the criminal justice system at large, and increases their faith in those persons who choose public service as a vocation.



Gregg Marcantel, Corrections Secretary

