



# PRISON RAPE ELIMINATION ACT

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*ANNUAL REPORT 2015*

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## **SANTA CLARA COUNTY PROBATION DEPARTMENT**



JUVENILE INSTITUTIONS DIVISION

840 GUADALUPE PARKWAY

SAN JOSE, CALIFORNIA 95110

## BACKGROUND

The Federal Prison Rape Elimination Act (PREA) passed in 2003. The act is intended to, "...provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals..." (Prison Rape Elimination Act, 2003).

The Prison Rape Elimination Commission formed shortly after the passage of the act. The commission developed national standards for all Correctional Facilities both Adult and Juvenile. In June 2009, they were finalized and submitted to the Department of Justice for review and passage. The **National Standards to Prevent, Detect, and Respond to Prison Rape**, became effective on August 20, 2012.

## PREA STANDARDS OVERVIEW

The PREA standards are organized into 11 categories:

- Prevention Planning;
- Responsive Planning;
- Training and Education;
- Screening for Risk of Sexual Victimization and Abusiveness;
- Reporting;
- Audits.
- Official Response Following a Resident Report;
- Investigations;
- Discipline;
- Medical and Mental Health Care;
- Data Collection and Review;

Full compliance with a PREA audit is very challenging. There are approximately 180 separate provisions within the standards. Each provision can contain multiple requirements and extensive documentation. The most substantial requirement is that the department must provide evidence that efforts are integrated and practiced within the culture of the agency.

To obtain this evidence, the PREA auditor incorporates state/local inspections and reviews, observations and interviews with staff, youth and administration. In June 2016, Juvenile Hall and James Ranch are scheduled to be audited. One hundred per cent compliance must be achieved in order to pass.

The final report will be posted on the Santa Clara County Probation Department website. The report will include corrective action items; suggested areas of improvement; areas that have passed/not passed; and those that have exceeded standards.

## **ZERO TOLERANCE POLICY**

It is the mission of the Santa Clara County Probation Department to provide a healthy, safe and secure environment for youth in our facilities and programs. Zero tolerance means that through policy and practice, the Probation Department will not tolerate any form of sexual misconduct. This includes any inappropriate behavior between staff, contractors, or volunteers with our youth; or any sexual activity between youth regardless of consent status. All of the above examples are prohibited and are subject to administrative and/or criminal sanctions.

To assist with PREA and the Zero Tolerance Policy, a PREA Coordinator is responsible for the development, implementation and oversight of efforts to comply with PREA standards. The department has also designated a PREA Compliance Manager for Juvenile Hall and the James Ranch. The Compliance Managers are responsible for assuring that efforts are being adhered to in their perspective facility. Lastly, the Probation Department has a full time Group Counselor (Juvenile Hall) and Probation Counselor (James Ranch) dedicated to PREA compliance.

## **EDUCATION AND TRAINING**

Ongoing youth risk assessments, education and training for staff and youth is key in reducing sexual assault and misconduct within the institutions.

### **Youth**

Upon admission to Juvenile Hall, youth are required to take a PREA risk assessment. This assessment helps to identify sexual abuse, the risk for sexual victimization, and/or the potential for abusing. Upon obtaining the results, staff can more effectively monitor, assist and provide for immediate medical and behavioral health services.

After the PREA assessment, youth attend a PREA orientation and education class. There are numerous topics, including victim advocacy, sexual assault awareness, free and ongoing medical services for victims and free and ongoing support services. The class also teaches the youth about our Zero Tolerance Policy and the numerous avenues to report sexual victimization for themselves and on behalf of another youth in the facility.

Youth can confidentially report incidents to facility management or other law enforcement agencies and have available the "Red Phone." The "Red Phone" is a dedicated "hot line" that connects to the YWCA Rape Crisis Center immediately upon lifting the receiver. The youth need only submit a medical request to go to the clinic and they are able to access the phone privately once there.

It is anticipated that more and continued education will reduce the number of reported incidents as the youth accept and embrace the belief that this type of behavior is unacceptable.

## **Staff**

All peace officers, non-peace officers, volunteers and community-based organizations are required to take a PREA education class every two years. The class emphasizes the Department's Zero Tolerance policy, child abuse reporting requirements and techniques to identify and respond to sexual abuse.

Staff are trained about their responsibilities as a first responder to sexual incidents. This training includes proper evidentiary procedures; how to activate the Medical Clinic's Sexual Assault Team and how to bring in and assist the appropriate law enforcement agency for purposes of conducting a criminal investigation.

## **JUVENILE HALL AND JAMES RANCH - POPULATION AND SEXUAL MISCONDUCT AGGREGATED DATA**

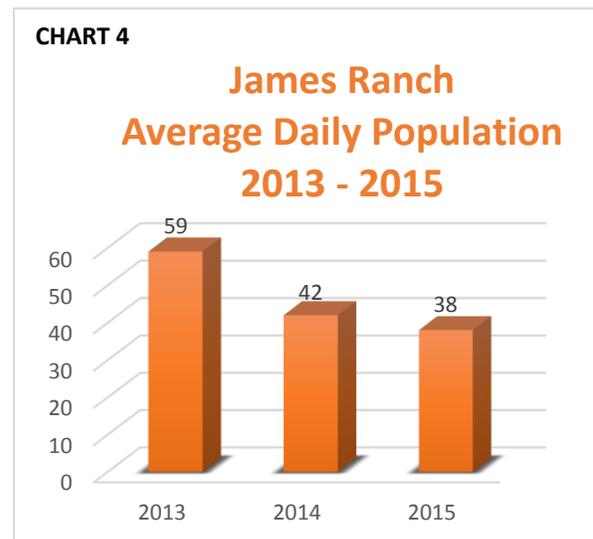
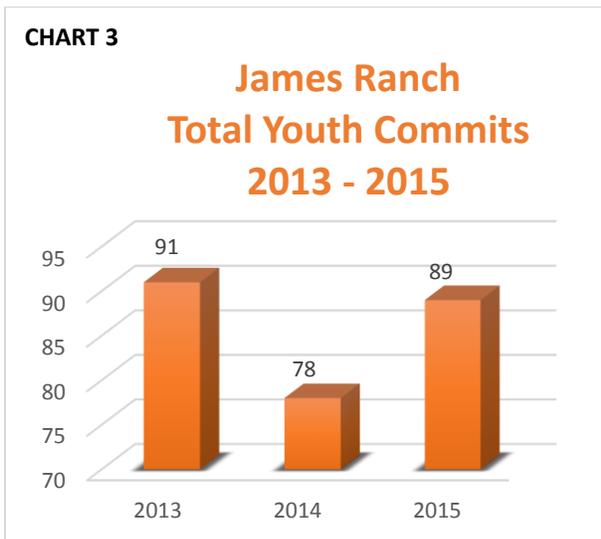
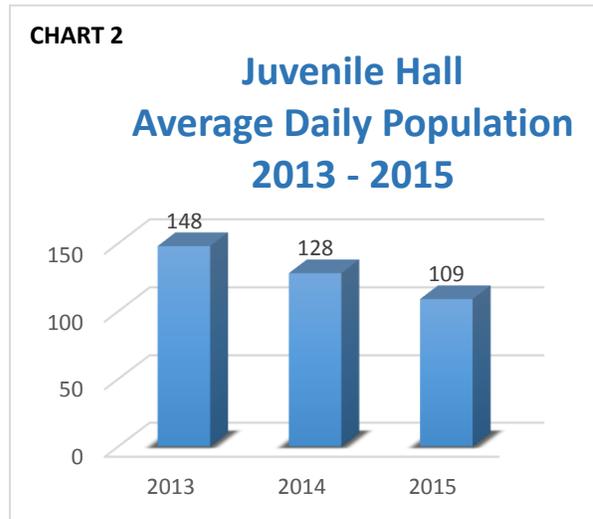
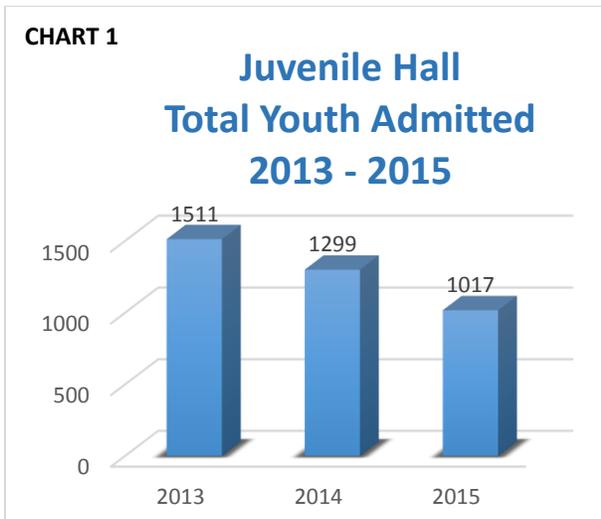
To enhance transparency, there is a mandate that certain aggregated data is available to the public. The chart below includes data about the facility youth population, youth on youth sexual abuse and staff on youth sexual misconduct. The data presented spans the current three year PREA audit cycle, which began in 2013.

The chart below contains the total number of new admissions of youth at Juvenile Hall and James Ranch. Also provided is the Average Daily Population at each facility for the target year.

### **JUVENILE HALL AND JAMES RANCH YEAR TOTAL AND AVERAGE DAILY POPULATION**

<b>JUVENILE HALL</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
Youth Admitted	1511	1299	1017
Average Daily Population - <u>Male</u>	134	118	95
Average Daily Population - <u>Female</u>	14	10	14
Average Daily Population - <u>Total</u>	148	128	109
<b>JAMES RANCH</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
Youth Admitted	91	78	89
Average Daily Population - <u>Male</u>	53	39	36
Average Daily Population - <u>Female</u>	6	3	2
Average Daily Population - <u>Total</u>	59	42	38

\*Numbers are not exact due to rounding.



\* Reference Chart 1, 2 and 4: 2015 Santa Clara County Juvenile Justice Annual Report

\*\* Reference Chart 3: Juvenile Detention Survey Reports for CSA – CY 2013 - 2015

Noted is that the youth population at both facilities is in a downward trend. This is due to a number of internal and external factors, which include a concerted effort by the Probation Department and system partners to find more effective methods of accountability other than incarceration.

## **SANTA CLARA COUNTY PROBATION INVESTIGATIVE DETERMINATIONS AND DEFINITIONS**

All sexual assault incidents reported by youth, staff or third parties are investigated by:

- Probation Department and;

- Santa Clara County Sherriff’s Department (Juvenile Hall) or;
- Morgan Hill Police Department (James Ranch).

## DEFINITIONS FOR INVESTIGATIVE FINDINGS

The definitions below are used in reporting the results of findings:

- **Sustained** - The investigation finds by preponderance of the evidence that the act did occur and constitutes a specific act in violation of law, regulation, or policy of the department or county.
- **Not Sustained** - The investigation cannot prove or disprove the allegations by a preponderance of the evidence.
- **Unfounded** - The investigation clearly established that the allegation is not true.

## DATA COMPARISON CATEGORIES - TERMS AND DEFINITIONS

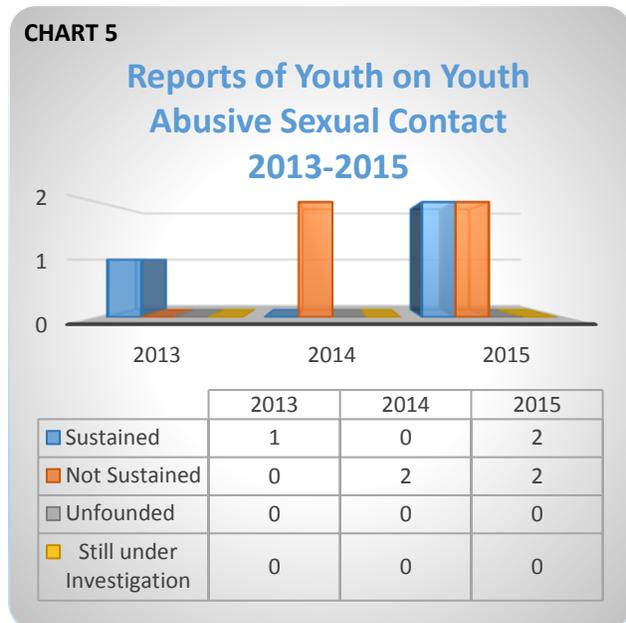
For the purposes of this report the below definitions provided by the Department of Justice will be used to examine and determine the number of PREA related incidents that occurred within the facility.

### **Abusive Sexual Contact**

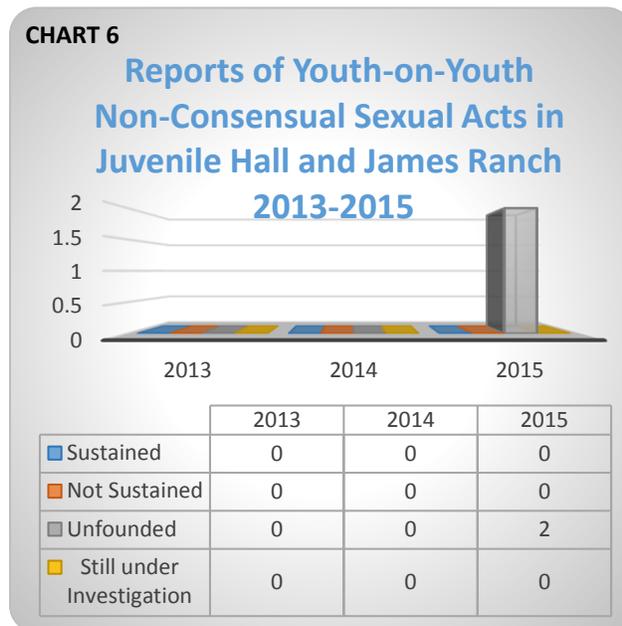
- Sexual contact of any person without his or her consent, or of a person who is unable to consent or refuses and;
- Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or buttocks of any person.

### **Non-Consensual Sex Acts**

- Sexual contact of a person without his or her consent, or of a person who is unable to consent or refuses and;
- Contact between the penis and the vulva or the penis and the anus including penetration, however slight or;
- Contact between the mouth and the penis, vulva, or anus or;
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument.



## ABUSIVE SEXUAL CONTACT AND NON-CONSENSUAL SEX ACTS



Charts 5 and 6 reflect three sustained incidents of “Sexually Abusive Contact” and zero sustained incidents of “Non Consensual Sexual Acts” respectively.

When cross-referencing the reported incidents, it is noted that they primarily occurred in areas that the youth reside. In order to address this, the department has in place fifteen minute room checks of all youth in accordance with California Title 15 - Minimum Standards for Detention Facilities.

Additionally, if there is concern that a youth may be victimized or victimize another youth, the two will immediately be separated and placed in different rooms or different living

areas if necessary. Lastly, numerous security mirrors and designated “Off Limit” and “Restricted Area Zones” are in place to address “blind spots” and to limit the areas in which youth are allowed. As such, staff are now able to supervise youth living areas more effectively.

## STAFF ON YOUTH SEXUAL MISCONDUCT

The following definition of "Sexual Misconduct" is provided by the PREA Standards:

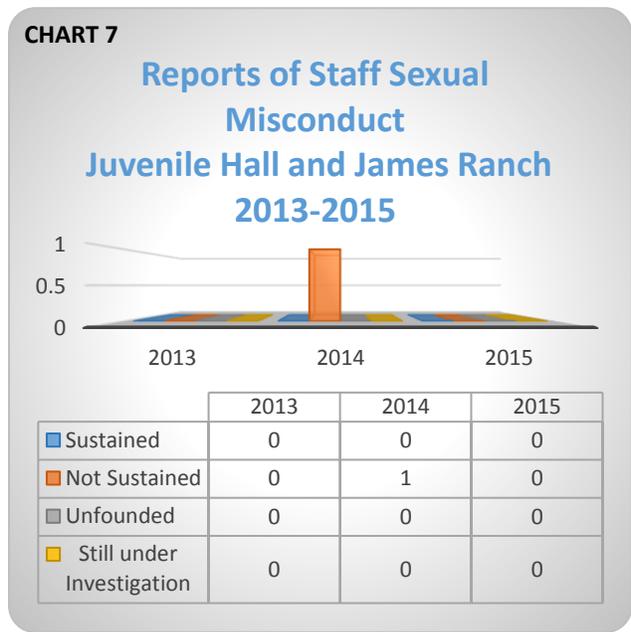
### Staff Sexual Misconduct

Any behavior or act of a sexual nature directed toward a youth by an employee, volunteer, contractor, official visitor or other agency representative (exclude family, friends or other visitors). The definition includes the below:

- Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks that is unrelated to official duties or with the intent to abuse, arouse, or gratify sexual desire or;
- Completed, attempted, threatened, or requested sexual acts or;
- Acts of indecent exposure, invasion of privacy, or staff voyeurism for reasons unrelated to official duties or for sexual gratification.

There was one allegation of “Staff on Youth” (Chart 7) sexual misconduct during the target years. The incident was reported and thoroughly investigated by the corresponding law enforcement agency. The result of the investigation was determined to be “**Not Sustained**”.

In all, there were three sustained sexual incidents across all categories during the target years. Although low in frequency, any incidents are viewed as unacceptable. As such, the Probation Department cannot be complacent with its PREA related efforts moving forward.



## MOVING FORWARD

The Probation Department’s endeavor to detect and deter sexual misconduct is a continuous and unending process. We are open and committed to best practices and any opportunities to improve. In response to findings from formal incident reviews, internal affairs investigations and PREA audits, change is identified and implemented. These changes include:

- Revisions and additions to staff and youth training curriculum;
- Revising and creating new policies, procedures and protocols;
- Implementing physical upgrades to our facilities for improved detection and deterrence of sexual misconduct.

The Santa Clara County Probation Department is dedicated to nurturing a culture that promotes and supports the rights of youth in our facilities to be free from sexual abuse and misconduct.

## CONTRIBUTORS

Juvenile Institutions Administration, Program Manager - Juvenile Probation Services, Juvenile Hall Quality Assurance Team, James Ranch Quality Assurance Team, Information Technology Division and Group Counselor Parveen S.