



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

**ANNUAL ASSESSMENT OF
NMCD'S PROGRESS IN
ADDRESSING SEXUAL ABUSE IN
2013**

JANUARY 31, 2014

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

**NEW MEXICO CORRECTIONS
DEPARTMENT**

January 31, 2014:

Part 1: Aggregated Data	Page 1
Part 2: Analysis	Page 11
Part 3: Summary	Page 15

ANNUAL ASSESSMENT OF NMCD'S PROGRESS IN ADDRESSING SEXUAL ABUSE

JANUARY 31, 2014

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 2013, 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 2012, the NMCD received 29 allegations of sexual victimization and investigated each one. In 2013, the NMCD received 57 allegations of sexual victimization. Two allegations in 2013 were consolidated, one allegation was for an incident that occurred at the Rio Arriba County Detention Facility and was referred for investigation by the staff at that facility, and one inmate recanted his allegation and would not cooperate with an

investigation. Thus the Department performed 54 investigations. The number of referrals from each of New Mexico's prison facilities and investigations are shown on the following table:

	Facility	Investigations 2012	Percentage of Total	Investigations 2013	Percentage of Total
1.	NMWCF	10	34.5%	9	16.6%
2.	CNMCF	5	17.2%	4	7.4%
3.	GCCF	5	17.2%	12	22.2%
4.	LCCF	0	0.0%	2	3.7%
5.	PNM	3	10.3%	6	11.1%
6.	WNMCF	3	10.3%	4	7.4%
7.	SNMCF	0	0.0%	9	16.6%
8.	RCC	0	0.0%	2	3.7%
9.	NENMDF	3	10.3%	1	1.9%
10.	OCPF	0	0.0%	2	3.7%
11.	SCC	0	0.0%	0	0.0%
11.	Women's Recovery Center.	0	0.0%	2	3.7%
12.	Deming Parole Office	0	0.0%	1	1.9%
	TOTAL	29	99.8%	54	99.9%

Of the all the investigations completed by December 31, 2012 and December 31, 2013, the types and number of findings are shown in the following table:

	Finding	2012	2013
1.	Unsubstantiated	1	8
2.	Substantiated	1	12
3.	Unfounded	12	27
4.	Pending	15	7
	TOTAL	29	54

The racial/ethnic classification for victims and perpetrators for the twelve substantiated cases is shown on the following table:

Victim Race/Ethnicity	Number	Percentage	Perpetrator Race/Ethnicity	Number	Percentage
Hispanic/Latino	9	75.0%	Hispanic/Latino	8	66.6%
White	1	08.3%	White	2	16.6%
Native American	1	08.3%	Native American	1	08.3%
Black	1	08.3%	Black	1	08.3%

Incident by location for the twelve substantiated cases is shown on the following table:

Location	Number	Percentage
Common Area	4	33.3%
Victim's Cell	1	08.3%
Program Service Area	3	25.0%
Other (Phone yard, HU Control Center, Administrative Office)	4	33.3%

In year 2012, there was one *substantiated* finding:

	Case Number	Date	Facility	Finding	Detail
1.	12-061	4/14/2012	NMWCF	Substantiated	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.

In year 2013, there were 12 investigations with a finding of *substantiated*:

	Case Number	Date	Facility	Finding	Detail
1.	13-0048	2/26/2013	NMWRC	Substantiated	Inmate witness accounts sustained the allegation of staff-on-inmate sexual harassment as defined by policy CD-090101.B.13. No referral for prosecution. Staff member Evans was terminated from employment.
2.	13-0056	3/11/2013	LCCF	Substantiated	Investigation by the Hobbs Police Department and physical evidence sustained the allegation of inmate-on-inmate sexual abuse . An arrest warrant was issued for the perpetrator.
3.	13-0116	5/24/2013	SNMCF	Substantiated	Witness statements support a finding of substantiated for inmate-on-inmate sexual harassment . The inmate was placed in Level VI as a threat to the security of the institution. No referral for prosecution.
4.	13-0117	5/23/2013	SNMCF	Substantiated	Witness statements and documentary evidence support a finding of substantiated for undue staff familiarity with an inmate as defined by policy CD-032201. The staff member was terminated and referred to the appropriate licensing agency. No referral for prosecution.
5.	13-0153	6/29/2013	WNMCF	Substantiated	Witness statements and recorded phone calls support a finding of substantiated for undue staff familiarity with an inmate as defined by policy CD-032201. The staff member was terminated. No referral for prosecution.
6.	13-0160	7/8/2013	Deming PPO	Substantiated	Witness statements support a finding of substantiated for staff performing an unauthorized body cavity search as defined by CD-130301. PPO received discipline for the violation. No referral for prosecution.

	Case Number	Date	Facility	Finding	Detail
7.	13-0167	7/12/2013	CNMCF	Substantiated	Witness statements support a finding of substantiated for undue staff familiarity with an inmate as defined by policy CD-032201. The staff member was terminated. No referral for prosecution.
8.	13-0228	8/15/2013	PNM	Substantiated	Interview admissions by the accused and victim support a finding of substantiated for staff-on-inmate sexual abuse in that the staff member admitted to performing oral sex on an inmate as defined by policy CD-032201. Inmate claimed the act was consensual. Staff member was terminated. No referral for prosecution.
9.	13-0243	9/5/2013	GCCF	Substantiated	Interview admission by the accused, documentary evidence, and video recording support an finding of substantiated for staff-on-inmate sexual harassment as defined by policy CD-150100. No referral for prosecution. Staff member received disciplinary action.
10.	13-0262	9/17/2013	GCCF	Substantiated	Witness statements and documentary evidence support a finding of substantiated for inmate-on-inmate sexual harassment . Perpetrator was transferred to a higher custody facility. No referral for prosecution.
11.	13-0277	10/1/2013	CNMCF	Substantiated	Witness statements support a finding of substantiated for staff-on-inmate sexual harassment . Staff member received disciplinary action. No referral for prosecution.
12.	13-0278	10/2/2013	NMWC	Substantiated	Witness statements support a finding of substantiated for inmate-on-inmate sexual contact as defined by CD-150100. Perpetrator was placed in segregation. No referral for prosecution.

The following information on each case will be reported to the United States Department of Justice when the Survey of Sexual Violence (SSV) forms are released:

Case 13-0048:

Facility Location: New Mexico Women's Recovery Center
Location of Incident: Common area within a cell block (shower, dayroom)
Time of Incident: Evening (6:00pm to Midnight)
Number of Victims: 1

Victim's Age: 25-29
Victim's Race/Ethnicity: Hispanic or Latino
Physical Injury: None
Incident Reported By: Victim
After-action taken: Provided with counseling and treatment
Type of Incident: Sexual harassment/repeated verbal statements of a sexual nature by staff.
Number of Perpetrators: 1
Perpetrator's Gender: Male
Perpetrator's Age: 25-29
Perpetrator's Race/Ethnicity: White
Nature of the Incident: Persuasion or talked into sexual activity
Type of Pressure or Force: None
Primary Job description: Program Staff
Sanction imposed on Perpetrator: Discharged

Case 13-0056:

Facility Location: Lea County Correctional Facility
Location of Incident: Victim's cell
Time of Incident: Afternoon (12:00pm to 6:00pm)
Number of Victims: 1
Victim's Age: 25-29
Victim's Race/Ethnicity: Native American
Physical Injury: None
Incident Reported By: Victim
After-action taken: Administered rape kit test
Type of Incident: Inmate-on-inmate non-consensual sex act.
Number of Perpetrators: 1
Perpetrator's Gender: Male
Perpetrator's Age: 25-29
Perpetrator's Race/Ethnicity: Hispanic or Latino
Nature of the Incident: Physical force or threat of force resulting in a non-consensual sex act
Type of Pressure or Force: Physically held victim down or restrained in some way
Sanction imposed on Perpetrator: Placed in Level VI.

Case 13-0116:

Facility Location: Southern New Mexico Correctional Facility
Location of Incident: Other: HU-3 phone yard

Time of Incident: Afternoon (12:00pm to 6:00pm)
 Number of Victims: 1
 Victim's Age: 45 or older
 Victim's Race/Ethnicity: White
 Physical Injury: None
 Incident Reported By: Victim
 After-action taken: Victim was placed in protective custody
 Type of Incident: Inmate-on-inmate abusive sexual contact
 Number of Perpetrators: 1
 Perpetrator's Gender: Male
 Perpetrator's Age: 18-24
 Perpetrator's Race/Ethnicity: White
 Nature of the Incident: Other: Sexual harassment
 Type of Pressure or Force: Threat of physical harm
 Sanction imposed on Perpetrator: Placed in segregation, transferred to another facility.

Case 13-0117:

Facility Location: Southern New Mexico Correctional Facility
 Location of Incident: Program service area
 Time of Incident: Afternoon (12:00pm to 6:00pm)
 Number of Victims: 1
 Victim's Age: 40 to 44
 Victim's Race/Ethnicity: Hispanic or Latino
 Physical Injury: None
 Incident Reported By: Inmate Witness
 After-action taken: Victim was transferred to another facility
 Type of Incident: Staff sexual misconduct
 Number of Perpetrators: 1
 Perpetrator's Gender: Female
 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
 Primary job description: Program Staff
 Sanction imposed on Perpetrator: Discharged and referred to licensing agency.

Case 13-0153:

Facility Location: Western New Mexico Correctional Facility

Location of Incident: Other: Housing unit control room
Time of Incident: Morning (6:00am to Noon)
Number of Victims: 1
Victim's Age: 25-29
Victim's Race/Ethnicity: Hispanic or Latino
Physical Injury: None
Incident Reported By: Witness
After-action taken: Called law enforcement to conduct investigation
Type of Incident: Staff sexual misconduct.
Number of Perpetrators: 1
Perpetrator's Gender: Female
Perpetrator's Age: 30-34
Perpetrator's Race/Ethnicity: Native American
Nature of the Incident: Voluntary sexual contact between adults
Type of Pressure or Force: Persuasion or talked into sexual activity
Sanction imposed on Perpetrator: Discharged.

Case 13-0160:

Facility Location: Deming Probation/Parole Office
Location of Incident: Other: Day reporting office
Time of Incident: Afternoon (12:00pm to 6:00pm)
Number of Victims: 1
Victim's Age: 45 or older
Victim's Race/Ethnicity: Hispanic or Latina
Physical Injury: None
Incident Reported By: Victim
After-action taken: Called law enforcement to conduct investigation
Type of Incident: Staff sexual misconduct.
Number of Perpetrators: 1
Perpetrator's Gender: Female
Perpetrator's Age: 30-34
Perpetrator's Race/Ethnicity: Hispanic or Latina
Nature of the Incident: Unauthorized body cavity search (vaginal cavity)
Type of Pressure or Force: Threat of arrest
Primary job description: Probation/Parole Officer
Sanction imposed on Perpetrator: Discipline and training

Case 13-0167:

Facility Location: Central New Mexico Correctional Facility
Location of Incident: Other: Warden's administrative office
Time of Incident: Morning (6:00am to Noon)
Number of Victims: 1
Victim's Age: 30-34
Victim's Race/Ethnicity: Hispanic or Latino
Physical Injury: None
Incident Reported By: Witness
After-action taken: Referred to Office of Professional Standards to conduct investigation
Type of Incident: Staff sexual misconduct.
Number of Perpetrators: 1
Perpetrator's Gender: Female
Perpetrator's Age: 30-34
Perpetrator's Race/Ethnicity: Hispanic or Latina
Nature of the Incident: Voluntary sexual contact between adults
Type of Pressure or Force: Persuasion or talked into sexual activity.
Primary job description: Warden's Secretary
Sanction imposed on Perpetrator: Discharged

Case 13-0228:

Facility Location: Penitentiary of New Mexico
Location of Incident: Program Service Area (Kitchen)
Time of Incident: Unknown
Number of Victims: 1
Victim's Age: 30-34
Victim's Race/Ethnicity: Hispanic or Latino
Physical Injury: None
Incident Reported By: Confidential Informant
After-action taken: Referred to Office of Professional Standards to conduct investigation
Type of Incident: Staff sexual misconduct.
Number of Perpetrators: 1
Perpetrator's Gender: Female
Perpetrator's Age: 35-39
Perpetrator's Race/Ethnicity: Hispanic or Latina
Nature of the Incident: Voluntary sexual contact between adults
Type of Pressure or Force: Persuasion or talked into sexual activity.

Primary job description: Food Service Supervisor
Sanction imposed on Perpetrator: Discharged

Case 13-0243:

Facility Location: Guadalupe County Correctional Facility
Location of Incident: In a common area within a cell block (dayroom, shower)
Time of Incident: Evening (6:00pm to midnight)
Number of Victims: 2
Victim #1 Age: 30-34
Victim #2 Age: 30-34
Victim #1 Race/Ethnicity: Hispanic or Latino
Victim #2 Race/Ethnicity: Hispanic or Latino
Physical Injury: None
Incident Reported By: Victims
After-action taken: Referred to Office of Professional Standards to conduct investigation
Type of Incident: Staff sexual harassment.
Number of Perpetrators: 1
Perpetrator's Gender: Male
Perpetrator's Age: 35-39
Perpetrator's Race/Ethnicity: Hispanic or Latino
Nature of the Incident: Other (Verbal harassment)
Type of Pressure or Force: None.
Primary job description: Correctional Sergeant
Sanction imposed on Perpetrator: Re-assigned

Case 13-0262:

Facility Location: Guadalupe County Correctional Facility
Location of Incident: In a common area within a cell block (dayroom, shower)
Time of Incident: Unknown
Number of Victims: 2
Victim #1 Age: 20-24
Victim #2 Age: 30-34
Victim #1 Race/Ethnicity: Hispanic or Latino
Victim #2 Race/Ethnicity: Hispanic or Latino
Physical Injury: None
Incident Reported By: Victims
After-action taken: Referred to Office of Professional Standards to conduct investigation

Type of Incident: Inmate-on-inmate abusive sexual contact.
Number of Perpetrators: 1
Perpetrator's Gender: Male
Perpetrator's Age: 45 or older
Perpetrator's Race/Ethnicity: Black
Nature of the Incident: Inmate-on-inmate sexual contact
Type of Pressure or Force: Persuasion or talked into sexual activity.
Sanction imposed on Perpetrator: Transferred to another facility

Case 13-0277:

Facility Location: Central New Mexico Correctional Facility
Location of Incident: Program Service Area (Visiting Room)
Time of Incident: Evening (6:00pm to midnight)
Number of Victims: 1
Victim's Age: 30-34
Victim's Race/Ethnicity: Black
Physical Injury: None
Incident Reported By: Victim
After-action taken: Referred to Office of Professional Standards to conduct investigation
Type of Incident: Staff sexual harassment.
Number of Perpetrators: 1
Perpetrator's Gender: Male
Perpetrator's Age: 30-34
Perpetrator's Race/Ethnicity: Hispanic or Latino
Nature of the Incident: Other: Unwanted sexual comments
Type of Pressure or Force: Persuasion or talked into sexual activity.
Primary job description: Correctional Lieutenant
Sanction imposed on Perpetrator: Disciplined

Case 13-0278:

Facility Location: New Mexico Women's Correctional Facility
Location of Incident: In a common area within a cell block (dayroom, shower)
Time of Incident: Unknown
Number of Victims: 1
Victim #1 Age: 35-39
Victim #1 Race/Ethnicity: Hispanic or Latina
Physical Injury: None
Incident Reported By: Victim

After-action taken:	Inmates were separated
Type of Incident:	Inmate-on-inmate abusive sexual contact.
Number of Perpetrators:	1
Perpetrator's Gender:	Female
Perpetrator's Age:	35-39
Perpetrator's Race/Ethnicity:	Hispanic or Latina
Nature of the Incident:	Inmate-on-inmate sexual contact
Type of Pressure or Force:	Unwanted touching for sexual gratification.
Sanction imposed on Perpetrator:	Placed into segregation

2. Analysis

A. Reporting:

Referrals for investigation increased by 47 percent in 2013 over 2012. This is likely attributable to increased inmate awareness of PREA and NMCD's efforts to inform inmates through video presentations, especially as inmates gain greater familiarity with the mechanisms for reporting sexual abuse, particularly the inmate grievance procedure. The number of cases in which there is a finding of *substantiated* increased from one in 2012 to twelve in 2013. Of those twelve cases, eight involved staff-on-inmate sexual abuse, staff-on-inmate sexual harassment, or undue staff familiarity with an inmate.

Of those eight cases characterized as staff-on-inmate incidents, three were staff verbal sexual harassment of inmates; three were cases of undue familiarity; one case was an unauthorized body cavity search; and one involved a sex act between a food service contractor and an inmate.

Of those four cases characterized as inmate-on-inmate, two were for verbal sexual harassment; one was for a sexual assault, and one was for sexual contact.

B. Decrease in cases still pending an outcome:

In year 2012, the Office of Professional Standards 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 15 cases went beyond the completion dates established by policy. In 2013, corrective action included the assignment of a Director of the Office of Professional Standards and the hiring of five new investigators. As a result, the number of cases pending a finding beyond the established completion date dropped to seven, a decrease of over 50 percent. Six of those seven cases occurred in November 2013.

C. Staffing:

Adequate numbers of staff at some NMCD operated facilities continues to be a concern.

D. Staff training:

Custody staff continue to receive required PREA training at the Academy. Further, efforts to train non-custody staff have included the newly initiated Corrections 101 class. Further, training for investigators, medical providers, and behavioral health staff has been completed.

A. Facility Corrective Actions for incidents that occurred in 2013:

- a. Delivery of PREA training to all new Correctional Officers.
- 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 to ensure adequate levels of staffing to protect inmates

B. Agency Corrective Actions in 2013:

1. Delivery of Training Materials.

- A. Continued delivery of a mandatory 4-hour PREA training class for correctional officers.
 - B. Completed delivery of a New Mexico Law Enforcement Academy (NMLEA) accredited mandatory 4-hour training on investigating sexual assaults in a correctional setting for investigators.
 - C. Completed delivery of an NMLEA accredited mandatory 4-hour training on PREA for medical and mental health staff.
 - D. Continued delivery of mandatory PREA training for volunteers and contractors.
 - E. Continued delivery of a mandatory PREA training video for inmates.
- 2. Policy updates that support PREA compliance.
 - 3. Continued collaboration with Community Advocacy Groups.
 - 4. Implementation of an automated screening tool to screen inmates for the risk of sexual victimization or sexual abusiveness and training facility staff to use it.
 - 5. Annually aggregating sexual assault incident data and reporting it to the USDOJ.
 - 6. Regular reviews of staffing levels at the privately operated facilities to ensure adequate levels of staffing to protect inmates.

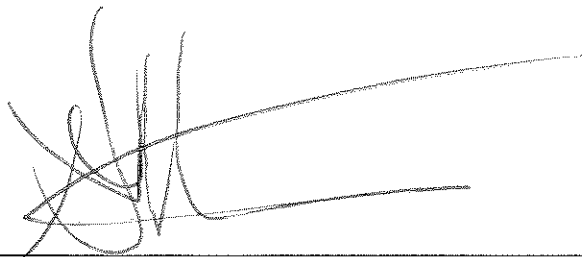
C. Planned efforts for 2014.

- 1. Achieve DOJ Auditor Certification for the Department's PREA Coordinator.
- 2. Continued training of correctional officers through the Corrections Academy.
- 3. Continued annual refresher training for all institutional staff.
- 4. Continue expanding the number of collaborations with community advocacy groups.
- 5. Schedule PREA audit for the Otero County Prison Facility in February, 2014.
- 6. Schedule PREA audits for the Guadalupe County Correctional Facility and the Northeastern New Mexico Correctional Facility in May, 2014.
- 7. Schedule PREA audits for the Penitentiary of New Mexico and the Western New Mexico Correctional Facility in the summer of 2014.

3. Summary

As the Department of Justice continues to provide increasing clarity on the PREA standards, the New Mexico Corrections Department continues to move forward in its efforts to comply with the Prison Rape Elimination Act and is committed to demonstrating compliance by scheduling audits of its publicly operated and contracted facilities.

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.

A handwritten signature in black ink, appearing to read 'Gregg Marcantel', is written over a horizontal line. The signature is stylized and somewhat cursive.

Gregg Marcantel, Corrections Secretary

