

Review Panel on Prison Rape

**REPORT ON SEXUAL
VICTIMIZATION IN JUVENILE
CORRECTIONAL FACILITIES**

July 2023

Review Panel on Prison Rape Report on Sexual Victimization in Juvenile Correctional Facilities

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I. Executive Summary

This report presents the observations and recommendations of the Review Panel on Prison Rape (Panel)¹ that are the result of its May 2022 hearings in Washington, District of Columbia, along with site visits, responses to document and data requests, and supplemental research. The selection of facilities for site visits was based on the national survey of youth confined in juvenile correctional facilities by the Bureau of Justice Statistics (BJS): *Special Report, National Survey of Youth in Custody: Sexual Victimization Reported by Youth in Juvenile Facilities, 2018*.²

The Prison Rape Elimination Act³ (PREA) requires the Panel to hold public hearings and identify the common characteristics of victims and perpetrators, as well as the common characteristics of correctional facilities with a high incidence of prison rape and correctional facilities “that appear to have been successful in deterring prison rape.”⁴ Because this report is focused on juvenile facilities, as the Panel examined the selected facilities, it worked to identify the common characteristics of youth and juvenile facility staff as well as of the juvenile facility systems themselves.

As we approach the twentieth anniversary of PREA, the Panel hopes to use its charge to provide substantive, actionable recommendations that can lead to positive movement towards the elimination of sexual abuse and sexual harassment within juvenile facilities and all correctional facilities, and to the improvement in PREA-related processes that will better address sexual safety.

It is important to note that, using a 2012 comparison group, BJS found that the rates of both staff-on-youth and youth-on-youth sexual abuse and sexual harassment in 2018 had

¹ 34 U.S.C. § 30303(b). See <https://www.ojp.gov/program/review-panel/review-panel>

² Erica L. Smith and Jessica Stroop, *Sexual Victimization Reported by Youth in Juvenile Facilities, 2018, National Survey of Youth in Custody, 2018*, Washington, DC: U.S. Department of Justice Office of Justice Programs Bureau of Justice Statistics (December 2019). <https://bjs.ojp.gov/content/pub/pdf/svryjf18.pdf> [hereinafter *BJS 2018 Juvenile Facilities Report*]

This report was subsequently accompanied by Michael B. Field and Elizabeth Davis, *National Survey of Youth in Custody: Victim, Perpetrator, and Incident Characteristics of Sexual Victimization of Youth in Juvenile Facilities, 2018 – Statistical Tables*, National Survey of Youth in Custody, 2018, Washington, DC: U.S. Department of Justice Office of Justice Programs Bureau of Justice Statistics (November 2020). <https://www.bjs.gov/index.cfm/index.cfm?ty=pbdetail&iid=7146>

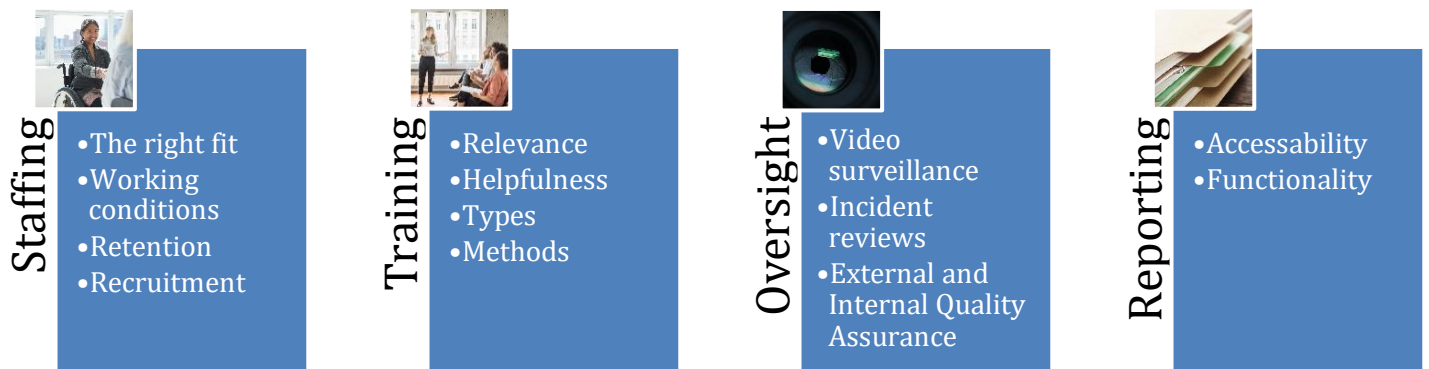
³ Prison Rape Elimination Act of 2003 (codified as amended at 34 U.S.C. §§ 30301-30309).

⁴ 34 U.S.C. § 30303(b)(3)(A).

gone down since 2012.⁵ This positive news suggests improvement in youth safety in confinement. The reasons for the decline in rate are varied and may be the result of more attention devoted to the issue of sexual victimization of youth in juvenile facilities, more staff training on the issue, more awareness by youth of their rights, better staff screening, and/or more quality assurance efforts by facilities.⁶ Despite this decline, the information the Panel gathered from the review of materials and testimony, led the Panel to conclude that there is still significant work to do.

As this Panel completed its work, it sought to ensure the process was useful to the public and concerned stakeholders rather than serving as merely an exercise to check a statutorily required box. To this end, and to make this report helpful and action-oriented, the Panel agreed on two overarching themes: 1) there are specific areas of policy and operations that continue to present themselves as ripe for practical recommendations; and 2) there are other recommendations surrounding the statute and its efficacy that we felt were important to relay but that did not fit within the scope of this report, so those recommendations were sent separately to the Attorney General.

In the first part of this report, the reader will find information about each facility reviewed. This is followed by the Panel’s evaluation of and recommendations regarding key components of juvenile facility policy and operations which, if implemented in a manner designed to best suit the youth they serve, may be successful at reducing incidents of sexual abuse and harassment and keeping youth safer. Those key areas are:



⁵ See *BJS 2018 Juvenile Facilities Report*, *supra* note 2, at 3.

⁶ Serving as Senior Statistical Advisor at BJS, Dr. Allen Beck provided an additional reason for the decline in staff-on-youth and youth-on youth sexual abuse and sexual harassment: “[w]e find trend factors that can explain some of this decline, and one of those trend factors is that the facilities – juvenile facilities nationwide – are getting smaller. Much higher proportion of youths are being held in smaller facilities today than in the past. With that comes structured exposure time; that is, at the same time we see the youth are held in such facilities for less time and combine that with increasing positive views of staff – views of staff, field perceptions of fairness, perception that they have the ability to interact with staff and that the rules are fair and fairly executed. We find that these trends explain some portion of that decline in sexual victimization.” (Transcript of Record, Review Panel on Prison Rape Hearing, Allen Beck, 406:7-21 (January 9, 2014) <https://www.ojp.gov/program/review-panel/transcripts>)

II. Introduction

A. The Prison Rape Elimination Act

The Prison Rape Elimination Act⁷ was signed into law in 2003 to address the significant problem of sexual abuse of persons in the custody of correctional facilities in the United States. Intended to make the prevention of sexual abuse in correctional facilities a top priority, PREA requires that federal, state, and local correctional facilities maintain and enforce a “zero-tolerance standard for the incidence of prison rape in prisons in the United States,”⁸ including both staff-on-inmate (in the juvenile context, staff-on-youth) and inmate-on-inmate (in the juvenile context, youth-on-youth) sexual misconduct. As part of this effort, BJS is charged with completing a statistical review and analysis of the incidence and effects of prison rape, including sexual abuse and sexual harassment, for each calendar year.

PREA requires the Panel to hold public hearings and identify the common characteristics of victims and perpetrators, as well as the common characteristics of correctional facilities with a high incidence of prison rape and correctional facilities with a low incidence of prison rape based on the data that BJS has collected from correctional facilities in three broad categories.⁹ According to the statute, one category is to be “federal and state prisons” while the other two are to be “defined by the Attorney General in order to compare similar institutions.”¹⁰ For the 2022 hearings, the Panel visited and solicited documents, data, and testimony on the operations of three juvenile correctional facilities with a BJS-reported high incidence of sexual victimization and two juvenile correctional facilities with a BJS-reported low incidence of sexual victimization. The purpose of the hearings is to identify the common characteristics of “both victims and perpetrators of prison rape, and the identification of common characteristics of prisons and prison systems with a high incidence of prison rape, and the identification of common characteristics of prisons and prison systems that appear to have been successful in deterring prison rape.”¹¹

⁷ 34 U.S.C. § 30301-30309.

⁸ 34 U.S.C. § 30302(1).

⁹ 34 U.S.C. § 30303(b)(3)(A).

¹⁰ 34 U.S.C. § 30303(c)(4). The statute also requires BJS to “solicit views from representatives of the following: State departments of correction; county and municipal jails; juvenile correctional facilities; former inmates; victim advocates; researchers; and other experts in the area of sexual assault.” § 30303(a)(3).

¹¹ 34 U.S.C. § 30303(b)(3)(A).

B. Bureau of Justice Statistics Special Report, National Survey of Youth in Custody: Sexual Victimization Reported by Youth in Juvenile Facilities, 2018

Between March and December 2018, BJS administered the third National Survey of Youth in Custody (NSYC-3).¹² The survey covered 327 facilities that housed juveniles, including 217 state-owned or -operated facilities and 110 locally or privately operated facilities that held state-placed youth under contract. The NSYC-3 gathered data from interviews of 6,049 youth in 2018 and 8,707 youth in 2012,¹³ including youth from at least one facility in every state and the District of Columbia (five sampled facilities were excluded because the data on sexual victimization was not collected or could not be used).

The NSYC is part of BJS's National Prison Rape Statistics Program and collects data on allegations of sexual victimization as required by PREA. As a sample survey, the NSYC-3 applies weights to selected facilities to produce national-level and facility-level estimates of sexual victimization.¹⁴ Based on the survey, BJS estimated that a total of 900 out of 12,750 adjudicated youth in the United States experienced sexual violence.¹⁵ This represents 7.1% of youth in juvenile correctional facilities, down from 9.5% in 2012.¹⁶

The percentage of youth who reported an incident of sexual victimization involving another youth was 1.9%, down from 2.5% in 2012.¹⁷ And the percentage of youth who reported an incident involving facility staff declined from 7.7% to 5.8%.¹⁸

Female youth (4.7%) were more likely than males (1.6%) to report youth-on-youth sexual victimization involving force or coercion while male youth were more likely (6.1%) to report incidents of staff sexual misconduct compared to females (2.9%).¹⁹ An estimated 3.9% of youth reported that they had sexual contact with facility staff that did not involve force, the threat of force, or coercion.²⁰ An estimated 7.1% of male adjudicated youth and 6.6% of female adjudicated youth reported being sexually victimized in juvenile facilities during the prior 12 months.²¹

¹² See *BJS 2018 Juvenile Facilities Report*, *supra* note 2, at 1.

¹³ *Id.*

¹⁴ *Id.* at 11. When weighted, the samples represent the total number of adjudicated youth held in the U.S. in those years.

¹⁵ *Id.* at 3.

¹⁶ *Id.* at 1.

¹⁷ *Id.*

¹⁸ *Id.* at 3.

¹⁹ *Id.* at 4.

²⁰ *Id.*

²¹ *Id.*

Among the 113 facilities that had a sufficient number of completed interviews from which it was possible to calculate reliable facility-level estimates, twelve facilities were identified as high-rate compared to others.²² Liberty Juvenile Unit for Specialized Treatment (Florida) recorded the highest overall reported rate of sexual victimization at 26.1% among the facilities where administrators could provide consent to contact youth in place of the parent (ILP).²³ Among facilities where consent from a parent or guardian was necessary (PGC), Macon Youth Development Campus (Georgia), housing only female youth, recorded the highest reported sexual victimization rate of 19.0%.²⁴ Nationwide, the survey found that fourteen facilities had low incidence of sexual victimization, and twenty-six reportedly had no incidents of sexual victimization.²⁵ Interestingly, the three facilities with reported high rates of sexual victimization that participated in these hearings had passed PREA audits,²⁶ generally indicating that these facilities are complying with “national standards for the detection, prevention, reduction, and punishment of prison rape.”^{27,28}

²² *Id.* at 1.

²³ *Id.* at 6.

²⁴ *Id.*

²⁵ *Id.* at 7.

²⁶ Prison Rape Elimination Act (PREA) Audit Report, Juvenile Facilities: Oak Creek Youth Correctional Facility (June 17, 2022); Prison Rape Elimination Act (PREA) Audit Report, Juvenile Facilities: Gulf Youth Center (March 16, 2021); Prison Rape Elimination Act (PREA) Audit Report, Juvenile Facilities: JCC-St. Anthony (June 30, 2020).

²⁷ PREA indicates:

For each fiscal year, any amount that a State would otherwise receive for prison purposes for that fiscal year under a grant program covered by this subsection shall be reduced by 5 percent, unless the chief executive officer of the State submits to the Attorney General proof of compliance with this chapter through—

(i) a certification that the State has adopted, and is in full compliance with, the national standards described in subsection (a); or

(ii) an assurance that the State intends to adopt and achieve full compliance with those national standards so as to ensure that a certification under clause (i) may be submitted in future years, which includes—

(I) a commitment that not less than 5 percent of such amount shall be used for this purpose; or

(II) a request that the Attorney General hold 5 percent of such amount in abeyance pursuant to the requirements of subparagraph (E). § 30307(e)(2)(A).

This certification requires:

A chief executive officer of a State who submits a certification under this paragraph shall also provide the Attorney General with—

(I) a list of the prisons under the operational control of the executive branch of the State;

(II) a list of the prisons listed under subclause (I) that were audited during the most recently concluded audit year;

(III) all final audit reports for prisons listed under subclause (I) that were completed during the most recently concluded audit year; and

(IV) a proposed schedule for completing an audit of all the prisons listed under subclause (I) during the following 3 audit years. § 30307(e)(2)(B)(i).

²⁸ § 30307(a)(1).

C. Selection of Facilities for Public Hearings

The Panel used BJS's *Juvenile Facilities Report*²⁹ to select the three reported high incidence and two reported low incidence facilities. The Panel's selections were based on factors that included the geographic location of the facility, its size, the gender of the residents, and whether it was state-managed or private.

III. Review of Facilities



W. E. Sears Youth Center, Missouri (Discussed under Low Incidence Facilities at pp.23 - 26)

A. High Incidence Facilities

1. Florida - Gulf Academy

a. Description of the Facility

The Florida Department of Juvenile Justice (FDJJ) contracts with private vendors to operate its forty-two juvenile residential programs that serve up to 1,559 youth.”³⁰ These facilities offer both non-secure and secure residential programming which includes those designed to address mental health issues, substance abuse, and sexual offenders and

²⁹ See *BJS 2018 Juvenile Facilities Report*, *supra* note 2, at 5-8.

³⁰ Garret Tucker, Written Testimony to Review Panel on Prison Rape (undated), at 1. Per the FDJJ website, FDJJ operates twenty-one juvenile detention centers in the state of Florida. Florida Department of Juvenile Justice, “Detention Services” (accessed December 14, 2022). <https://www.djj.state.fl.us/services/detention-services>

provide health care services and educational and educational opportunities for youth who have been adjudicated delinquent.³¹ The FDJJ’s mission is “[t]o increase public safety by reducing juvenile delinquency through effective prevention, intervention and treatment services that strengthen families and turn around the lives of troubled youth.”³² The FDJJ also manages detention services, probation, and prevention services for youth in different stages of the adjudication process.³³

At the time of the publication of the BJS report,

Gulf Academy was a non-secure residential commitment program which served youth in need of Intensive Mental Health Services ... Since that time the contract with TrueCore Behavioral Solutions ended and the competitive procurement process awarded a new provider (Youth Opportunity Investment) to operate the ninety-bed facility called Deep Creek located in St. Johns County, Florida.”³⁴

The youth in Gulf Academy were the highest acuity youth in the FDJJ system, meaning they required intensive care.³⁵ The youth admitted to this program typically had a diagnosed mental illness.³⁶ According to the written testimony from Garrett O. Tucker, assistant secretary for residential services at the FDJJ, at the time of the 2018 BJS report, 60% of the youth in the program also had co-occurring substance abuse treatment needs.³⁷

b. Explanation for Reported High Incidence of Sexual Victimization

According to Tucker’s written testimony, “[t]he FDJJ provides continuous oversight of all residential programs through the Office of Accountability and Program Support, Bureau of Monitoring and Quality Improvement” and that “investigations of all Prison Rape Elimination Act (PREA) related incidents are conducted by the Office of the Inspector General in collaboration with local law enforcement and the Florida Department of Children and Families (FDCF).”³⁸ Assistant Secretary Tucker also wrote,

The FDJJ ensures each residential program receives a pre/post-operational review process by the Monitoring and Quality Improvement division. This

³¹ *Id.*

³² Florida Department of Juvenile Justice, “Prevention Services” (accessed April 14, 2023).

<https://www.djj.state.fl.us/services/prevention-services>

³³ Florida Department of Juvenile Justice, “Juvenile Justice Process” (accessed December 14, 2022).

<https://www.djj.state.fl.us/youth-families/juvenile-justice-process>

³⁴ G. Tucker Written Testimony at 1.

³⁵ *Id.* at 2.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.* at 3.

process reviews all policies and procedures for each residential program to ensure they are complying with all applicable federal and state laws, rules, and policies. The FDJJ PREA Coordinator also works with new and existing residential providers to ensure all standards related to PREA are followed and provides technical assistance.³⁹

In his testimony at the hearing, Tucker indicated that a review of the Central Communication Center (CCC) database⁴⁰ during the time referenced in the BJS report found no sustained or substantiated incidents of youth-on-youth or staff-on-youth sexual assault at Gulf Academy.⁴¹ Tucker said Gulf Academy's high incidence of sexual victimization as reported by BJS may primarily be attributed to three factors: (1) trauma exposure among confined youth is much more common, compared to those in community-based programs that can include home confinement, alternative education, community services, respite care, etc.; (2) there are identified gaps in staff training including for pre-service and in-service training requirements related to boundaries between youth and staff; and (3) the lack of appropriately resourced residential contracts that provide higher wages for direct care and support staff.⁴²

c. Measures Taken to Reduce Incidents of Sexual Victimization

The FDJJ reported that the residential providers of both Gulf Academy and Deep Creek took measures to reduce the prevalence and incidence of both youth-on-youth and staff-on-youth sexual abuse, including: (1) professionalism training for staff; (2) training and conversations regarding the consequences of engaging in any inappropriate relationships or activities with any youth; (3) staff boundary training; (4) Trauma Responsive training for all staff, which includes the TRACE Self-Assessment training for all selected members;⁴³ and (5) specialized training related to the population being served.⁴⁴

³⁹ *Id.* at 2-3 “[T]he statewide PREA Coordinator also completes a face-to-face PREA incident review following the closure of all investigations except those where the allegations were unfounded and submits a summary report to Regional Managers.” Transcript of Record, Review Panel on Prison Rape Hearing, Garret Tucker, 85:8-14 (May 17, 2022). [hereinafter May 17 Tr.] Note: Transcripts for both hearings are available at <https://www.ojp.gov/program/review-panel/transcripts>

⁴⁰ The CCC is the FDJJ's incident reporting center. See May 17 Tr. Tucker, 76:15-18.

⁴¹ G. Tucker Written Testimony at 2.

⁴² *Id.*

⁴³ *Id.* at 3. “The Trauma Responsive and Caring Environment (TRACE) Self-Assessment is a tool to assess a juvenile residential commitment program's progress in implementing a trauma-responsive approach and caring environment for youth and staff... developed in collaboration by the Florida Department of Juvenile Justice Office of Residential Services and residential commitment programs with technical assistance from national experts at Georgetown University.” Florida State University Center for Prevention and Early Intervention Policy, *Creating a Trauma Informed State: A Showcase of Florida's Cutting Edge Trauma Initiatives* (August 2018).

https://cpeip.fsu.edu/Creating_a_Trauma_Informe_State/TraumaShowcase.pdf

⁴⁴ *Id.*

Required training for all residential providers available on the FDJJ's learning management system includes Course FDJJ110, which addresses:

staff's responsibilities under the Department's sexual misconduct prevention, detection, and response policy and procedures. The course covers an introduction to PREA, the FDJJ's zero tolerance for sexual abuse, sexual harassment, and misconduct, sexual abuse definitions (by a youth, by a staff/volunteer/contractor), reporting of allegations, detecting/warning signs of sexual abuse and harassment, professional relationships/boundaries, and requires an acknowledgement form be signed by the staff completing the course, as well as their supervisor.⁴⁵

The FDJJ worked to procure a new program at the current location of Gulf Academy that among other things would focus on higher compensation rates for staff. They believed this would assist the facility in retaining professionals with additional qualifications and experience specifically working with youth in a detention setting.⁴⁶

Another step to increase safety has been the installation of more cameras, including high-tech cameras. As Assistant Secretary Tucker stated at the PREA hearing,

We probably have anywhere between 140, 120 cameras... The beautiful thing about the cameras that are being installed is they have motion activation. So, if anything comes on in that area, the actual screen lights up. There is some advanced software mechanisms to do even facial or tag recognition. So, there's a lot of advancements that we're looking into in those areas. Predominantly, those areas you're referring to, it would be very simple to bring all of those cameras up on screen anytime anyone entered one of those areas ...⁴⁷

As part of an effort to reduce the prevalence of sexual abuse and harassment, the FDJJ provides continuous oversight of all residential programs through the Office of Accountability and Program Support, Bureau of Monitoring and Quality Improvement.⁴⁸ Since the BJS published its report in 2019, the FDJJ, through its regional residential monitoring professionals, has conducted annual interviews with youth and staff to ensure the safety and well-being of all youth served.⁴⁹

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ May 17 Tr. Tucker, 113:18-19, 23-25; 114:1-8.

⁴⁸ G. Tucker Written Testimony at 3.

⁴⁹ *Id.* at 3. "It should also be noted that FDJJ's array of residential services provides specialized treatment for various classifications of youth, which serves as its own layer of protection. Not only are facilities classified by risk level (non-secure, high, and maximum), but individual facilities have specified age ranges and are tailored to youth needs," Tucker stated. "This includes borderline intellectual functioning, and comprehensive mental health classifications, which ensures that staff working there are

2. Oregon - Oak Creek Youth Correctional Facility – Albany

a. Description of the facility

The Oregon Youth Authority (OYA) runs five youth correctional facilities and four youth transitional facilities across the state of Oregon.⁵⁰ However, according to the OYA, the majority of the youth served by the OYA are housed in community settings such as residential treatment programs or their own homes where they are supervised by juvenile parole and probation officers.⁵¹ The OYA also runs its own foster care program.⁵² In these various settings, the OYA provides services “toward preventing further criminal activity.”⁵³ Programs to achieve this include education and vocational training, mental health counseling, treatment for harmful behaviors and substance use disorders, life skills training, and preparation for transition back to their respective communities. The OYA defines their approach to services as one that provides an opportunity to “develop in safe, secure, respectful and supportive environments, where we all are held accountable and are connected to our community.”⁵⁴

The OYA administers state close-custody facilities and community programs and supervision. As stated in OYA’s report, *How Oregon’s Juvenile Justice System Works*, “Oregon’s juvenile justice system is composed of a network of local and state partners. Governmental agencies providing primary direct services for youth in the juvenile justice system are county juvenile departments and the Oregon Youth Authority.”⁵⁵ The report also notes that

“Youth who are unsuccessful in meeting conditions of county probation and/or who commit very serious offenses and/or are found to be serious risk to community safety may be committed by a juvenile court to the custody of the Oregon Youth Authority (OYA). OYA, the state's juvenile corrections agency, administers state level youth close-custody facilities and community programs and supervision. All services provided by OYA are

not only adapted to the special needs that youth might have but are also able to provide oversight that youth vulnerabilities are accounted for.” *Id.* at 4.

⁵⁰ Oregon Youth Authority, “About” (accessed December 14, 2022).

<https://www.oregon.gov/oia/aboutoia/Pages/default.aspx>

⁵¹ *Id.*

⁵² *Id.*

⁵³ Oregon Youth Authority, *How Oregon’s Juvenile Justice System Works* (2020).

<https://www.oregon.gov/oia/publications/justicesystem.pdf>

⁵⁴ Oregon Youth Authority, “OYA’s Approach” (accessed December 14, 2022).

<https://www.oregon.gov/oia/aboutoia/Pages/approach.aspx>

⁵⁵ OYA, *How Oregon’s Juvenile Justice System Works* *supra* note 53.

directed toward preventing further criminal activity and provide for accountability and reformation of youth.⁵⁶

Oak Creek Youth Correctional Facility (Oak Creek) is the OYA's only secure facility that serves "primarily female-identifying youth."⁵⁷ It housed 49 residents as of April 2022.⁵⁸

Most of the youth at Oak Creek have "increasingly acute mental health issues, and [a] history of adverse childhood experiences (ACES) and social-emotional challenges."⁵⁹ Many have experienced sex trafficking and/or sexual abuse.⁶⁰ Because of significant mental health needs, Oak Creek focuses on addressing youth trauma,⁶¹ including the use of certified recovery mentors.⁶²

According to the OYA, Oak Creek has become "a system of last resort" for other institutions that lack the resources to adequately support the type of troubled youth that Oak Creek welcomes.⁶³ Many of the types of trauma youth have suffered include those that make them more susceptible to victimization.⁶⁴

Oak Creek has two dormitory-style living units, both of which are adjacent to a large outdoor courtyard. Each unit has a day room, kitchen and dining area, classroom, and shared sleeping room with twenty-five beds.⁶⁵

⁵⁶ *Id.* at 4.

⁵⁷ Oak Creek Youth Correctional Facility, Oregon Youth Authority Response to U.S. Department of Justice Panel on Prison Rape (April 22, 2022), at 1. [Hereinafter OYA Response]

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ Oregon Youth Authority, Oak Creek Youth Correctional Facility, "Services" (accessed December 14, 2022). <https://www.oregon.gov/oia/oakcreek/Pages/services.aspx> "Nearly all the youth entering Oak Creek have been victims of prior sexual, physical, or emotional abuse. Our starting assumption with all youth walking in the door is that they have suffered a plethora of adverse childhood experiences, including sexual abuse. In fact, we commonly file mandatory child abuse reports for past abuse youth disclose during their stay," stated the OYA written response to the DOJ. OYA Response, *supra* note 57, at 14.

⁶² Sarah Evans, "Peer Mentors Transform Treatment at Oak Creek," INSIDE OYA: News from Oregon's State Juvenile Justice Agency (December 15, 2020) <https://insideoya.com/2020/12/15/peer-mentors-transform-treatment-at-oak-creek>

⁶³ OYA Response, *supra* note 57, at 1.

⁶⁴ See "Sexual assault trauma: Does prior childhood maltreatment increase the risk and exacerbate the outcome? - ScienceDirect." "The current study reveals high rates of sexual victimization of girls and women, with 36 % of the sample reporting [childhood sexual abuse] at or before age 13, and 32 % reporting sexual assault at age 14 or older. CSA [childhood sexual abuse] emerged as the sole antecedent to later sexual assault, doubling the risk of adolescent or adult sexual victimization." Summary available at <https://pubmed.ncbi.nlm.nih.gov/32171127>

⁶⁵ Oregon Youth Authority, "Oak Creek Youth Correctional Facility" (accessed April 11, 2023). <https://www.oregon.gov/oia/oakcreek/Pages/livingunits.aspx>

b. Explanation for Reported High Incidence of Sexual Victimization

The OYA and/or Oak Creek attributed Oak Creek's reported high incidence of sexual victimization to the following possible factors: (1) staff ratios;⁶⁶ (2) the sexual abuse backgrounds of youth in residence;⁶⁷ and (3) the facility's physical environment.⁶⁸

According to the OYA's written response to the Panel, Oak Creek has a lower ratio of staff-to-youth than recommended by the PREA standards.⁶⁹ Whereas "most states impose by state law or regulation specific staff-to-youth ratios for their juvenile facilities, the OYA explained, "Oregon does not."⁷⁰ The written response also indicated that "[h]istorically, the average living unit size among all OYA facilities has been 25 youth."⁷¹

The facility's dormitory-style sleeping quarters were designed to keep residents within better eyesight of staff and other residents as a self-harm prevention measure. However, the OYA stated, "shared sleeping quarters do less to reduce the risk of sexual victimization and could provide more opportunities for youth-on-youth incidents."⁷²

c. Measures Taken to Reduce Sexual Victimization

Like other facilities and systems, the OYA and Oak Creek acknowledge they may have gaps in their safety structure and have stated that they are working to reduce incidents of sexual abuse.⁷³ Oak Creek has recently been working towards strengthening its education programs,⁷⁴ improving the internal accountability system,⁷⁵ "right-sizing" its

⁶⁶ OYA Response, *supra* note 57, at 2. See also Transcript of Record, Review Panel on Prison Rape Hearing, Joe O'Leary 216:4-24 (May 17, 2022).

⁶⁷ Transcript of Record, Review Panel on Prison Rape Hearing, Michael Riggan 220:8-9 (May 17, 2022)

⁶⁸ OYA Response, *supra* note 57, at 3.

⁶⁹ *Id.* at 2. (Oregon commits far more female youth per capita to secure care than Washington or California. This increases facility census and lowers the ratio of staff to youth; presumably, a lower census and higher staff/youth ratio would inhibit occurrences of sexual victimization. *Id.* at 1.)

⁷⁰ *Id.*

⁷¹ *Id.* According to the National Institute of Corrections' *Desktop Guide to Quality Practice for Working with Youth in Confinement*, "[a]lthough the overall size of facilities is very important, so too is the size of the sleeping units. Research has shown that the vast majority of violent incidents occur in dormitory settings, especially those with 11 or more residents in one large sleeping space. David Roush recommends eliminating congregate sleeping arrangements in juvenile detention facilities to reduce youth violence ..." Michele Deitch, Behavior Management, in *Desktop Guide to Quality Practice for Working with Youth in Confinement*, National Partnership for Juvenile Services and Office of Juvenile Justice and Delinquency Prevention (January 2, 2020). <https://info.nicic.gov/dtg/sites/info.nicic.gov/dtg/files/DesktopGuide.pdf>

⁷² *Id.* at 4. "This layout was chosen to specifically reduce the risk of self-harm and suicidal behavior after several incidents in 1990s in the region caused great concern," explained OYA. *Id.* at 3-4.

⁷³ *Id.* at 5.

⁷⁴ *Id.* at 5-6, 9, 13-14.

⁷⁵ *Id.* at 7.

staff-youth ratio,⁷⁶ adding staff with increased PREA-specific responsibilities,⁷⁷ and applying physical upgrades such as private quarters and an expanded camera system.⁷⁸

To move closer to PREA's staffing standards, the OYA presented budget requests to the Oregon Legislature in 2021, seeking to retain the same staffing levels while the close-custody population was declining.⁷⁹ The measure has been effective in other OYA facilities, but, according to the OYA, "so many young women are committed to Oak Creek that it hasn't been helpful there."⁸⁰ The OYA also plans to seek permission from the Oregon Legislature to propose an agency legislative concept to codify PREA ratios.⁸¹

Oak Creek plans to construct three mini-dorms by rearranging and updating the two existing living units. These changes may help further reduce the risk of sexual victimization, while not increasing the risk of suicidal behavior.⁸²

To ensure consistent reporting, Oak Creek team members regularly educate youth on the importance and process of reporting abuse. In recent years, the OYA has updated the education process to be more trauma-informed and relatable to youth, because many have experienced sexual abuse and as a result may not have clear models for healthy personal boundaries and adult relationships.⁸³ One aim of the updated education measures is to help the OYA clearly define abuse for the youth so that they are able to identify and report inappropriate behavior if or when it occurs.⁸⁴ Upon intake, all youth watch an educational video on sexual safety and receive a safety handbook that they review with staff.⁸⁵ They also complete a checklist to ensure that the youth: (1) understand what sexual abuse is; (2) know their rights while in close custody;⁸⁶ and (3) know how to report issues that may arise.⁸⁷

Reporting procedures are reviewed with youth twice at Oak Creek – at intake and, in contrast with PREA's Juvenile standards, within 30 days of entry.⁸⁸ The youth also receive

⁷⁶ Transcript of Record, Review Panel on Prison Rape Hearing, Joe O'Leary 216:4-12, 17-21 (May 17, 2022).

⁷⁷ OYA Response, *supra* note 57, at 8-9.

⁷⁸ *Id.* at 8.

⁷⁹ *Id.* at 3. (Close Custody Unit is an area inside a correctional facility where inmates go if they have been removed from the general population for administrative or disciplinary reasons.)

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.* at 4.

⁸³ *Id.* at 6.

⁸⁴ *Id.*

⁸⁵ *Id.* at 5.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.* at 6. Note that under PREA's Juvenile Standards, specifically, § 115.333 Resident education,

follow-up training at least twice a year which covers the importance of reporting abuse and how to report it confidentially.⁸⁹ The facility is also updating compliance-focused sexual safety educational materials with accessible and easy-to-understand information.⁹⁰

If there is an incident of sexual abuse, youth can make confidential reports to living unit staff, mental health workers, or medical personnel, or may even call a dedicated phone line.⁹¹ All OYA employees are mandatory reporters.⁹²

To help reduce the prevalence of youth sexual victimization, the OYA has been replacing older analog cameras with digital cameras in actively used youth-occupied areas to increase the quality of the video.⁹³ It also added cameras to the newly constructed enrichment center and in other areas that were identified as needing more coverage.⁹⁴ By 2021, there were 128 high-quality Pelco or Bosch IP professional-grade digital security cameras in use at Oak Creek.⁹⁵

To improve oversight and management of youth, Oak Creek added two Lead Worker positions to the swing shift.⁹⁶ In addition to their other duties, they serve as points of contact for PREA-related questions and the reporting of incidents. The facility also hired a dedicated Transport/Youth Intake staff member to meet with youth at intake and ensure that everyone: (1) receives all of the PREA-related materials and the safety guide; (2) understands how to report sexual abuse incidents; and (3) has the time to ask questions and share concerns.⁹⁷ Additionally, Oak Creek hired an Operations and Policy Analyst,

“(a) During the intake process, residents shall receive information explaining, in an age-appropriate fashion, the agency’s zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.

(b) Within 10 days of intake, the agency shall provide comprehensive age-appropriate education to residents either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents.”

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² Under Oregon state law, “Any public or private official having reasonable cause to believe that any child with whom the official comes in contact has suffered abuse or that any person with whom the official comes in contact has abused a child....” is a mandatory reporter. OR. REV. STAT. § 419B.010 (West 2013). Forms of abuse include but are not limited to rape of a child, sexual abuse, or sexual exploitation. Reports must be made to the local office of the Department of Human Services, the designee of the department or to a law enforcement agency within the county where the person making the report is located at the time of contact. OR. REV. STAT. § 419B.015 (West 2013).

⁹³ OYA Response, *supra* note 57, at 8.

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.* at 9.

⁹⁷ *Id.*

who also serves as the Sexual Abuse Response and Resource Coordinator (SARRC) and attends regular unit staff meetings to cover PREA agenda items.⁹⁸

Oak Creek also sought to improve its mandatory staff training for all employees. All staff members participated in LGBTQ+ training, as well as learned how to best support youth who have experienced sex trafficking and other forms of sexual exploitation.⁹⁹ Oak Creek added an additional orientation class for all new employees on specific ethics and boundaries when working with the youth population.¹⁰⁰ The facility is also requesting additional Qualified Mental Health Professionals (QMHPs) “for the next budget cycle as youth mental health needs continue to rise.”¹⁰¹ More QMHPs will supplement those who already attend all unit staff meetings and provide support and education on topics such as Trauma Informed Care.¹⁰²

3. Idaho – Juvenile Corrections Center – St. Anthony

a. Description of the Facility

The Idaho Department of Juvenile Corrections (IDJC) operates three state juvenile corrections centers: JCC–Lewiston, JCC–Nampa, and JCC–St. Anthony.¹⁰³ Each facility provides medical, educational, cognitive behavioral, residential rehabilitative services, and specialized programs for residents who include adjudicated sex offenders, female offenders, juveniles with mental health needs, juveniles with serious chemical dependency needs, and serious offenders.¹⁰⁴ The IDJC uses a system of performance-based standards (PbS) to assess key areas of institutional operation including safety, order, security, health, behavioral health, and reintegration.¹⁰⁵ Regarding PREA, the IDJC states it “has a zero-tolerance policy relating to staff sexual misconduct, juvenile sexual abuse, sexual harassment, and consensual juvenile sexual misconduct” and that “it is the policy of the IDJC to fully investigate and aggressively prosecute those who are involved in such conduct, if it is determined a crime was committed.”¹⁰⁶

⁹⁸ *Id.*

⁹⁹ *Id.* “Oak Creek’s staff is diverse and includes LGBTQ+ identified individuals. Nearly one third of the staff are people of color and half are women. Oak Creek has developed a culture where youth are able to find staff members they trust that reflect their life experiences and best meet their needs.” *Id.* at 16.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ Idaho Department of Juvenile Corrections, “State Facilities” (accessed December 14, 2022). <http://www.idjc.idaho.gov/facility-operations/state-facilities>

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ Idaho Department of Juvenile Corrections, “Prison Rape Elimination Act” (accessed December 14, 2022). <http://www.idjc.idaho.gov/about/prison-rape-elimination-act-prea/>

The Juvenile Corrections Center – St. Anthony (JCC–St. Anthony) houses male and female juveniles who have not been able to assimilate into other locations in less secure community-based programs and facilities.¹⁰⁷ It provides a highly structured, staff-secure program using a positive peer model for custody and treatment. The facility currently houses 78 youth and employs a staff of 143. St. Anthony boasts an active outdoor program, career technical educational program, and a ropes course for team-building exercises.¹⁰⁸ The campus currently has five distinct living units which staff refer to as “cottages” – Targhee, Bitterroot, Yellowstone, Centennial, and Owyhee.¹⁰⁹ Centennial is the female living unit and Owyhee also includes the Admissions office. Currently, three of the units are “open bay” dorm environments in which residents share space including group showers. Residents in the other two units have their own individual cells.¹¹⁰

b. Explanation for Reported High Incidence of Sexual Victimization

According to Monty Prow, director of the IDJC, the rates of resident sexual harassment and sexual abuse incidents reported in 2018, 2019, and 2020 were lower than the number of reports received in the previous three years.¹¹¹ For example, the number of incidents recorded in 2017 was thirty-three, compared to fifteen in 2019.¹¹²

Director Prow told the Panel that the reported number overstates the reality as many of the incidents were ultimately not found to be PREA violations.¹¹³ Prow noted that the staff are advised not to take on the responsibility of making those determinations but rather to report every incident.¹¹⁴ He remarked that “[a] key factor in any successful reporting culture is that the residents and staff feel comfortable making a report. In PREA training, staff are informed that PREA “casts a wide net” in terms of what must be reported.”¹¹⁵

Director Prow explained the work of the PREA Coordinator and the PREA Compliance Manager to meet the requirements of Juvenile Standard § 115.386(d)(1)-(5) when investigating an incident report prior to drafting a summary and recommended finding.

¹⁰⁷ Idaho Department of Juvenile Corrections, “JCC-St. Anthony” (Accessed Sep. 1, 2022), see Facility overview. <http://www.idjc.idaho.gov/facility-operations/state-facilities/jcc-st-anthony/>

¹⁰⁸ Transcript of Record, Review Panel on Prison Rape Hearing, Monty Prow, 127:15-24 (May 17, 2022).

¹⁰⁹ Monty Prow Written Testimony to Review Panel on Prison Rape, (April 21, 2022), at 7. A sixth cottage, “Caribou,” was closed due to a reduction in population. *Id.* at 8.

¹¹⁰ *Id.* at 6.

¹¹¹ *Id.* at 2.

¹¹² *Id.*

¹¹³ *Id.* at 5-6. When residents enter the facility, they are advised that all unwanted touching is sexual abuse, without specific education on PREA standards. Director Prow thinks “it is possible that during the National Survey of Youth in Custody, 2018, the residents indicated that they had been sexually abused due to types of contact that they believed was sexual abuse when it was in fact not sexual abuse.” Regardless, the IDJC investigates every incident that occurs. *Id.*

¹¹⁴ *Id.* at 5.

¹¹⁵ *Id.* at 2.

This draft then goes to the Deputy Attorney General (DAG) for review and approval.¹¹⁶ He also stated that “[i]n the end, between the PREA Coordinator and the Deputy Attorney General reviewing the investigative information, very little of what is reported actually meets the definition of a PREA incident, and even fewer yet are substantiated.”¹¹⁷ For example, in 2020, only one out of fourteen reported incidents at JCC–St. Anthony was substantiated later.¹¹⁸

According to Prow, the entire reporting and investigating process may take three to seven days if conducted by the PREA Compliance Manager but may take months if the report indicates that the stated conduct may be criminal and law enforcement becomes involved.¹¹⁹ Despite delays in criminal investigations, Prow says the IDJC promptly enacts safety measures to prevent any ongoing opportunities for sexual abuse.¹²⁰

One problem that Prow acknowledged having was adequate staffing. He noted that hiring quality staff and retaining them has been a challenge for JCC–St. Anthony and the IDJC.

“Idaho has not been immune from... the staffing shortages that we are seeing across the country,” he told the Panel.¹²¹ Additionally, JCC–St. Anthony has had a problem retaining staff due to retirements and for medical reasons.¹²²

c. Measures Taken to Reduce Incidents of Sexual Victimization

Reducing incidents of sexual victimization requires maintaining a qualified staff. To combat hiring and retention issues, the IDJC has been working with the governor of Idaho to raise salaries and offer retention bonuses to staff. Prow said that this has led to higher wages in both of immediate direct care staff, as well as case managers.¹²³ They have also employed “ImPACT testing,” which helps assess potential hires’ understanding of therapeutic procedures and maintaining boundaries.¹²⁴

As part of the efforts to increase safety, JCC–St. Anthony applied physical upgrades, improved staff-to-youth ratios, and made changes to its oversight process in 2018. They

¹¹⁶ *Id.* at 5. “The DAG who works with IDJC is not an IDJC employee. The DAG works for the Idaho Attorney General’s office. This makes the review process even better in that a third party reviews all incidents. We are proud of this element of our process,” said Director Prow. *Id.*

¹¹⁷ *Id.* at 2.

¹¹⁸ *Id.* at 2-4.

¹¹⁹ *Id.* at 5.

¹²⁰ *Id.*

¹²¹ May 17 Tr. M. Prow, 132:10-12.

¹²² *Id.* at 133: 5-7.

¹²³ *Id.* at 133: 15-24.

¹²⁴ *Id.* at 135: 11-21.

also employ a “group of threes,” which means a youth is never just with one other youth or staff, but a third person must also be present.¹²⁵

JCC-St. Anthony is constructing new cottages and moving residents from the open bay dormitory-style housing and group showers to individual rooms and private shower stalls which may reduce opportunities for sexual victimization.¹²⁶ They have also applied upgrades to the existing cottages.¹²⁷

To eliminate blind spots, cameras have been added and upgraded throughout the facility, both inside and outside. The facility also added cameras to the transportation bus and laundry van. The overnight staff now has a video monitor to see better into both dorms in Bitterroot cottage during sleeping hours and unit managers are able to review the cottage videos as needed.¹²⁸

For better oversight and management, JCC–St. Anthony closed Caribou Cottage as the youth population decreased and redistributed direct care staff positions to improve the staff-to-youth ratio.¹²⁹ The facility changed education schedules and reached full compliance with the 1:8 daytime staff-to-youth ratio,¹³⁰ which meets PREA standards).¹³¹

JCC–St. Anthony also developed a risk screener specific to each resident’s sexual safety. The Risk of Sexual Victimization/Perpetration (RSVP) screener is administered to every resident within seventy-two hours of entering the facility.¹³² The screener scores residents as potentially vulnerable to sexual abuse based on criteria such as a history of diagnosed mental health conditions, disabilities, gender nonconforming appearance/behavior, ethnic minority status, small physical stature, age, or being the victim of sexual abuse.¹³³ At the same time, the screener scores residents as having a propensity towards being sexually abusive based on criteria such as a history/pattern of aggression, violence, or boundary

¹²⁵ Transcript of Record: Review Panel on Prison Rape, Joe Blume, 168:7-11 (May 17, 2022)

¹²⁶ M. Prow Written Testimony at 6.

¹²⁷ The upgrades included (1) adding removable privacy magnets to some of the windows so that when juveniles are changing clothes the magnet can cover the window; (2) unstacking the bunk beds and increased the space between beds in Bitterroot Cottage to allow better supervision; (3) adding convex mirrors by the restroom in all cottages (meaning the staff cannot see specific residents who are using the restroom but can see that there is a person inside); (4) installing wood in Yellowstone Cottage bathroom stalls so that juveniles could not place their arms or fingers through the gaps between the stall and the wall; and (5) removing barriers to supervision in the large restroom of the same building. *Id.* at 7.

¹²⁸ *Id.* JCC–St. Anthony also implemented changes in classrooms, including switching to smaller/individual desks so that staff could see juveniles’ hands during school hours and modifying “stand-up” desks to remove a barrier to supervision. *Id.* at 6-7.

¹²⁹ *Id.* at 8.

¹³⁰ *Id.*

¹³¹ PREA Standards, § 115.13 Supervision and monitoring, Juvenile Facilities, (accessed Sep. 1, 2022). <https://www.prearesourcecenter.org/standard/115-13>

¹³² M. Prow Written Testimony at 10.

¹³³ *Id.* at 10.

issues; difficulties forming appropriate peer relationships; having been arrested or charged with a sex offence; or other factors that might suggest the youth presents a risk.¹³⁴ The IDJC makes placement and housing decisions based on the information that is gathered.¹³⁵

B. Low Incidence Facilities

1. Texas – Garza County Regional Juvenile Center

a. Description of Facility

The Texas Juvenile Justice Department (TJJD) operates five secure facilities and five halfway houses.¹³⁶ They also contract with seven private sector organizations to provide services including secure institutional care.¹³⁷ One of these private entities is the Garza County Regional Juvenile Center (Garza), which is operated by Cornerstone Programs.¹³⁸ As Terri Dollar, the TJJD’s director of monitoring and Inspections explained, part of the TJJD’s work is to ensure that youth are safe and in PREA-compliant environments “when their care is entrusted to a contract provider.”¹³⁹

Garza is a secure facility that provides services for male and female youth, including programs for Sex Offender Treatment, Substance Abuse Treatment, and Post-Adjudicated Residential Treatment.¹⁴⁰ It also provides detention services for all probation regions in the state of Texas and Post-Adjudicated Treatment for the TJJD and the Federal Bureau of Prisons (BOP).¹⁴¹ The facility has ninety-six beds and uses seven

¹³⁴ *Id.* at 11.

¹³⁵ *Id.* All IDJC residents undergo screening every six months into placement or following any significant change to the scoring criteria, such as if a resident does not self-identify as LGBTQ+ during the initial screening but discloses it at any later date in treatment. Clinical-level staff administers all screenings to ensure that any immediate needs are addressed on the spot. This information is then shared with treatment staff initially and throughout treatment. *Id.*

¹³⁶ Texas Juvenile Justice Department, “Central Office, District Offices, Institutions, and Halfway Houses” (accessed March 16, 2023). <https://www.tjjd.texas.gov/index.php/facilities2>

¹³⁷ Texas Juvenile Justice Department, “State Services” (accessed February 7, 2023). <https://www.tjjd.texas.gov/index.php/state-services#residential-contract-care> “In an effort to deliver a diverse array of individualized services, TJJD contracts with 7 private sector providers. The programs range from organized family care, foster group-living services, vocational trade services, secure institutional care, and gender-specific residential services.”

¹³⁸ Cornerstone Programs, “Garza County Regional Juvenile Center,” (accessed February 7, 2023) <https://cornerstoneprograms.com/texas>

¹³⁹ Terri Dollar, Written Testimony to the Review Panel on Prison Rape, (May 18, 2022), at 1. Ms. Dollar further stated that “all new and renewed contracts for residential placement of the youth includes a clause requiring the contractor to adopt and comply with PREA standards. The department monitors Garza annually for compliance with its contract to include a review of the programs policy and procedures to ensure that the program has developed written policy mandating zero tolerance towards all forms of sexual abuse and sexual harassment ...” Transcript of Record, Review Panel on Prison Rape Hearing, Terri Dollar, 299:1-11 (May 18, 2022).

¹⁴⁰ Cornerstone Programs, “Garza County Regional Juvenile Center” *supra note* 138.

¹⁴¹ *Id.*

dorms to house juveniles.¹⁴² All rooms are single-occupancy.¹⁴³ Although the capacity is 96 beds, the facility currently utilizes no more than 60 because it allows for better supervision and a higher staff-to-youth ratio.¹⁴⁴

b. Explanation for Reported Low Incidence of Sexual Victimization

Garza attributed its low incidence of sexual victimization to the following six factors: (1) staff education; (2) youth education; (3) partnership with the TJJD; (4) standard protocols; (5) open communication; and (6) reduced population.¹⁴⁵

Regarding education, according to Michael Breedlove, facility director and PREA Coordinator for Garza, the facility has a comprehensive staff education program, which begins at staff orientation and finishes before staff has sole supervision over youth.¹⁴⁶ Staff members also go through a PREA educational program on an annual basis which focuses on creating and maintaining zero tolerance toward sexual abuse.¹⁴⁷

In addition to the partnership with the TJJD, at the PREA hearing, Director Breedlove maintained that Garza had the benefit of a broader range of oversight as a result of its diverse client base. He explained that:

[W]e contract with the state to house youth that would normally be sent to state institutions. But we also partner with 80-plus of the 250-plus counties in the State of Texas to house both detention youth and post-adjudicated youth.

And finally, we have a contract with the Federal Bureau of Prisons to house their juvenile offenders. So, we have a mixed bag, so to speak. And what PREA allows us to do is obviously, you know, hold accountable across the board.¹⁴⁸

Garza informs all youth about their reporting rights upon intake and provides additional PREA education within 48 hours after admission.¹⁴⁹ Periodically, the facility reviews its Zero Tolerance Policy with the youth, reminding them about their rights to report, whether through confidential reports, verbally to staff, the grievance system, or any other way.¹⁵⁰ Youth at Garza can also use the TJJD hotline to call the Incident Reporting Center (IRC),

¹⁴² Michael Breedlove Written Testimony to the Review Panel on Prison Rape, (April 20, 2022), at 1.

¹⁴³ *Id.* at 1.

¹⁴⁴ *Id.* at 3.

¹⁴⁵ *Id.* at 2-3.

¹⁴⁶ *Id.* at 2.

¹⁴⁷ *Id.*

¹⁴⁸ Transcript of Record, Review Panel on Prison Rape Hearing, Michael Breedlove, 295:18-25, 296:1-6 (May 18, 2022).

¹⁴⁹ M. Breedlove Written Testimony at 2.

¹⁵⁰ *Id.* at 2-3.

and the IRC will open a case as soon as the report has been made.¹⁵¹ Garza encourages everyone, including youth, staff, contractors, volunteers, and parents, to report any allegation of sexual abuse they experience, witness, or otherwise come to know of.¹⁵²

According to Director Breedlove, some of Garza's protocols also reduce the prevalence of sexual abuse. For example, youth are never unattended; when they are in their rooms, the doors are secured; during shower times, only those showering are allowed to be out; and staff of the opposite gender announce their presence when entering the dorm.¹⁵³

Using fewer beds [than the facility can hold] allows for the youth to feel safer and allows staff to monitor for inappropriate sexual behaviors more effectively, Breedlove explained. "I think any time you have the opportunity to manage a smaller group of offenders, you get better outcomes."¹⁵⁴

Terri Dollar pointed to the value of having a committed PREA coordinator who "works diligently to provide our staff and contract care providers with PREA knowledge and guidance, by providing in-depth, critical monitoring, with invaluable technical assistance and training."¹⁵⁵ Ms. Dollar also expressed the value of having "the right provider."¹⁵⁶ "The contracting entity must be straightforward and transparent about its expectations of a contract facility regarding PREA compliance as well as all other requirements," she said.¹⁵⁷

Regarding oversight, Cornerstone Programs' policy on Sexual Abuse Prevention, Detention and Reporting states that Cornerstone has:

zero tolerance in accordance with the Prison Rape Elimination Act (PREA) towards all forms of sexual abuse and sexual harassment of residents by staff, interns, contractors, service providers or other residents. Any person(s) who witness or learn of an incident of sexual abuse or sexual harassment, through an oral or written statement is obliged to report the alleged incident to his/her supervisor, the respective placing agency in facility jurisdiction, and local law enforcement.¹⁵⁸

¹⁵¹ *Id.* at 3.

¹⁵² *Id.* "We get kids that are broken to come into our programs. And the last thing we want to do is send them back into their communities broken any further. We want to really make sure that they're where we put them in a position to be able to go back in and transition to become productive members of the society," said Breedlove. May 18 Tr., M. Breedlove, 313:18-25.

¹⁵³ *Id.* at 3.

¹⁵⁴ May 18 Tr. M. Breedlove at 359:3-5.

¹⁵⁵ T. Dollar Written Testimony at 3.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ Garza County Regional Juvenile Center, Policy Number 03-041.

This policy includes sections on “Detection and Prevention of sexual abuse, sexual harassment and retaliation,” “Reporting of sexual abuse, sexual harassment and retaliation,” “Employee Corrective Action and Sanctions,” “Contractors, Volunteers, and Interns Corrective Action,” “Resident Corrective Action,” “Data Collection, Review and Storage.”¹⁵⁹ Among the oversight provisions, the policy states that

[t]o ensure compliance with PREA standards Cornerstone Programs will designate an upper level, [company-wide] PREA coordinator. Cornerstone Programs will ensure that this designee will have sufficient time and authority to develop, implement, and oversee company efforts to comply with the PREA standards.¹⁶⁰

The policy also indicates that Cornerstone “will designate a PREA compliance manager at each of its facilities it operates with sufficient time and authority to coordinate the facility’s efforts to comply with the PREA standards.”¹⁶¹

Supervisory rounds, including unannounced weekly supervisory rounds by “upper level facility management staff”¹⁶² “during non-traditional work hours to identify and deter staff from sexual abuse and sexual harassment”¹⁶³ are an important element of oversight at Garza. Additionally, “[a]t a minimum of once per month, random facility evaluation rounds will be conducted by the PREA manager to assess the facility’s vulnerable areas and practices ...”¹⁶⁴

The Garza facility also undergoes additional oversight from the BOP as well as the different county probation agencies that place youth in their custody.¹⁶⁵

2. Missouri – W.E. Sears Youth Center

a. Description of Facility

As one of seven divisions under the Missouri Department of Social Services (DSS), the Missouri Division of Youth Services (DYS) is responsible for the care and treatment of all

¹⁵⁹ *Id.*

¹⁶⁰ *Id.* at Procedure, A (3).

¹⁶¹ *Id.* at Procedure, A (4).

¹⁶² *Id.* at Procedure, A (6).

¹⁶³ *Id.*

¹⁶⁴ *Id.* at Procedure, A (10). This evaluation includes:

- a. a random review of video footage from the facility’s video monitoring system (if applicable to the facility);
- b. surveying a sample of residents in the facility to assess their feelings of safety in regards to sexual abuse and sexual harassment; and
- c. interviewing a sample of residents and Youth Workers to assess their confidence in current prevention and detection practices.” *Id.*

¹⁶⁵ May 18 Tr., M. Breedlove, 311:12-16.

youth who are committed to its custody by the state’s forty-six juvenile courts.¹⁶⁶ The DYS operates twenty-one residential facilities and six Day Treatment Programs,¹⁶⁷ divided into five geographic regions: Northeast, Northwest, St. Louis, Southeast and Southwest.¹⁶⁸ According to the DYS, they offer “treatment services through different types of residential care facilities” and the type of facility a youth is placed at depends on individual needs. Each residential program provides various services including individualized and group treatment, education and life skills training, community service, family engagement opportunities, and family treatment.¹⁶⁹

W.E. Sears Youth Center (Sears) is a sixty-bed moderate secure facility that houses male youth between ages twelve and nineteen, both committed to the DYS by the juvenile courts and those convicted and sentenced through Missouri’s Dual Jurisdiction process.¹⁷⁰

Sears houses five individual groups of youth, with ten to twelve youth per group housed in three dormitories.¹⁷¹ Sears employs Outdoor Rehabilitation Counselors to provide problem-solving, teamwork, and confidence-building activities for the youth.¹⁷²

b. Explanation for Reported Low Incidence of Sexual Victimization

According to Scott Odum, the DYS director, Sears’ low incidence of sexual victimization is based on the following three factors: (1) open communication; (2) employee engagement; and (3) staff training. Director Odum said that a distinctive feature of the DYS programming is building group cohesion through a culture of open communication.¹⁷³

To protect youth from being sexually victimized, Director Odum explained,

[W]e address the issue systemically by creating a physically and emotionally safe environment that protects our youth from all forms of harm (emotional, verbal, sexual, physical, etc.). Safety and security are enhanced

¹⁶⁶ Missouri Department of Social Services, Division of Youth Services, “Home” (accessed December 14, 2022). <https://dss.mo.gov/dys/>

¹⁶⁷ Scott Odum, Written Testimony to the Review Panel on Prison Rape (May 12, 2022), at 2.

¹⁶⁸ Missouri Department of Social Services, Division of Youth Services, “About DYS” (accessed December 14, 2022). <https://dss.mo.gov/dys/about-dys.htm>

¹⁶⁹ Missouri Department of Social Services, Division of Youth Services, “Residential Treatment” (accessed December 14, 2022). <https://dss.mo.gov/dys/residential-treatment.htm>

¹⁷⁰ S. Odum Written Testimony at 2.

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ *Id.* “Each group within the facility has 10-12 youth who do everything together – daily chores, school, activities, and group sessions. When a conflict or concern arises, a group circle is called by the youth or staff on duty. Everyone stops what they are doing to share observations, feelings, discuss alternatives, and help each other achieve their goals,” Odum wrote.

by creating a humane “culture of care.” When youth are brought into an environment that is humane and structured, there is less likely to be abuse.¹⁷⁴

Families and community groups are involved with the program, which contributes to maintaining openness and transparency.¹⁷⁵ At DYS facilities, youth have multiple options for reporting abuse, from filing a complaint to speaking anonymously with a staff member.¹⁷⁶ Unlike the other facilities visited by the Panel, Sears has no cameras and no plans to add cameras.

On the first day of employment, employees sign the DYS Fundamental Practices, which include non-negotiable, bottom-line expectations with which they must adhere to work for the agency. For example, employees are informed that they should “see, hear, know and account for youth at all times by being present and actively engaged.” Employees must also “ensure healthy boundaries between and among youth and staff.”¹⁷⁷ Staff are provided Professional Boundary training within their first three months of employment, followed by a more advanced session within three to twelve months.¹⁷⁸

Sears maintains a 1:6 staff-to-youth ratio during waking hours and a 1:10 ratio during overnight hours.¹⁷⁹ A minimum of two direct care staff are with each youth group during waking hours and one direct care employee is with each youth group during the overnight shift, along with one rover to assist as needed. Management reviews staff schedules and conducts periodic onsite checks to ensure staffing levels are within the required levels.¹⁸⁰ DYS employees are required to utilize Awareness Supervision,¹⁸¹ which means they must be present and engaged with youth, know their whereabouts, and be capable of making a swift, appropriate response to any situation.

For better oversight and management, Sears staff goes through extensive training through the “Missouri DYS Safety Building Blocks.”¹⁸² The Safety Building Blocks focus on five areas: (1) basic expectations which covers how staff and youth are expected to treat each other; (2) basic needs – the program and services should meet or help the youth meet their basic needs in healthy ways. The program teaches them self-care and helps them build self-esteem and develop relationship skills. It also strengthens their

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ *Id.* at 3.

¹⁷⁷ *Id.*

¹⁷⁸ *Id.* at 4.

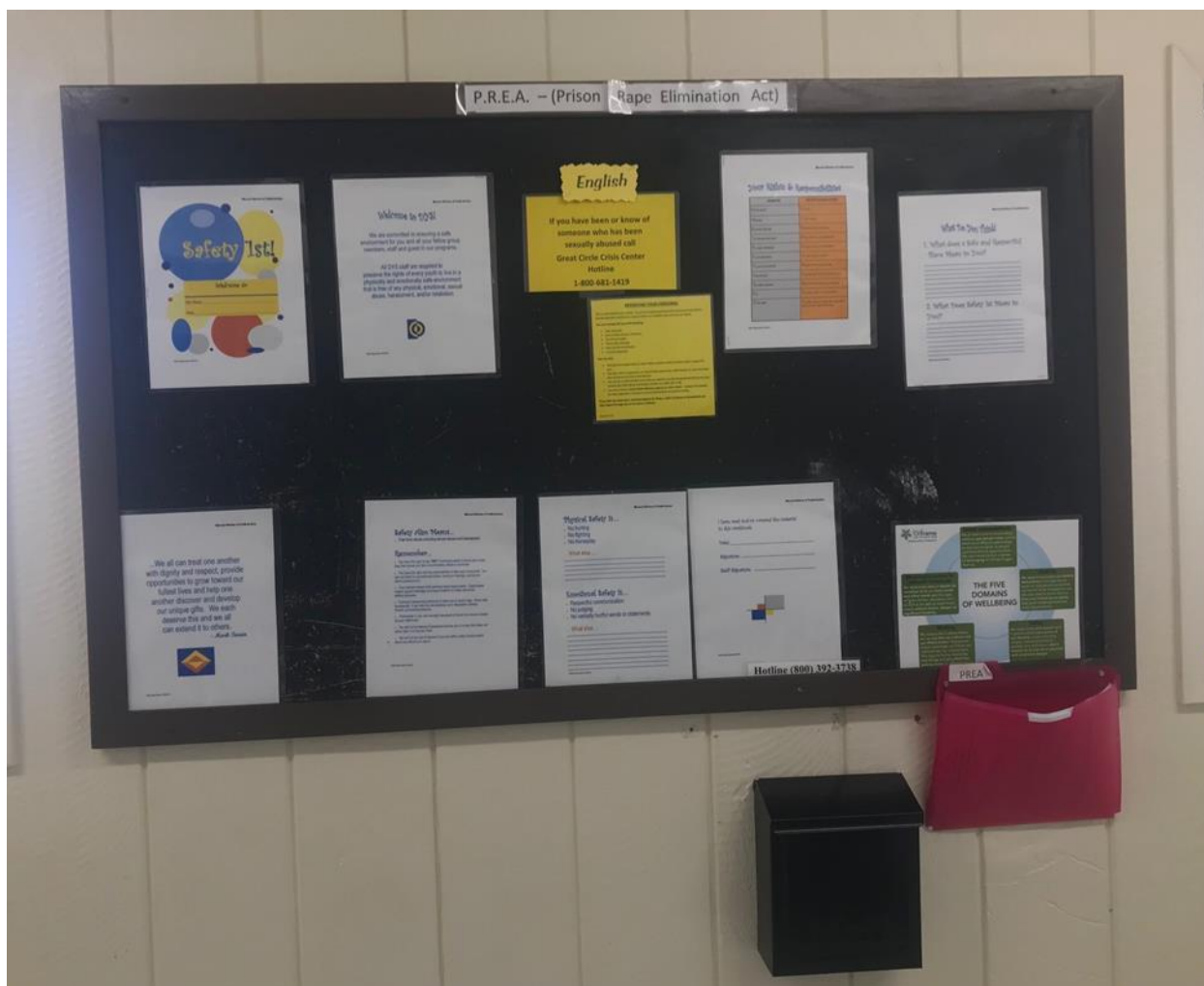
¹⁷⁹ *Id.* at 6.

¹⁸⁰ *Id.* at 3.

¹⁸¹ *Id.*

¹⁸² *Id.* “These provide a foundation and key components of emotional and physical safety; and, when in place, prevents and reduces all forms of abusive behaviors and allows youth to grow and make the changes necessary to become law-abiding and productive citizens,” explained Odum. *Id.*

ability to navigate and deal with potential detrimental situations; (3) engaged supervision in which staff are expected to be actively engaged and involved in all group activities; (4) clear boundaries and communication which include areas such as staff roles, ethical conduct, adolescent development and boundaries, indicators and “slippery slopes,” and team responsibility; and (5) unconditional positive regard -- youth that enter the facility are held accountable, but not judged or abused and the staff is expected to operate out of “unconditional positive regard.”¹⁸³



W. E. Sears Youth Center, Missouri (Discussed under Low Incidence Facilities at pp..23-26)

IV. Reasons for Reported High and Low Incidence Levels

Sexual abuse at juvenile facilities is a substantial problem that continues to challenge

¹⁸³ *Id.* at 4.

officials and those charged with enforcing PREA's zero-tolerance policy. There is good news, according to the 2018 BJS data, which found that the overall rate of sexual victimization reported by youth declined from 9.5% in 2012 to 7.1% in 2018.¹⁸⁴ However, any sexual abuse of youth in confinement is concerning. The number of reports increased from 1,300 in 2013 to 2,467 in 2018. This may not be surprising as with the availability and encouragement to report abuse, youth may be more likely to do so. PREA reporting may also be used as a method to get other needs met or to "test the system" at the facility level. Out of those 2,467 reports in 2018, only 7% of those made against a staff member were substantiated, while 22% of those against another youth were substantiated.

What are the persistent challenges that juvenile facilities continue to face in their efforts to comply with PREA? Through its investigation and hearings, the Panel identified common sources and practices that may contribute to a high incidence of sexual abuse in some facilities, but we also found that reported "high" and "low" facilities did not tend to reflect what might be expected. The high incidence facilities the Panel examined appeared to have solid leadership, appropriate policies, order and cleanliness, positive youth reports of care, and a general sense of safety and structure. They did not "fit the mold" of a disordered, chaotic, or unsafe facility.¹⁸⁵ The low incidence facilities appeared to be largely similar. Are facility assessments (all five facilities the Panel examined had current passing audits) accurately representing which facilities are safe and unsafe? Or is that safety more likely in the details? These details may include: inadequate staffing leading to less supervision and more opportunities for sexual misconduct;¹⁸⁶ gaps in staff training on issues including boundaries between youth and staff;¹⁸⁷ insufficient funding to retain professional staff members who have adapted to the special needs of today's youth;¹⁸⁸ lack of clear and comprehensive sexual abuse training for youth to make sure

¹⁸⁴ See *BJS 2018 Juvenile Facilities Report*, *supra* note 2, at 1.

¹⁸⁵ A 2020 news article did raise concerns about the full disclosure of litigation regarding resident sexual abuse by one of the high incidence facilities included in this report (See Aimee Green, "\$500,000 Lawsuit Says Oregon Youth Authority Employee was Fired After Reporting Co-Workers Sexually Victimized Incarcerated Youth," OREGON LIVE (October 1, 2020). <https://www.oregonlive.com/news/2020/10/500000-lawsuit-alleges-employee-was-fired-after-reporting-co-workers-sexually-abusing-incarcerated-youth.html>) This article indicated that the complainant, Montoya, stated that "from 2016 to 2019, he reported one staff member who was writing love notes to a youth and three other staff members who had sexual contact with youth at Oak Creek Youth Correctional Facility, which is run by the Oregon Youth Authority." *Id.* However, in spite of this complaint (*Montoya v. Oregon Youth Authority (OYA)*, 20CV33237 (Cir. Ct. of Marian Cty., filed 10/30/2020), in response to Question 24 ("For any litigation, whether pending or closed, against the facility involving resident sexual abuse alleged to have occurred in calendar years 2018, 2019 and 2020, please provide [information regarding the complaint, including the complaint itself]"), OYA, via its agent Oak Creek Youth Correctional Facility Superintendent Mike Riggan, answered "None." (U.S. DOJ Review Panel Request, Oak Creek, p. 830.)

¹⁸⁶ OYA Response, *supra* note 57, at 2.

¹⁸⁷ G. Tucker Written Testimony at 2.

¹⁸⁸ *Id.* at 2.

they can detect and properly report incidents;¹⁸⁹ lack of common sense policies on supervision of youth by staff; lack of cameras and other surveillance technology; inadequate oversight and quality assurance; and previous traumatic experiences and serious mental health issues that may lead to youth not abiding by appropriate boundaries.¹⁹⁰ Moreover, some facilities have inadequate physical environments that may contribute to sexual misconduct. For example, dormitory-style sleeping quarters might reduce the risk of self-harm but might also provide opportunities for sexual victimization.¹⁹¹

As is evident from the facility descriptions of what these five selected facilities have done to improve sexual safety, “follow the PREA standards” is the overarching theme. They all report the efforts they make to ensure proper staffing ratios are maintained, ensure cross gender announcements when staff enters certain areas occupied by youth of the opposite sex, train staff, orient and train youth, ensure reporting mechanisms are present, investigate allegations, etc. But are these enough? Do we need to think more creatively about the standards themselves, how we operationalize them, and what areas beyond PREA should be considered by facilities to ensure youth safety?¹⁹²

In recent years, the Panel has observed the number of youth incarcerated in juvenile correctional facilities significantly decline.¹⁹³ These facilities are now largely occupied by youth who often have tragic backgrounds including past abuse and neglect, post-traumatic stress disorder, substance abuse issues, poor education, and in some cases,

¹⁸⁹ M. Prow Written Testimony at 6.

¹⁹⁰ G. Tucker Written Testimony at 2.

¹⁹¹ OYA Response, *supra* note 57, at 3.

¹⁹² In her written testimony to the Senate, Professor Brenda Smith stated that “we know that while the PREA standards outline a successful approach to creating sexually safe institutions, staff and agencies too often do not follow them because they believe: (1) the standards are nitpicking and not consistent with their lived experience of people in custody or correctional settings; (2) that women in custody who complain about sexual abuse are trying to “game” the system; (3) it would be too expensive or take too much time to follow the standards; (4) the standards are there but you don’t really have to pay attention until there is an audit; and (5) auditors will not question practice or the sufficiency of a facility’s compliance with the standards as long as apparently compliant policies are in place.” Professor Brenda Smith, Testimony for the United States Senate Subcommittee on Investigations, United States Senate Committee on Homeland Security and Government Affairs, pp. 3-4 (Dec. 13, 2022).

<https://www.hsgac.senate.gov/subcommittees/investigations/hearings/sexual-abuse-of-female-inmates-in-federal-prisons/>

¹⁹³ See U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, *Highlights From the 2020 Juvenile Residential Facility Census* (2020).

https://www.ojjdp.gov/ojstatbb/snapshots/DataSnapshot_JRFC2020.pdf See also The Annie E. Casey Foundation, *Youth Incarceration in the United States* (2021) p. 1.

<https://assets.aecf.org/m/resourcedoc/aecf-youthincarcerationinfographic-2021.pdf> (“Public agencies have made enormous progress reducing youth incarceration between 1995 and 2019, reflecting the deep declines in juvenile arrests over the same period.”).

are victims of sexual trafficking or molestation.¹⁹⁴ In sum, they have often not only witnessed abuse and neglect, but have suffered it, and they bring a great deal of anger, poor impulse control, and challenging behaviors related to mental health to a staff population that may not have had adequate preparation to work with them.¹⁹⁵

For staff, this can lead to frustration or an unclear vision of their role and how to improve the lives of each of the young people in their care. Though certainly not the only reason for staffing shortages, the environment today may be one reason staff are choosing other careers. This leads to a discussion of the Panel's observations and recommendations and begins with staffing.

V. Observations and Recommendations

A. Improve Staffing

The most profound challenges juvenile justice agencies and facilities face relates to

¹⁹⁴ See U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, "Literature Review, Examining the Relationship Between Childhood Trauma and Involvement in the Justice System, A Product of the Model Programs Guide" (2017) (pp. 2-3). https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/intsection_between_mental_health_and_the_juvenile_justice_system.pdf ("Multiple studies confirm that a large proportion of youths in the juvenile justice system have a diagnosable mental health disorder. Studies have suggested that about two thirds of youth in detention or correctional settings have at least one diagnosable mental health problem, compared with an estimated 9 to 22 percent of the general youth population. The 2014 National Survey on Drug Use and Health found that 11.4 percent of adolescents aged eleven to seventeen had a major depressive episode in the past year, although the survey did not provide an overall measure of mental illness among adolescents.")

These diagnoses commonly include behavior disorders, substance use disorders, anxiety disorder, attention deficit/hyperactivity disorder (ADHD), and mood disorders. The prevalence of each of these diagnoses, however, varies considerably among youths in the juvenile justice system. For example, the Pathways to Desistance study (which followed more than 1,300 youths who committed serious offenses for 7 years after their court involvement) found that the most common mental health problem was substance use disorder (76 percent), followed by high anxiety (33 percent), ADHD (14 percent), depression (12 percent), posttraumatic stress disorder (12 percent), and mania (7 percent). A multisite study by Wasserman and colleagues (2010) across three justice settings (system intake, detention, and secure post-adjudication) found that over half of all youths (51 percent) met the criteria for one or more psychiatric disorders. Specifically, one third of youths (34 percent) met the criteria for substance use disorder, 30 percent met the criteria for disruptive behavior disorders, 20 percent met the criteria for anxiety disorders, and 8 percent met the criteria for affective disorder." (internal citations omitted).

¹⁹⁵ See Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice, "Intersection of Juvenile Justice and Child Welfare Systems, A Product of the Model Programs Guide" (2021) <https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/Intersection-Juvenile-Justice-Child-Welfare-Systems#1> ("A body of literature concentrates on the link between experiencing maltreatment as a child and exhibiting later delinquent or criminal behavior. More than 40 years of research has demonstrated that a history of child abuse, neglect, and child welfare system involvement increases the likelihood of aggression, violence, delinquency, and justice system involvement." (internal citations omitted)).

staffing or – too often – the lack of it.¹⁹⁶ Experts who research the prevalence of sexual abuse in our juvenile facility systems regularly point to improving staffing levels as a key to creating a safe environment, and this year’s hearings participants echoed that sentiment.¹⁹⁷

The relationship between low staffing levels and the opportunities it creates for sexual abuse was evident among the five facilities that participated in the Panel’s hearings. The two reported low incidence facilities noted staff-to-youth ratios in line with PREA standards – and even better in the case of Sears, which reported a 1:6 ratio during waking hours and 1:10 during overnights.¹⁹⁸ Conversely, officials from the reported high incidence facilities all cited what TrueCore Behavioral Solutions, the organization that operated Gulf Academy, termed “staffing challenges” as one reason for high incidence levels.¹⁹⁹

Hiring staff is a challenge nationally. Many of the standard recruitment and retention tools have been attempted and have either been unsuccessful or only moderately successful. Because of low staffing levels, there is less teamwork and less connection with other staff who can be there for support, both physically and mentally. Work conditions do not align with the values of some of the field’s younger workers. Younger staff may not want to perform shift work and may want more work/life balance and flexible working conditions. Most juvenile justice facilities have not been set up in this way and have standard schedules that are not always flexible. Improving staffing levels in a juvenile facility requires that the job either pay very well or that the job be very meaningful to the employees. Since most state agencies and local governments tend to not pay high salaries to juvenile justice staff, the emphasis should be on finding the right kind of applicant who finds working with and improving the lives of troubled youth meaningful. When staff feel this sense of purpose, appreciate the youths’ backgrounds and

¹⁹⁶ Some facilities noted challenges to maintaining staff-to-youth ratios of 1:8 daytime and 1:16 nighttime. These included inclement weather; COVID; the loss of tenured custody managers, supervisors, and staff; and having a small pool of quality candidates who wish to work in a quasi-correctional program and have the required qualifications.

¹⁹⁷ Transcript of Record, Review Panel on Prison Rape Hearing, Jason Szanyi, 366:8-11 (May 18, 2022) and Transcript of Record, Review Panel on Prison Rape Hearing, David Roush, 496:3-6 (May 18, 2022).

¹⁹⁸ M. Breedlove Written Testimony at 4 and S. Odum Written Testimony at 3. Note that in secure juvenile facilities, DOJ defines minimum staffing ratios under PREA Standard 115.313 (c) as 1:8 during resident waking hours and 1:16 during resident sleeping hours. See PREA Resource Center, “Juvenile Facility Standards,” accessed April 3, 2023. <https://www.prearesourcecenter.org/implementation/prea-standards/juvenile-facility-standards>

¹⁹⁹ G. Tucker Written Testimony at 3. Staffing has been a historic problem in many facilities around the country, but recent events have served to exacerbate the issue. “There has been a severe staffing crisis in secure facilities during the COVID-19 pandemic, which has only been exacerbated by additional challenges brought about by the coronavirus,” noted Jason Szanyi, the Deputy Director at the Center for Children’s Law and Policy. “We are very concerned that these inadequate staffing levels will generate higher numbers of incidents of sexual abuse and harassment. J. Szanyi Written Testimony to the Review Panel on Prison Rape (May 18, 2022) at 7.

challenges, and focus on creating a professional and respectful connection with these youth, the paycheck becomes (slightly) less important, and they come to work every day to serve youth and improve their lives.

The culture of juvenile justice agencies and their facilities is interconnected with hiring the kind of staff described above. Good staff, those with not only good work habits but with the ethics, values, and maturity that are necessary when working with challenging youth, have many options for work in the current economy and are attracted to a work environment that is positive and supports their values. Facilities that struggle with, for example, disorder, high levels of mandated overtime, and a lack of safety or adherence to policy are not appealing places to work for this cohort.

Put differently, simply hiring an adequate number of staff is not the end-all solution. Facilities must also create positive work environments by hiring professionals who are passionate about the work and must strive to keep them interested, safe, and motivated to improve the lives of at-risk youth.

How do we address this?

Growing and retaining staff

- Improving staffing levels in a juvenile facility requires that the job pay well and/or that the job be very meaningful.
- Increasing pay, which may include offering sign-on bonuses, retention (or “stay”) bonuses, incentive bonuses, and ensuring there are sufficient opportunities for promotion.
- Consider “gig worker” pay, jobs with no benefits, or more or less pay per hour but fewer hours.
- If there is no way to pay bonuses or add money to salaries, scheduling flexibility and variety may help raise morale and retain good staff.
- Look creatively at schedules, to include alternative work schedules such as part time work, weekends only, three-day a week shifts, and rotations that allow for younger workers to either go to school or have free time but still come in and work with youth when they are needed.
- Consider a time period – perhaps every fourth week or every third month – during which staff can be assigned to transports or other duties outside of pod time with youth in order to decompress from what is their challenging day-to-day job.

Garza County Regional Juvenile Center in Texas usually does “Correctional Officers’ Week” or “Educators’ Week,” to recognize people working at the center. Sears Youth Center in Missouri does “Employee Appreciation Meals” that do not require a big budget but still show care for the people that manage the facility and, in turn, care for the youth in their charge.

- Consider providing other kinds of perks that may help improve morale and retention such as staff lounges, gyms, and mothers’ rooms. On a smaller scale, do something along the lines of what Deep Creek did – allow staff to wear jeans on Thursdays for a dollar and use the money raised to buy staff pizza. Simply put, job perks or even small gestures can communicate to staff how much they are appreciated.
- Ask youth when they are released from custody which staff member had the most positive impact on them. Honor and publicly acknowledge that person.

Building quality staff

- Ensure recruitment is planned and robust, and that there are dedicated staff who have specific goals for successful recruitment. Recruitment advertisements should reflect what facilities want in their staff specifically, rather than only list a position title and a salary.
- Interview and screen staff carefully on the front end by having the candidates interview not only with selecting officials but with several facility staff members. Input from fresh eyes on candidates pre-hire may result in better hires.
- Use tools such as Diana Screening and ImPACT Testing²⁰⁰ to screen candidates for appropriate values and a rehabilitative mindset.
- Ensure a quick and smooth hiring process so facilities do not lose interested candidates to other jobs.
- Ensure that managers and supervisors have check-ins with new staff: Consider having a formal check in at week one, week two, and month one to ask how work is going, how they are feeling, and if there is anything they need in terms of support.

“It’s more than just a job. It’s a career,” Michael Burchard, facility manager at Sears Youth Center in Missouri, a reported low incidence facility, told the panel. “And we’re trying to weed people out on day one in the interview process and set up our interview questions to make sure people are in line with our beliefs and philosophies, and they’re there to help kids,” he said, noting that staff should be highly engaged with youth to decrease opportunities for harmful interactions. (Transcript of Record, Review Panel on Prison Rape Hearing, Michael Burchard 322:24-25 (May 18, 2022)).

²⁰⁰ Diana Screening is a test to identify adults who may not recognize adult-child sexual boundaries and are considered to be a high risk for child sexual abuse. ImPACT testing is a juvenile corrections testing system, including a Human Relations video test which “focuses on candidates’ judgment when dealing with common stressors and situations experienced by juvenile correctional personnel.” National Testing Network, “Juvenile Corrections” (accessed March 3, 2023).

<https://nationaltestingnetwork.com/publicsafetyjobs/ntn-test-juvenile.cfm>

It is a tenuous time when new staff begin working with challenging youth and the more support they get, the more likely they may be to stay.

- Coaching, field training, and encouragement go a long way toward employee success.
- Try to bring in a second staff member on a pod or unit – even if it is for just a few hours of the day – to give support to an employee who might be working alone. This can improve morale and adds a second set of eyes for security purposes.
- Look for people who have a sense of purpose, who have empathy, and who understand that their role is not only to provide security, but also to model positive behavior by being a listener, a teacher, and someone who is there to impact a life. Staff who have a solid ethical foundation may be less likely to enter relationships with youth and are also going to be more likely to find meaning in their job and come to work every day because the youth matter to them.

B. Update and Improve Staff Training

The importance of training staff to recognize and respect boundaries between themselves and the youth they are responsible for has been a recurring theme during past Panel hearings and in the ensuing reports on those hearings. The same theme emerged in the 2022 hearings. Testimony from experts, juvenile corrections leaders, and facility management and staff were in accord, observing that well-trained, knowledgeable staff are able to better deal with different scenarios that might come up in their daily work and handle those situations with confidence. In fact, facilities with a reported low incidence of sexual victimization named mandatory comprehensive training as one of the driving factors for their success, helping the team create and maintain zero-tolerance of sexual abuse.^{201,202}

As the Panel visited the juvenile correctional facilities throughout the country that participated in these hearings and interviewed management and staff, several themes consistently emerged and one of them was training. Everyone agreed that staff training was very important, but because of staffing challenges, sometimes staff did not get all of

²⁰¹ M. Breedlove Written Testimony at 2 and S. Odum Written Testimony at 3-4.

²⁰² While this section addresses staff training, please note that the absence of clear and comprehensive training for youth on sexual abuse can be another significant problem: Youth may have trouble maintaining appropriate boundaries. Therefore, like staff, residents need to go through comprehensive training not only to be aware of the boundaries, but also to know their rights, be more likely to report any form of sexual abuse they experience, witness, or know of, and know how to make such reports. This helps ensure that incidents are detected and reported in a proper manner, contributing to the overall safety and security of the facility. Importantly, Garza in Texas named youth education as one of the reasons for the low incidence of sexual victimization at the facility. Its age-appropriate training program focuses on two main elements: youths' right to be free from sexual abuse, sexual harassment, and retaliation for reporting such incidents and agency policies and procedures for responding to such incidents. (M. Breedlove Written Testimony at 2.)

the training they needed or would miss trainings. We also had conversations about the effectiveness of existing training for staff and were told about agencies and/or facilities that use the same training presentation year after year which is not engaging to staff, and may be outdated. We were also told about training presentations that did not include enough scenarios with real-life situations which allow staff to practice responses and actions that align with that facility's reality. In addition, the Panel heard that sometimes trainers are not engaged or do not have the on-the-ground, in-facility work experience to make the training relevant to the day-to-day realities of the trainees.

Comprehensive scenario-based training is critical when it comes to detecting red flags that may indicate sexual misconduct is occurring within the facility, whether it's among the youth or staff and youth.²⁰³ "We make it a top priority, and ... training is one of the huge reasons that we're so successful. If I have to go and work a shift to get staff to training, that's what we're going to do," said Michael Burchard, facility manager at Sears, a reported low incidence institution.²⁰⁴ In some facilities, training covers how staff and youth are expected to treat each other, "ethical conduct, adolescent development and boundaries, indicators and 'slippery slopes', and team responsibility."²⁰⁵

How can training be improved?

- Review the entire training curriculum, including both pre-service and in-service trainings. Identify areas that may not be needed or that may need to be updated. Guard against using the same program year after year – this practice is not likely to engage staff. Consider changes to the training curriculum on a regular basis to ensure that it meets current needs.
- Implement a series of mini-trainings (such as six slides with a quick guide on how to train staff on a specific subject) on topics relevant to sexual safety in juvenile correctional facilities to augment the in-service training that juvenile justice agencies and facilities provide.
- Review the skill sets of training staff. Training departments should be staffed by people who have worked with youth in facilities and understand the practical

²⁰³ As JDI explained in its written statement to the Panel, the 2018 "BJS study revealed that staff perpetrators of sexual abuse often crossed boundaries with children prior to abusing them — and usually in ways that should be detected by management. More than four out of five victimized youth (81.9 percent) reported that, prior to abusing them, staff had joked or talked about sex or shared sexual stories; roughly three quarters (74.4 percent) said staff told them they felt emotionally close to or had special feelings for the youth nearly half (49.1 percent) said staff gave them pictures or wrote them letters; and more than two out of five (42.7 percent) said staff offered them drugs, cigarettes, alcohol, or other prohibited items." Just Detention International Written Testimony to Review Panel on Prison Rape at 2 (undated).

²⁰⁴ Transcript of Record, Review Panel on Prison Rape Hearing, Michael Burchard 427:2-6 (May 18, 2022).

²⁰⁵ S. Odum Written Testimony at 4.

realities of facility conditions for both youth and staff and who have the passion and capability to train.

- Prioritize training and emphasize to staff that training is required. Even in situations where there are staffing shortages, facilities should ensure that staff training continues. Some options that facilities might consider employing when there are staff shortages include creating a schedule in which supervisors can take shifts so that staff can attend training, paying overtime for staff to attend training, and making weekend training available.
- Review incident reports and ask staff for real life scenarios involving youth, including what they say and do. Incorporate these scenarios into professional boundaries trainings, PREA trainings, and de-escalation trainings, and allow staff to practice them. In class, for example, the trainer can take the role of youth and act out behaviors, allowing the staff to practice managing situations and gain confidence about what to do when they are on a unit and these situations arise.

When discussing the components of training, Jason Szanyi, Deputy Director at the Center for Children’s Law and Policy, said the most effective sessions are those in which staff members start talking, particularly when analyzing scenarios where there may not be a right or wrong answer, a testament of the delicate gray area staff often finds themselves in in their effort to be seen as trustworthy by their charges but also needing to avoid crossing what is not always a clear line. “And you obviously want staff to walk away understanding how they should handle that situation. And you don’t want to make staff feel like they’re put on the spot,” he explained. (Transcript of Record, Review Panel on Prison Rape Hearing, Jason Szanyi, 379:11-15 (May 18, 2022))

- Training staff must include specific and explicit discussion of female staff and professional boundaries with male youth. This discussion should include statistics on the number of sexual abuse allegations involving female staff and male youth, newspaper articles about facility staff and teachers who are females having inappropriate relationships with male youth in their care, guidance on how to intervene if they see a female staff member getting too close to a male youth, information about being aware of one’s own vulnerabilities and other practical, scenario-based training to ensure this significant matter is adequately addressed at both pre-service and in-service training. Ensure that staff know and understand “suspicion” of misconduct is always reportable.²⁰⁶
- Make professional boundaries trainings common and mandatory. Include information about what can motivate some youth to try to initiate inappropriately close relationship with staff. In addition, the training should entail more than simply instructing staff not to “allow any youthful offender to get too close to you,” but rather provide staff with actual scenarios.
- Similarly, the training should include information for staff about their own vulnerabilities, including personal problems and how they can impact them and make them susceptible to engaging in sexual misconduct they would never have

²⁰⁶ For additional information on female staff and male youth see p. 39.

envisioned. Training on this issue must be realistic, include real-life examples (from the news or other sources), and drive home to staff the importance of being aware of this plausibility when they are going through difficult periods in their lives.

C. Oversight: Monitoring Staff-Youth and Youth-Youth Interaction and Ensuring Safety

The Panel observed that the levels of both oversight and video coverage varied among the five facilities that participated in these hearings. Some facilities had multiple levels of oversight, both internal and outside quality assurance, and facility-wide camera coverage. Facilities without any internal or outside scrutiny, low-quality investigations, and no video or poor-quality video may be less likely to have sexual abuse incidents discovered and addressed.

Staff involved in quality assurance and oversight efforts must be experienced, professional, well-informed of facility policies, practices, and procedures, and able to identify and relay concerns to correctional leaders and facility managers so that they can be resolved before the concerns become a larger problem. Video capability can be costly, but the benefits of exonerating staff, finding hidden abuse, and ensuring the sexual safety of residents is arguably worth the investment and should not be overlooked.²⁰⁷

While it was not the case with most of the facilities that participated in the 2022 hearings, the Panel notes that some facilities may rely on PREA audits as their only means of quality assurance. If the facility passed, they felt they had done their due diligence. The Panel cautions that PREA audits are not consistently able to provide the level of quality assurance and oversight needed to have confidence that juvenile facilities are sexually safe. The reasons for this are many: they only occur once every three years; often the youth that auditors need to speak with have already been released; auditors generally cannot be expected to understand in a short period of time the workings of the facility or the processes and roles of staff for internal quality assurance; auditors may rely primarily

²⁰⁷ It is important to note that W.E. Sears Youth Center in Missouri, a facility identified as having among the lowest incidence of sexual abuse and sexual assault in juvenile facilities, does not use cameras/video. At the Panel's Day Two Hearing, when asked about cameras, W.E. Sears Youth Center Youth Facility Manager Michael Burchard replied: "We do not have any. Some facilities within the State of Missouri do. We do not. There's been talk about it, and there's a lot of positives, and there's a lot of negatives to – our big push is we don't want to become corrections. We've been very successful without cameras because of our awareness supervision and our staffing." (May 18 Tr. M. Burchard at 431:17-24.) Scott Odum, Director, Division of Youth Services, Missouri Department of Social Services added, "I'm responsible for program operation across the state, and we have some with cameras, and we have some that don't. What I would tell you is that – and I've worked in our system from a youth specialist now to the director for 30 years. Where we have cameras, people become very dependent on that. And if it's – for me, in the mod settings, in particular, you know, I see the value in management being engaged and not management sitting behind a camera, right, and becoming dependent." Transcript of Record, Review Panel on Prison Rape Hearing, Scott Odum, 432:5-16.

on policy language rather than practice; they do not have to review a required number of incident reports or examine various types of them (such as those marked as “inappropriate conduct,” “youth misconduct,” or “staff misconduct”) that may show evidence of a sexually unsafe culture or actions); audits are typically too short to retrieve and analyze all necessary information or speak with enough staff and youth to get a clear sense of all of the standards’ compliance levels; and facilities pay auditors directly for their audits, which may support bias and/or speed in conducting the audit. The audit process today needs review and improvement; by passing a PREA audit, a facility may gain ammunition to protect it from lawsuits but may not receive the information it needs to ensure safety.²⁰⁸

How can oversight be improved?

- Review and confirm that the current staff who conduct internal quality assurance are experienced and understand facility operations and management. Ensure that quality assurance staff are independent and have access to records at any time, are authorized to make announced and unannounced visits, and build good, but independent, working relationships with facility leadership.
- Ensure that quality assurance or other oversight practices do not rely solely on reviewing policy but include both random and purposeful document and video review, in-facility observations, and interviews with youth and staff to confirm practices. Real oversight takes time and intention.
- If possible, have both internal and external oversight mechanisms. An external mechanism should be an office that does not report to the operational side of the agency: this may be the Inspector General or Ombudsman's office of an agency or an outside group. Facilities reporting monthly oversight visits or every few months appeared to find this a normal occurrence and viewed the quality assurance efforts as normal operational practice.
- Conduct regular staff and youth surveys that are anonymous and confidential. Use the information gained from these surveys to adjust policy and practices.
- Ensure robust video coverage in facilities in areas where youth reside, work, and learn and use the coverage to hold both youth and staff accountable (or to exonerate them).
- Conducting random internal reviews of incident reports videos, logs, investigations, and other facility records should be a routine part of every facility's oversight operation.

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- Guidelines for physical contact between staff and youth and between youth and youth should be consistent with a “keep your hands to yourself” philosophy supported via policy, video review, and practice.
- Oversight by way of unannounced supervisory rounds is required by PREA Standard § 115.313(e). The actual removal of opportunities for sexual abuse to occur can be further augmented by sensible policies regarding cross-gender supervision (one-to-one supervision of a youth alone). These disallow a staff from being alone with a youth without a camera present or being in an open window room or office. Male staff should not transport female youth alone and female staff should not take male youth alone to a campus location. A “rule of threes” disallows these scenarios and requires a third party always be present for every youth movement.
- Family involvement should be encouraged. Staff should solicit family input for treatment goals, plans and decisions about youth. Frequent phone calls, visits, and family therapy sessions should be facilitated so that youth can report potential inappropriate conduct and express concerns directly to family members if they wish to do so.
- Oversight is strengthened by meeting or exceeding the required staff-to-youth ratios.²⁰⁹

A bi-partisan Advisory board that unites judges, former legislators, civic leaders, and private citizens, has been a guiding force for the Missouri Division of Youth Services. “The Board holds the system accountable, is influential with new thinking, and partners with leadership to solve problems. To this day, it is a crucial part of Missouri’s ongoing evolution and sustainability,” wrote Director Scott Odum in his testimony to the Panel. (Scott Odum, Written Testimony to the Review Panel on Prison Rape (May 12, 2022), at 6)

²⁰⁹ While not all agree that it is advisable, a large-scale approach to maintaining/improving the staff-to-youth ratio may be advocating for policy change and incarcerating fewer youth. Several states have significantly reduced juvenile detention, and in July 2022, the State of Hawaii reported having no female youth in juvenile detention. (See Claire Healy, “Hawaii Has No Girls in Juvenile Detention. Here’s How It Tot There,” WASH. POST (July 25, 2022). <https://www.washingtonpost.com/nation/2022/07/25/hawaii-zero-girls-youth-correctional-facility/>) In this article, the administrator of the Hawaii Youth Correctional Facility, Mark Patterson, “said HYCF is a last resort” and that “various officials have agreed that ‘we no longer want to keep sending our kids to prison.’” Patterson also stated that “[w]hat I’m trying to do is end the punitive model that we have so long used for our kids, and we replace it with a therapeutic model.” The article also noted that:

“Hawaii isn’t the only state to reach zero girls in long-term placement facilities.

According to Lindsay Rosenthal, director of the Vera Institute’s Initiative to End Girls’ Incarceration, Vermont has zero long-term placement facilities for girls, and for nine months in 2020, Maine had zero incarcerated girls statewide. Since February 2021, New York City hasn’t had more than two girls in the state’s juvenile placement facility at any given time.

This is part of a larger trend in juvenile justice reform: Since 2000, more than 1,000 juvenile facilities have closed, including two-thirds of the largest facilities. And between 2000 and 2018,

Oversight as it relates to female staff and male youth

While the BJS survey found that both male and female staff had engaged in sexual abuse of confined youth, the data provided indicates that the epidemic of female staff sexual misconduct with male youth is an issue that requires immediate, holistic action. As stated in the *National Survey of Youth in Custody: Victim, Perpetrator, and Incident Characteristics of Sexual Victimization of Youth in Juvenile Facilities, 2018*, “[i]n most-serious incidents of staff sexual misconduct, an estimated 91% of incidents involved only female staff, while 6% involved only male staff.”²¹⁰ The findings provided by BJS are buttressed by literature and press reports on this issue.²¹¹ Facilities must take this problem seriously and implement approaches that prevent and eliminate this kind of behavior. Some general supervision recommendations include:

- Ensure constant supervision and check-ins by managers. Change working shifts on occasion. Survey youth anonymously to determine whether they feel safe or whether any staff member is making them feel uncomfortable. Address staff who spend too much time with a specific youth and remind them that they do not want to be accused of misconduct and that they should ensure personal space, remain within camera view, and be in the presence of witnesses.

youth incarceration rates dropped by more than half, according to the Square One Project, a justice reform initiative.”

For some high-risk youth, trauma-based care programs may be more beneficial than incarceration. As the Assistant Secretary for Residential Services at the FDJJ indicated, trauma exposure among youth in the juvenile justice system is much more common, compared to those in community-based programs. (Transcript of Record, Review Panel on Prison Rape Hearing, Garret Tucker 69:25, 70:1 (May 18, 2022).

²¹⁰ Michael B. Field and Elizabeth Davis, *National Survey of Youth in Custody: Victim, Perpetrator, and Incident Characteristics of Sexual Victimization of Youth in Juvenile Facilities, 2018 – Statistical Tables*, National Survey of Youth in Custody, 2018, Washington, DC: U.S. Department of Justice Office of Justice Programs Bureau of Justice Statistics (November 2020), p. 2.

<https://bjs.ojp.gov/content/pub/pdf/vpicsvyjf18st.pdf> Similar figures emerged in previous years, including the BJS stating in a 2008-2009 report that “[a]mong the estimated 2,730 adjudicated youths who had been victimized, 92% were males reporting sexual activity with female staff; an additional 2.5% were males reporting sexual activity with both female and male staff.” (Allen J. Beck, Ph.D., Paige M. Harrison, and Paul Guerino, *Sexual Victimization in Juvenile Facilities Reported by Youth, 2008-09*, Washington, DC: U.S. Department of Justice Office of Justice Programs Bureau of Justice Statistics (January 2010), p. 13.).

²¹¹ As Professor Brenda Smith, a witness at the Panel’s 2022 hearings, noted in her written statement, “Both case law and BJS data have consistently found significant involvement of female staff in sexual abuse of men and boys in custody.” Brenda Smith Written Testimony to the Review Panel on Prison Rape (May 18, 2022) at 4). (citing Nancy Wolff, et. Al. “Sexual Violence inside Prisons: Rates of Victimization.” *Journal of Urban Health* (2006); Lauren A. Teichner, “Unusual Suspects: Recognizing and Responding to Female Staff Perpetrators of Sexual Misconduct in U.S. Prisons,” *Mich. Journal of Gender & Law* (2008); Joaquin Sapien, “Boys in Custody and the Women Who Abuse Them,” ProPublica (July 2, 2013).) Professor Smith also cited multiple cases and news reports in her DOJ Hearing Materials, including Trish Mehaffey, “Former Youth Counselor Sentenced to 10 Years for Sex Abuse of Teen Boy,” THE GAZETTE (Nov. 30, 2021). <https://www.thegazette.com/crime-courts/former-youth-counselor-sentenced-to-10-years-for-sex-abuse-of-teen-boy/>

- Ensure staff conducting searches of cells/rooms and dayrooms have youth turn over any notes to or from staff or items received from staff to the investigations team.
- Ensure that “groups of three” are a part of movement within the facility and on its grounds, disallowing one staff to walk alone or go to an area with only one youth.²¹²

The impact of housing on oversight

The layout of a facility, including its sleeping arrangements, can directly impact the ability to conduct ongoing, thorough oversight. Certain physical environments may increase the risk of sexual victimization by adding to the opportunities perpetrators have to abuse youth, including line-of-sight issues and dormitory-style living units where multiple youth live in the same room.

Joe Blume of Idaho noted at the PREA hearing that “one thing about the dorm-style set up is that the bunk beds do make camera coverage difficult. They ... do make pretty effective barriers, actually, to camera coverage, so that's one thing we could look forward to improving with individual rooms.”²¹³ Similarly, Oak Creek reported that its dormitory-style sleeping quarters were designed to prevent self-harm but, instead, may provide more opportunities for sexual victimization and youth-on-youth incidents.²¹⁴ Acknowledging the possible dangers of dorm-style safety concerns, Superintendent Riggan told the Panel that “[t]here's a plan – a ten-year plan to actually remodel these dormitories into ... small, three-or-four-or-five-bed little, smaller units within the dorm, and I think that will add to more – better supervision. I think it will be a safer environment for youth.”²¹⁵

Taking a different approach, Garza, a low incidence facility, said that all its rooms are single-occupancy, which contributes to decreasing rates of sexual victimization.²¹⁶ Additional protocols have proven to help maintain low incidence levels, such as never leaving youth unattended, securing doors once youth are in their rooms, only allowing those showering to be out during shower times, and requiring staff of the opposite gender to announce their presence when entering the dorm.²¹⁷ Ensuring all staff offices have

²¹² This is a requirement at Oak Creek Youth Correctional Facility and JCC-Anthony. May 17 Tr. J. Blume, at 168:7-11.

²¹³ *Id.* at 201:25 – 202:3.

²¹⁴ OYA Response, *supra* note 57, at 4.

²¹⁵ Tr. M. Riggan, 226:24–227:7.

²¹⁶ M. Breedlove Written Testimony at 1.

²¹⁷ *Id.* at 3.

windows in the doors and that youth and staff office windows are not permitted to be obscured can also help.

At the PREA hearings, BJS addressed the primary locations of sexual abuse, with BJS's Deputy Director of Statistical Operations Kevin Scott, stating that "[f]or most serious incidents of youth-on-youth victimization, the most common location was a common area, other than a shower or bathroom. For the most serious incidents of staff sexual misconduct, the most common location was in the victim's room or sleeping area."²¹⁸ Housing design, including the elimination of blind spots, clearly plays a significant role in improving oversight and creating a safe environment for youth.

D. Reporting Sexual Abuse

All the facilities participating in these hearings indicated that they have multiple reporting methods, both internal and external, as required by PREA. However, it is important to ask if the reporting method in place is available to the youth, reliable, and functioning. A PREA audit may not always reveal this, as auditors may not have the time to test every reporting mechanism youth are told are available to them. Having a grievance system, a phone number, or other method of reporting that is not truly accessible, tested or reliably working is not helpful to youth in combating sexual abuse or sexual harassment.

How can reporting mechanisms be improved?

- Facilities, overseeing state agencies, and/or outside consultants should survey youth, asking if they were provided information about practical, confidential means of reporting PREA allegations, including: tools and information to report in writing (an address, submission procedures, and access to paper, envelopes, and stamps) or by telephone (a specific phone number, when phones can be used, and personal identification numbers (PINs) or other means of identification).
- Facility leadership should do the same for non-PREA-related reporting (other youth concerns such as physical safety). If non-PREA concerns of youth are unmet through a prompt, trusted and reliable method, they may instead raise a false red flag via a PREA report, adding to unfounded allegations.
- If youth do not or would not use a provided reporting method, ask them why and see whether they have concerns about accessibility, confidentiality, retaliation, or reliability and if so, how can they be addressed.

"The clear guidance that emerges in these cases is agencies should set up clear policies that provide notice and information about how to file a complaint; that the process for filing a complaint is reasonable; and that youth or adults in custody should not face retaliation or punishment for filing a grievance," said Brenda V. Smith, Professor at the American University. (Brenda Smith Written Testimony to the Review Panel on Prison Rape (May 18, 2022) at 4).

²¹⁸ Transcript of Record, Review Panel on Prison Rape Hearing, Kevin Scott, 19:11-17 (May 17, 2022).

- Call every phone number that is listed as a reporting method from a phone used by youth to make sure that the call goes through and that the person answering the call takes the complaint and knows what to do with it.
- On a regular basis, place a “test sexual abuse grievance” in the grievance box to see how long it takes for staff to pick it up and how long it takes to receive a call on the matter. Ask the grievance staff when they respond what should they do with the grievance.
- Facility leadership should go to youth units and ask youth to obtain a grievance or other assistance-related form and a pencil and to confirm that forms and writing supplies are stocked and that staff know where those supplies are located.

Dr. David Roush, from Juvenile Justice Associates, LLC, thinks staff-to-youth ratios at 1:6 — lower than PREA standard — would help with better oversight. “With an adequate number of staff so that you can provide enough supervision that the probability of being caught increases to the point that the adults in the situation understand, hey, look, no there’s no way you can do anything that would even be questionable or would even be outside of the four corners of policy and procedure,” he explained. (Transcript of Record, Review Panel on Prison Rape Hearing, David Roush, 488:6-10 (May 18, 2022))

- Ask all security and non-security staff randomly what they would do if a youth reported sexual abuse to them or said that they were being sexually harassed. Spot check that all know what to do.
- If the facility or juvenile justice agency has identified an external entity to which residents can make a report, determine whether the specified external reporting entity circles back to the facility or agency promptly with any reports of abuse they receive by sending them a “test report” and seeing how they respond.
- Test each reporting mechanism quarterly at a minimum.

VI. Further Recommendations

In this twentieth anniversary of the passing of PREA, the Panel has other important recommendations surrounding the statute itself and the governmental bodies responsible for its implementation that may not fit within this report but are significant points for consideration. These further recommendations about PREA and its efficacy were sent to both the Attorney General and the Assistant Attorney General of OJP, as well as the heads of BJS and the Bureau of Justice Assistance (BJA), for their consideration.

VII. Conclusion

The Panel hopes that this report provides valuable information and practical recommendations that can be used by juvenile facilities across the nation. As addressed in the report, securing the sexual safety of youth in confinement should include improving staffing numbers and working on retention efforts, updating training and ensuring it is relevant to the day-to-day realities of staff, and enhancing oversight via technology and internal and external quality assurance, among others. The recommendations herein are intended to assist facilities in doing that, but there is more to sexual safety than this report can address. True sexual safety in a juvenile facility environment comes from the people who lead the agencies and facilities, and those who work as line staff with youth every day, building trust, promoting respect and care, working through challenges, and making a priority not just of passing the next PREA audit, but of addressing the daily welfare of the most at-risk youth in this country.

The Panel appreciates the work done and information shared by the facilities that hosted Panel members for site visits, responded to document and data requests, and participated in the 2022 hearings. The Panel also appreciates the participation of expert witnesses who contributed significantly to the development of this report in the twentieth year since the enactment of the statute.