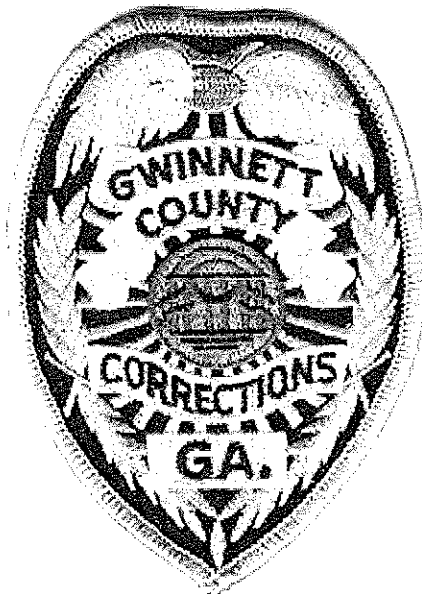


# **GWINNETT COUNTY**

## **DEPARTMENT OF CORRECTIONS**

Prison Rape Elimination Act (PREA)  
Annual Report 2015



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 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...”

## **2015 Issues / Corrective Actions**

1. Prior to June 1, 2015, there was no action taken by this facility to become compliant with the Federal PREA Standards. There were laws, policies, and procedures in place to protect offenders from sexual abuse and sexual harassment, but these were not based on the Federal Standards.

*The Warden and Command Staff created the position of PREA Compliance Manager and designated Lieutenant Keith Phinney of the Support Services Division to assume this role for the department.*

2. Lieutenant Phinney began an analysis of the standards and began implementing policies and procedures to ensure the department came into full compliance with all standards in preparation for a federal audit to be completed prior to August 19, 2016.

*There are 43 Standards for Adult Prisons and 40 Standards for Community Confinement that are required for the Gwinnett County Comprehensive Correctional Complex that will require policy and procedure modification to ensure compliance.*

3. During a review of some use of force videos, we self-identified a problem with cross-gender viewing of recordings. No allegation has been made. We will be seeking clarification on the standards regarding cross-gender viewing and reviews of incidents by supervisors and investigators.

*Best practice would be to avoid any cross-gender viewing; however, each use of force must be reviewed by the supervisor to complete the Use of Force reports and this would be considered exigent circumstances.*

4. We discussed adding a separate mailbox in every living area identified specifically for PREA so inmates and staff can submit written allegations.

*Mailboxes have been ordered, labeled and placed in every inmate and resident living area to provide an additional avenue for making reports.*

5. We discussed cross gender viewing in the shower and bathroom areas.

*Shower tracks and commode partitions are being installed.*

6. We discussed the facility response to a sexual assault.

*Training will be scheduled with the Gwinnett County Police Department's Special Victim's Unit.*

7. We discussed PREA phone numbers for inmates, staff, and others.

*GTL has made #77 available on the inmate telephones. This will allow the inmate to access the Georgia Department of Corrections PREA Hotline without having to input any identifying information. The Residents of the facility can dial 1-888-992-7849 from any phone with outside facility access to make reports to the Georgia Department of Corrections PREA Hotline. Both of these access forms will be tested by the compliance manager.*

### **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 unwelcome 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 and that the investigation was then referred to another agency with sufficient legal authority to complete the investigation and take the appropriate action.

## 2015 Statistics

### Total Allegations Reported in 2015: 13

Substantiated	Unsubstantiated	Unfounded	Referral to Outside Agency
0	5	8	0

### Inmate on Inmate Harassment: 2

Substantiated	Unsubstantiated	Unfounded	Referral to Outside Agency
0	1	1	0

### Inmate on Inmate Abuse: 0

Substantiated	Unsubstantiated	Unfounded	Referral to Outside Agency
0	0	0	0

### Staff on Inmate Harassment: 3

Substantiated	Unsubstantiated	Unfounded	Referral to Outside Agency
0	1	2	0

### Staff on Inmate Abuse: 8

Substantiated	Unsubstantiated	Unfounded	Referral to Outside Agency
0	3	5	

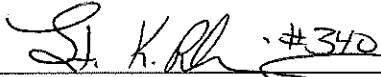
## Specific Case(s) Discussed

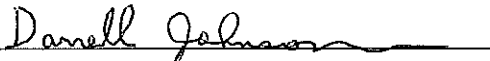
- Case 15-0001 involves an allegation of an inappropriate pat search. Claim unsubstantiated. No policy change required; not motivated by group affiliation; no physical barriers; adequate staffing; technology consideration discussed to use of body cameras to prevent future allegations. The Facility has 3 on order as a test.

- Case 15-0002 involved a cross gender viewing allegation. Claim unsubstantiated.  
 No policy change required; Not motivated by group affiliation; No physical barriers; adequate staffing; technology consideration, discussed use of shower curtains to prevent future allegations. The facility will seek information about ordering and installing these curtains.
- Case 15-0003 involved an allegation of an inappropriate strip search. Claim unfounded.  
 No policy change required; not motivated by group affiliation; no physical barriers; adequate staffing; technology consideration none discussed.
- Case 15-0004 involved an allegation of an inappropriate strip search. Claim unfounded.  
 No policy change required; not motivated by group affiliation; no physical barriers; adequate staffing; technology consideration none discussed.
- Case 15-0005 involved an allegation of voyeurism. Claim unfounded.  
 No policy change required; not motivated by group affiliation; no physical barriers; adequate staffing; technology consideration none discussed.
- Case 15-0006 involved an allegation of sexual harassment. Claim unsubstantiated.  
 No policy change required; not motivated by group affiliation; no physical barriers; adequate staffing; technology consideration none discussed.
- Case 15-0007 involved an allegation of an inappropriate pat search. Claim unsubstantiated. No policy change required; not motivated by group affiliation; no physical barriers; adequate staffing; technology consideration discussed to use body cameras to prevent future allegations.
- Case 15-0008 involved an allegation of voyeurism. Claim unfounded.  
 No policy change required; not motivated by group affiliation; no physical barriers; adequate staffing; technology consideration discussed use of shower curtains to prevent future allegations.
- Case 15-0009 involved an allegation of voyeurism. Claim unfounded.

No policy change required; not motivated by group affiliation; no physical barriers; adequate staffing; technology consideration none discussed.

- Case 15-0010 involved an allegation of an inappropriate pat search. Claim unsubstantiated.  
No policy change required; not motivated by group affiliation; no physical barriers; adequate staffing; technology consideration discussed none.  
Recommended remedial training to officers involved to prevent future occurrences.
- Case 15-0011 involved an allegation of an inappropriate pat search. Claim unsubstantiated.  
No policy change required; not motivated by group affiliation; no physical barriers; adequate staffing; technology consideration discussed none. The group discussed remedial training for conducting pat searches to prevent future allegations.
- Case 15-00012 involved an allegation of sexual harassment. Claim unfounded.  
No policy change required; not motivated by group affiliation; no physical barriers; adequate staffing; technology consideration discussed none.  
Corrective recommendations made none.
- Case 15-0013 involved an allegation of sexual harassment. Claim unfounded.  
No policy change required; not motivated by group affiliation; no physical barriers; adequate staffing; technology consideration none discussed.

 #340  
Lieutenant Keith Phinney, CCM  
PREA Compliance Manager

  
Warden Darrell Johnson