

**Nebraska Department of Health and Human
Services – Office of Juvenile Services**

2016 Annual Prison Rape Elimination Act Report

NEBRASKA

The logo for the Nebraska Department of Health and Human Services features the word "NEBRASKA" in a bold, blue, sans-serif font. A thick, yellow, curved line sweeps across the bottom of the letters, starting from the left and ending on the right.

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

October 2017

Nebraska DHHS – OJS
2016 Annual Prison Rape Elimination Act Report

The Nebraska Department of Health and Human Services – Office of Juvenile Services (DHHS-OJS) is pleased to publish its 2016 Annual Report. This report reflects the efforts, commitment, and changes made in 2016 as the Department continued toward compliance with the Prison Rape Elimination Act (PREA) Juvenile Standards. DHHS-OJS is committed to keeping the youth we serve at the Youth Rehabilitation and Treatment Center (YRTC's) safe and free from harm and has zero tolerance for sexual abuse and sexual harassment.

In September of 2003, President Bush signed the Prison Rape Elimination Act. In August 2012, the PREA Standards promulgated by the United States Department of Justice went into effect. Since then, staff throughout the Department have taken action to prevent, detect, reduce to sexual abuse and sexual harassment in the YRTC's located in Geneva and Kearney.

Staffing

Protecting youth residents from sexual abuse and harassment and compliance with the PREA Standards is a priority for DHHS-OJS and staff from the Department have been involved in achieving these goals. The Administrator for the Office of Juvenile Services hired a new State Compliance Coordinator for overseeing the agency's PREA Managers. Both YRTC's have an assigned PREA Compliance Manager.

In 2016, these staff, and others have worked to update and revise existing Agency Administrative Regulations and Facility Operational Memorandums to support compliance with the PREA Standards and protect the youth residents from sexual abuse and sexual harassment.

Training

Throughout 2016, DHHS-OJS and the YRTC staff have participated in training conducted and/or designed by the PREA Resource Center, the National Institute of Corrections, the Moss Group and the Department of Justice. Trainings were also prepared for PREA incident investigators for selected staff at the facilities. PREA specific training attended or conducted by staff of the YRTC's in 2016 include the following:

- American Correctional Association Winter Conference – New Orleans, LA
January 23rd-27th
DHHS-OJS PREA Coordinator, PREA Compliance Manager-Kearney and PREA team members
- Labor Relations Alternatives, Inc. Level One Investigator Training-Lincoln, NE
September 7th-9th
Geneva PREA Compliance Manager

Pursuant to PREA Standard 115.331 Employee Training, DHHS-OJS facilities developed and implemented pre-service and in-service training for all staff, volunteers and contractors that have contact with youth residents.

- Pre-Service Introduction to PREA training – Geneva and Kearney, NE
Monthly
Facilitated by PREA Compliance Managers for new employees, volunteers and contractors
- In-Service PREA training – Geneva and Kearney, NE
Monthly
Facilitated by PREA Compliance Managers for employees, volunteers and contractors

Policies

Beginning in 2013 and continuing through 2016, Administrative Regulations and Operational Memorandums, consistent with PREA requirements, have been put in place to ensure sexual safety. The policies include the zero-tolerance policy and requires facilities to provide youth residents sexual abuse and sexual harassment reporting information, PREA training requirements, and to assess youth residents for risk of perpetration or victimization. These policies also outline facility response and investigation requirements for reports of sexual abuse / harassment. In order to demonstrate continued commitment to improvement, these policies will be reviewed and revised as needed in 2017.

Support Services

Pursuant to PREA Standards 115.321 - Evidence Protocol and Forensic Examinations and 115.353 – Access to Outside Confidential Support Services; the YRTC’s have agreements with the local hospitals (Fillmore County Hospital – Geneva) and CHI Good Samaritan Hospital – Kearney) for treatment needs of the youth residents as it relates to a PREA allegation incident. The YRTC’s are also supported by the Hope Crisis Centers, Rape Crisis Centers, Child Advocacy Center, and Family Advocacy Network.

Audits

Pursuant to PREA Standard 115.401 the YRTC’s both participated in audits during October of 2015. We were pleased to report that both facilities passed with no corrective action period necessary. The 2015 report is available on our public website for review. Both facilities are currently inquiring into PREA auditor quotes with another anticipated PREA audit in October 2018.

2016 Sexual Incident Investigations & Reviews

Data Review for Corrective Action and Publication

In compliance with PREA Standard 115.388, facility PREA Compliance Managers have reviewed data collected and aggregated pursuant to PREA Standard 115.387 and incident specific data in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices and training including;

- Identifying problem areas;
- Taking corrective action on an ongoing basis; and
- Preparing an annual report of its findings and corrective actions,

Also, in compliance with PREA Standard 115.389, DHHS-OJS will make all aggregate sexual abuse data readily available to the public at least annually by publishing data in a report and linking it the Department’s website.

General Definitions as defined by the PREA Standard 115.5

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

Unfounded allegation - means an allegation that was investigated and determined not 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.

Definitions related to SEXUAL ABUSE as defined by PREA Standard 115.6

Sexual abuse of a (youth) resident by another (youth) resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

- 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) Penetration of the anal or genital opening of another person, however slight, by a hand,
- 4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Sexual abuse of a resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:

- a) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- b) Contact between the mouth and the penis, vulva, or anus;
- c) 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;
- d) 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;
- e) 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;
- f) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (a)-(e) of this section;
- g) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and
- h) Voyeurism by a staff member, contractor, or volunteer.

Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

YOUTH REHABILITATION AND TREATMENT CENTER – GENEVA
Reported Incidents of Sexual Abuse: January 1, 2016 to December 31, 2016

	Youth-on-Youth Allegations			
	Reported	Substantiated	Unsubstantiated	Unfounded
Sexual Abuse (Sub-section 1)	0	0	0	0
Sexual Abuse (Sub-section 2)	0	0	0	0
Sexual Abuse (Sub-section 3)	0	0	0	0
Sexual Abuse (Sub-section 4)	10	3	4	3
TOTAL ALLEGATIONS	10	3	4	3

	Staff-on-Youth Allegations			
	Reported	Substantiated	Unsubstantiated	Unfounded
Sexual Abuse (Sub-section a)	0	0	0	0
Sexual Abuse (Sub-section b)	0	0	0	0
Sexual Abuse (Sub-section c)	0	0	0	0
Sexual Abuse (Sub-section d)	0	0	0	0
Sexual Abuse (Sub-section e)	0	0	0	0
Sexual Abuse (Sub-section f)	0	0	0	0
Sexual Abuse (Sub-section g)	0	0	0	0
Sexual Abuse (Sub-section h)	1	0	0	1
TOTAL ALLEGATIONS	1	0	0	1

SUMMARY OF ALLEGATIONS

The Youth Rehabilitation and Treatment Center – Geneva (YRTC-G) had 3 substantiated youth on youth sexual abuse, all of which were unwanted touching (over clothes).

The YRTC-G is committed to providing the youth it serves with a safe and secure environment. With the implementation of PREA, procedures have been developed to better prevent, detect, and respond to incidents of sexual misconduct. With each incident, the facility has made improvements to its process.

General Definitions as defined by the PREA Standard 115.5

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

Unfounded allegation - means an allegation that was investigated and determined not 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.

Definitions related to SEXUAL HARASSMENT as defined by PREA Standard 115.6

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

YOUTH REHABILITATION AND TREATMENT CENTER – GENEVA

Reported Incidents of Sexual Harassment: January 1, 2016 to December 31, 2016

	Youth-on-Youth Allegations			
	Reported	Substantiated	Unsubstantiated	Unfounded
Sexual Harassment (Sub-section 1)	3	0	0	3
TOTAL ALLEGATIONS	3	0	0	3

	Staff-on-Youth Allegations			
	Reported	Substantiated	Unsubstantiated	Unfounded
Sexual Harassment (Sub-section 2)	0	0	0	0
TOTAL ALLEGATIONS	0	0	0	0

SUMMARY OF ALLEGATIONS

The Youth Rehabilitation and Treatment Center – Geneva (YRTC-G) received 3 allegations of youth on youth sexual harassment during the calendar year 2016. All allegations involved inappropriate verbal comments. In each allegation, the comments made were the first occurrence, thus they did not meet the definition of “repeated” to constitute sexual harassment. Each allegation was **unfounded** as a result. The YRTC-G is committed to ensuring a safe and secure environment and as a result of these allegations, has worked with the youth to understand the importance of PREA.

General Definitions as defined by the PREA Standard 115.5

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

Unfounded allegation - means an allegation that was investigated and determined not 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.

Definitions related to SEXUAL ABUSE as defined by PREA Standard 115.6

Sexual abuse of a (youth) resident by another (youth) resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

- 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) Penetration of the anal or genital opening of another person, however slight, by a hand,
- 4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Sexual abuse of a resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:

- a) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- b) Contact between the mouth and the penis, vulva, or anus;
- c) 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;
- d) 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;
- e) 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;
- f) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (a)-(e) of this section;
- g) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and
- h) Voyeurism by a staff member, contractor, or volunteer.
Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

YOUTH REHABILITATION AND TREATMENT CENTER – KEARNEY
Reported Incidents: January 1, 2016 to December 31, 2016

	Youth-on-Youth Allegations			
	Reported	Substantiated	Unsubstantiated	Unfounded
Sexual Abuse (Sub-section 1)	0	0	0	
Sexual Abuse (Sub-section 2)	0	0	0	0
Sexual Abuse (Sub-section 3)	0	0	0	0
Sexual Abuse (Sub-section 4)	4	3	1	0
TOTAL ALLEGATIONS	4	3	1	0

	Staff-on-Youth Allegations			
	Reported	Substantiated	Unsubstantiated	Unfounded
Sexual Abuse (Sub-section a)	1	1	0	0
Sexual Abuse (Sub-section b)	0	0	0	0
Sexual Abuse (Sub-section c)	0	0	0	0
Sexual Abuse (Sub-section d)	0	0	0	0
Sexual Abuse (Sub-section e)	0	0	0	0
Sexual Abuse (Sub-section f)	0	0	0	0
Sexual Abuse (Sub-section g)	0	0	0	0
Sexual Abuse (Sub-section h)	0	0	0	0
TOTAL ALLEGATIONS	1	1	0	0

SUMMARY OF ALLEGATIONS

The Youth Rehabilitation and Treatment Center – Kearney (YRTC-K) had 3 substantiated youth on youth sexual abuse, all of which were unwanted touching (over clothes) and 1 staff on youth sexual abuse which resulted in resignation and conviction.

The YRTC-K is committed to providing the youth it serves with a safe and secure environment. With the implementation of PREA, procedures have been developed to better prevent, detect, and respond to incidents of sexual misconduct. With each incident, the facility has made improvements to its process.

General Definitions as defined by the PREA Standard 115.5

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

Unfounded allegation - means an allegation that was investigated and determined not 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.

Definitions related to SEXUAL HARASSMENT as defined by PREA Standard 115.6

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

YOUTH REHABILITATION AND TREATMENT CENTER – KEARNEY Reported Incidents of Sexual Harassment: January 1, 2016 to December 31, 2016

	Youth-on-Youth Allegations			
	Reported	Substantiated	Unsubstantiated	Unfounded
Sexual Harassment (Sub-section 1)	5	2	3	0
TOTAL ALLEGATIONS	5	2	3	0

	Staff-on-Youth Allegations			
	Reported	Substantiated	Unsubstantiated	Unfounded
Sexual Harassment (Sub-section 2)	2	2	0	0
TOTAL ALLEGATIONS	2	2	0	0

SUMMARY OF ALLEGATIONS

The Youth Rehabilitation and Treatment Center – Kearney (YRTC-K) received 5 allegations of youth on youth sexual harassment and 2 allegations of staff on youth sexual harassment during the calendar year 2016. The majority of the substantiated allegations were related to verbal comments or inappropriate gestures from one youth to another. Youth received a variety of consequences for their behaviors, ranging from re-training on the importance of sexual safety to major rule violations. The staff on youth allegations were verbal comments made towards the youth. This resulted in disciplinary action which led to the termination of this staff member. The YRTC-K is committed to providing the youth it serves a safe and secure environment and therefore documents all allegations of sexual harassment, regardless of the intent of the comment or gesture. As previously mentioned a majority of the allegations stemmed from inappropriate comments or gestures, more often than not, utilized to aggravate or anger another youth rather than to sexually groom that youth.