



Fairfax County Sheriff's Office 2021  
Prison Rape Elimination Act (PREA)  
Annual Report



# Fairfax County Sheriff's Office 2021 Prison Rape Elimination Act (PREA) Annual Report

## BACKGROUND

The Prison Rape Elimination Act (PREA) was passed by Congress and signed into law by President George W. Bush in 2003 to prevent, detect and respond to sexual abuse that occurs in confinement settings. The act also created the National Prison Rape Elimination Commission and charged it with drafting standards for eliminating prison rape. Those standards were published in June 2009 and turned over to the Department of Justice for review and passage as a final rule. The Department of Justice published the final PREA Standards in the Federal Register on June 20, 2012, and they became effective August 20, 2012. PREA applies to adult prisons and jails, juvenile confinement facilities, lockups, and community confinement facilities.

Implementation of the PREA standards in combating sexual abuse in confinement facilities will be contingent upon effective agency and facility leadership and the development of an agency's principles prioritizing efforts to combat sexual abuse. The Fairfax County Sheriff's Office has a zero tolerance for any incidence of rape, sexual abuse or sexual misconduct and complies with applicable provisions of the Prison Rape Elimination Act (PREA) of 2003.

## Fairfax County Sheriff's Office Approach

Our agency's approach has long supported principles associated with the Prison Rape Elimination Act of 2003. We provide mandatory PREA training to all staff specific to prevention, detection, and response. Other efforts include but are not limited to:

- The creation and revision of the Fairfax County Sheriff's Office (FCSO) Standard Operating procedure as it relates to sexual abuse and misconduct.
- The implementation of risk screening, PREA educational video, rape crisis advocacy, 3rd party reporting, zero-tolerance signage, and many other objectives.
- The agency has employed a PREA Coordinator. This position is to further develop, implement, and manage the FCSO's efforts to comply with PREA standards. Furthermore, our agency established and implemented an external PREA Hotline as an independent entity for the inmates to report incidents of sexual abuse and to provide anonymity. The Fairfax County Sheriff's Office has entered into a Memorandum of Understanding (MOU) with the Fairfax County Department of Family Services, Domestic and Sexual Violence Services (DSVS) to provide incarcerated victims of sexual abuse appropriate victim advocate support. An MOU with the Fairfax County Police Department was developed regarding their responsibility to conduct all criminal sexual abuse investigations. Finally, an MOU was created with INOVA Fairfax Hospital to provide for all forensic medical examinations if needed.

Pursuant to §115.87 of the PREA standard, data is collected, aggregated and reviewed in regard to reports of sexual abuse incidents. Subsequently, the statistics are published in an annual report and made public on the FCSO's website mandated by PREA standard §115.88.

The following 2021 PREA Annual Report details incidents of sexual abuse from January 1, 2020, to December 31, 2021:

- Fairfax County Sheriff's Office definitions;
- Findings of reported incidents of sexual abuse; and
- Corrective actions

## DEFINITIONS

Once a report of sexual abuse has been initiated and investigated, the incident will be assigned a case number and entered into a database maintained by the PREA Coordinator. The incident will be classified using one of the following findings:

- **SUSTAINED/SUBSTANTIATED** - allegation is supported by sufficient evidence to justify a reasonable conclusion of guilt based on the preponderance of the evidence.
- **NOT SUSTAINED/UNSUBSTANTIATED** - insufficient evidence to either prove or disprove the allegation
- **UNFOUNDED** - allegation is false or the action did not involve a Sheriff's Office employee

PREA Standard §115.6 specifically defines sexual abuse in terms of inmate-on-inmate, staff-on-inmate, along with sexual harassment and voyeurism. The FCSO utilizes the PREA definitions.

- **INMATE-ON-INMATE** - sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or 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, finger, object, or other instrument; and
  - (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.
- **STAFF-ON-INMATE** - sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, 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 inmate, detainee, or resident, and

(8) Voyeurism by a staff member, contractor, or volunteer.

- **SEXUAL HARASSMENT** - includes, but is not limited to:
  - (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 inmate, detainee, or resident directed toward another and
  - (2) Repeated verbal comments or gestures of a sexual nature to an inmate, 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.
- **VOYEURISM** - 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.

## SEXUAL ABUSE REPORT ACTIVITY

Inmates may confidentially disclose incidents of sexual abuse to any Fairfax County Sheriff's Office employee, either verbally or in writing. This process allows for confidential reporting by inmates 24 hours per day, 7 days per week. The administrative investigation shall be completed no later than 45 days of the initial filing of the alleged incident. A thorough and systematic administrative investigation of sexual abuse allegations has always been conducted by the Fairfax County Sheriff's Office. Such investigations include current incident review criteria pursuant to PREA standard §115.86 to include:

- FCSO shall conduct a sexual abuse incident review at the conclusion of all sexual abuse investigations where the findings were either substantiated or unsubstantiated. No incident review is necessary when the allegation has been determined to be unfounded.
- Such review shall ordinarily occur within 30 days of the conclusion of the investigation.
- The review team shall include upper-level management officials with input from line supervisors, investigators, and medical or mental health practitioners.

- The review team shall:

- (1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
- (2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics within the FCSO;
- (3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
- (4) Assess the adequacy of staffing levels in that area during different shifts;
- (5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
- (6) Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1) -(d)(5) of this section and any recommendations for improvement and submit such report to the Commander of the Confinement Division.

- FCSO shall implement the recommendations for improvement, or shall document its reasons for not doing so.

For all the sexual abuse allegations in 2021 there was no change of policy or practice needed, no physical barriers identified, and adequate staffing levels were identified. To date, we continue to use our sexual abuse incident review team, composed of upper-level management, frontline supervisors, investigators, and medical and mental health practitioners. Furthermore, all sexual abuse investigation reviews comply with PREA standard §115.86. The Fairfax County Sheriff's Office will continue to make appropriate changes where necessary to ensure a safe, secure environment for inmates, staff, and the community.

## DATA REVIEW FOR CORRECTIVE ACTIONS

PREA Standard §115.88 Data review for corrective action:

(a) The agency shall review data collected and aggregated pursuant to §115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:

- (1) Identifying problem areas;
- (2) Taking corrective action on an ongoing basis; and

(3) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.

(b) Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.

<i>Inmate-on-Inmate Allegations of Sexual Abuse</i>	2020	2021			
<i>Substantiated</i>	4	2			
<i>Unsubstantiated</i>	8	5			
<i>Unfounded</i>	5	1			

<i>Staff-on-Inmate Allegations of Sexual Abuse</i>	2020	2021			
<i>Substantiated</i>	1	0			
<i>Unsubstantiated</i>	6	2			
<i>Unfounded</i>	6	4			

(c) The agency's report shall be approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means.

(d) The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility but must indicate the nature of the material redacted.

**Analysis:** None to report.

**Corrective Action:** None to report.

The Fairfax County Sheriff's Office is committed to Zero Tolerance of any form of Sexual Abuse in our Adult Detention Center.

This report has been approved by:

*Stacey A. Kincaid*

Stacey A. Kincaid  
Sheriff