



COMMONWEALTH of VIRGINIA

Department of Corrections

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April 18, 2011

Review Panel on Prison Rape
Attn: Mr. Joseph Swiderski
c/o Office of Justice Programs
810 7th Street, NW
Washington, DC 20001

RE: Prison Hearings of Review Panel on Prison Rape

Mr. Swiderski:

Please find enclosed the Virginia Department of Corrections response to your letter requesting answers to specific questions in preparation for the public hearing on April 26, 2011. We have organized our responses to correspond with each numbered paragraph in your letter.

We look forward to meeting with the panel on April 26th to further discuss the Department's efforts in response to this survey.

Sincerely,


Harold W. Clarke

HWC/jj



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PREA Hearing Panel Questions

1. The Bureau of Justice Statistics' (BJS) recent survey of prisons and jails in the United States identified the Fluvanna Correctional Center for Women (FCCW), which is part of the Virginia Department of Corrections (VA DOC), as a facility with one of the highest incidence of both staff-on-inmate and inmate-on-inmate sexual victimization. BJS, *Sexual Victimization in Prisons and Jails Reported by Inmates, 2008-09* at 8 tbl.2. 9tbl.3 (August. 2010).

- (a) What factors contributed to the reported high incidence of staff-on-inmate sexual abuse at FCCW?

It should be noted that the surveys conducted for the years 2008 and 2009 were completed while Fluvanna Correctional Center for Women was experiencing leadership and management challenges. In 2007 the Chief of Security was transferred to another facility due to allegations of misconduct with subordinate staff. While this investigation was nearing its completion it was alleged that the Chief of Security was also in violation of the PREA. He was found to have committed several sexual acts with offenders. These incidents were investigated, the perpetrator disciplined, terminated and charged under the Code of Virginia for his actions. He is currently serving a sentence in the Virginia Department of Corrections. The actual trial did not take place until 2008. Due to his high position in FCCW's management, confidence in the leadership and management of the facility was lost. Therefore, when the surveys were completed the offenders based their responses on issues which occurred during 2007.

Some other factors included the following:

- There was a lack of supervision to the Chief of Security due to the location of his office and his supervisor's office. Their offices were at different locations within the institution.
- The major's office had 3 access points into the office; two of them could be accessed from the hallway not visible to the staff working in the Shift Commander's office.
- The entry door to the internal compound was not being secured, which provided offenders unobstructed access to the major without other staff members knowledge.
- Inadequate procedures for Control Movement were in place at that time.
- Surveillance cameras were not strategically located throughout the institution.

- The former major often isolated himself from others and worked during non-business hours, as well as met with offenders behind closed doors often with the lights off except for a desk lamp.
- There was no protocol in place to instruct male staff on how to conduct meetings with female offenders alone.
- Staff allegedly felt intimidated by the Chief of Security and feared retaliation if they reported their suspicions.
- There was not adequate training for staff on their legal responsibilities to report suspicious sexual misconduct.
- Offenders' complaints were often dismissed due to perceived cliques between offenders and staff.
- Staff feared retaliation if they reported PREA related violations among their peers or supervisory staff.
- There was poor communication at several levels within the organization at the time of the PREA violations.

(b) What factors contributed to the reported high incidence of inmate-on-inmate sexual abuse at FCCW?

- Offenders were not properly informed of the PREA; they were not properly advised of the reporting procedures or their right not to be violated.
- Offenders feared for their safety if they reported an inappropriate sexual advance or behavior.
- Offenders feared being placed in investigative hold in the Special Housing Unit while the matter was being investigated.
- There was a prevailing lack of trust toward staff to properly handle reports of allegations of sexual misconduct between offenders.
- Due to the existence of consensual sexual relationships between female offenders those offenders who are forced into unsolicited sexual misconduct fear they will be improperly labeled by staff and offenders as consenting participants therefore they fail to report them.
- Many offenses occurred during the late evening and early morning hours; this is when security staff is at the lowest staffing levels, which provided greater opportunity for sexual acts within the cells.
- We believe that some consensual sexual relationships were improperly classified by the offenders as being PREA violations.

2. As you may be aware, the Department of Justice has under review national standards for combating sexual victimization in confinement settings that were prepared by the National Prison Rape Elimination Commission pursuant to PREA. National Standards to Prevent, Detect, and Respond to Prison Rape, 76 Fed. Reg., 6248 (proposed Feb. 3, 2011) (to codified at 28 C.F.R. pt. 115). The proposed PREA standards mandate that agencies that operate facilities with a total rated capacity exceeding 1000 inmates employ or designate an upper-level, agency-wide PREA coordinator to oversee all efforts to comply with PREA standards. *Id.* At 6251.

According to FCCW's response to the Panel's Data Request, FCCW does not currently have a PREA coordinator but relies instead on an Institutional Investigator to manage PREA-related concerns.

(a) How does VA DOC Monitor PREA compliance at FCCW through FCCW's Institutional Investigator?

- PREA complaints are reported typically by 3 means:
 - PREA Hotline
 - Verbally Reported to Staff
 - Written Documents to Staff/Inmate Request Forms/Grievance filed
 - Please refer to flow chart.
 - Staff is briefed on the new policies during training, security briefings, and departmental meetings.
 - Offenders are briefed on new policies via posted memorandums in all living units.
 - FCCW's management attends new recruits orientations, staff in-service training, departmental meetings, and in mass meetings with staff to discuss prevention and avoiding and preventing inappropriate behavior with offenders.
 - At the management review level of the investigator's report, problem areas are identified, whether staff or offender and the reviewers initiate and promulgate policies and practices to prevent future problems or violations.
 - Common themes from all sexual misconduct investigations are identified and communicated throughout the organization.
 - The Department is currently developing a centralized PREA monitoring policy. We have an established process for monitoring the offender hotline; we track the number of incoming calls and advise the Institutions of complaints. The Inspector General's office also evaluates the investigation process once it has been completed. Any systemic issues are reported to Executive management for corrective action.
- (b) How has VA DOC's monitoring of its facilities to ensure that they are in compliance with PREA evolved from 2007 to the present?
- With the new Information Management System incidents are available for management to view internal reports and address issues in a timely manner.
 - Regional Management routinely visits facilities to ascertain the performance of facility management and offender operations.
 - PREA Hotline calls are responded to within 24 hours.
 - Regular security assessments and ACA audits include an evaluation of PREA compliance.
 - We are establishing an internal audit procedure for PREA compliance.
 - As a result of this incident DOC has seen the need for central coordination.
 - VA DOC now trains all staff according to the National PREA standards
 - We have increased the rate of staff prosecution for involvement with offenders.
 - We updated PREA policy and procedures after staff attended a sexual misconduct training conducted by NIC.
 - Within 7 days of Intake offenders are provided training and information on PREA as part of the offender orientation process.
- (c) What internal controls has VA DOC established to ensure the efficacy and integrity of the complaint investigation process related to allegations of sexual victimization of inmates?
- The Department is currently establishing an Agency wide PREA coordinator to monitor PREA compliance. This position will be responsible for monitoring the various reporting components as well as establishing and

monitoring the audit, investigation and training process. Institutions selected for audit will be chosen by the PREA coordinator as well.

- Please refer to Flowchart

3. The proposed national standards require that agencies make available to all sexual abuse victims access to a person either inside or outside the facility who can provide support to the victim. *ID. At 6255*. In its response to the Panel's Data Request, FCCW stated that it currently has no capacity for referring inmate victims to sexual assault coalitions, SANE professionals or other health or social service agencies.

(a) What is VA DOC's philosophy concerning the provision of services to inmate victims of sexual abuse?

- DOC supports the spirit of the public law and goals of PREA because they are consistent with our core values and mission and they reinforce good correctional practices.

(b) What is the practice of VA DOC facilities in providing services to inmate victims of sexual abuse?

- Offenders known to have reported PREA violations are referred to the mental health staff and will be evaluated within 2 working days of the referral.
- DOC policy has been revised since the time of these incidents, Operating Procedure 730.2 was revised in November 2009. This policy provides guidance to mental health staff for care of inmates who are victims of sexual assault.
- Offenders who are transported to the local hospital for PERT examinations have access to the SANE staff.
- Offenders are advised during PREA Orientation that services are available and how to access those services.
- The VADOC will be making arrangements to allow inmate victims direct access to credible sexual assault coalitions.

(c) What services does FCCW currently provide to inmate victims of sexual abuse?

- FCCW staff currently refers all offenders who are victims of alleged sexual abuse for an appointment with a Qualified Mental Health Professional.
- Based on that referral an offender may be scheduled for follow-up services.
- All sexually abused offenders are referred to medical initially for evaluation. For those cases where sexual abuse has been alleged, the offender is transported to the University of Virginia Medical Center for examination and to gather evidence. In those cases where there is physical evidence recovered, the offender has an opportunity to talk with a Sexual Abuse Specialist at the hospital. Any pertinent information gathered during that interview is documented on the consultation sheet and returned to the correctional center's medical unit.
- All documented information is made available to the Special Investigation Unit's Special Agent assigned to the case. It is also made available to any mental health provider providing treatment services to the offender within the correctional facility.

4. The Panel has noted in FCCW's response to the Data Request that VA DOC has mandated new training and security protocols for FCCW staff and management since 2007.

(a) How does current staff training at FCCW differ from the training provided to FCCW staff in 2007?

- In August 2007 the DOC hired a central PREA training coordinator who is located at the Academy for Staff Development and is responsible for the coordination and delivery of training for programs related to PREA. These programs include training of the Department of Corrections' employees as well as offenders incarcerated by or under the Department's supervision. In addition, the PREA Trainer ensures that training is conducted in compliance with mandates and requirements established by the Department of Criminal Justice Services, the Department of Corrections, the American Correctional Association and the Code of Virginia. This position also serves as a resource to Institutional Training Officers, Regional Directors, Regional Managers and other DOC administrators on PREA- related training.
- Training for staff begins at the Academy for Staff Development during Basic Skills and is followed up each year during in-service training at the Institution.
- Investigators receive specialized training as well as refresher courses each year.
- Curriculum is updated as PREA mandates based on published changes to draft standards.
- In 2007, training for staff and offenders was in its developmental stages. This training was new and not readily understood by staff and offenders.
- Prior to the current training emphasis was placed on "How to Avoid Inappropriate Relationships with Offenders", and did not contain sufficient emphasis on victims' rights, legal liabilities of staff, and how to appropriately report suspicions or observations of PREA violations.
- The current training offered focuses on defining PREA violations, the staff role in monitoring, preventing and reporting suspicious or actual sexual misconduct.
- Staff is trained on how to properly report sexual misconduct, and is made aware of their legal responsibilities to report such offenses.
- Staff is trained on documenting any appearances of improprieties to management.
- Technology is used to show examples of sexual misconduct incidences.
- Management takes a more active role in talking with staff during training classes, meetings, and briefings on zero tolerance to sexual misconduct.
- The policy on sexual misconduct is a required standard agenda item discussed at all security briefings and departmental meetings.
- All volunteers are trained on PREA and their role in reporting any alleged PREA violation to management through an internal incident report or to their supervising department sponsor.
- All offenders were shown the "Speaking Up- Discussing Prison Sexual Assault" video, given a brochure describing their rights and what to do in the event of sexual misconduct. They are also provided the information on the PREA Hotline and their right to report the matter outside of the institutional chain of command.

(b) How does VA DOC measure the effectiveness of FCCW's current staff-training program?

- Each correctional facility has a Security Assessment done annually by staff from other facilities to determine how effective staff complies with policies and

procedures. This assessment involves touring various departments and posts within the institution and questioning staff regarding their knowledge on the fraternization policy. The findings of that assessment are reported to the Regional Director and Deputy Director of Operations.

- Documentation is provided to show the policy being discussed in all briefings and meetings.
- The number of staff investigations and disciplinary actions taken regarding founded PREA cases are documented.
- Records of offenders' disciplinary reports regarding inmate-on-inmate PREA cases are documented.
- Copies of Informal Complaints alleging PREA violations are maintained and reviewed.
- Investigations conducted by the Institutional Investigator are maintained and reviewed
- DOC measures the effectiveness of the training by reviewing documentation and comparing statistics on a regular basis.

(c) How do current security protocols at FCCW differ from the security protocols in effect at FCCW in 2007?

- The Assistant Warden's office has been relocated to the same area as the Chief of Security's office.
- The Chief of Security's office access has been reduced to one entrance which is in a commonly used area.
- The entry door to the internal compound is secured, and operated by an officer in the Master Control Center.
- There is a control movement policy in place which dictates offenders' movement from location to location through a trip pass or master pass system. These processes require the signing out of offenders to locations and the signing in of offenders when they reach their destination. All trip passes require the sending and receiving officers to sign the pass. The Master Pass requires the review and approval of the Assistant Warden or the Duty Administrator before offenders can be released to various activities.
- Multiple surveillance cameras have been strategically located throughout the institution. Between 2009 and 2010 FCCW has installed 117 additional cameras throughout the facility
- There is a policy and protocol that re-affirms prohibiting male officers from physically pat searching female offenders.
- Staff are instructed on their responsibilities to report all suspicious or alleged sexual misconduct allegations.
- Management has directed that all (not just PREA related) offenders' complaints will be investigated and answered.
- Communication has been improved at all levels within the organization.

(d) How does VA DOC measure the effectiveness of the current security protocols at FCCW?

- Each correctional facility has a Security Assessment done annually by staff from other facilities to determine how effective staff comply with policies and procedures. This assessment involves touring various departments and posts within the institution and questioning staff regarding their knowledge

on the fraternization policy. The findings of that assessment are reported to the Regional Director and Deputy Director of Operations.

- The DOC has entered in to a contract with MGT of America to review the effectiveness of current protocols and PREA compliance.
- Documentation can be provided to show the policy being discussed in all briefings and meetings.
- Internal Incident Reports are submitted on all PREA related allegations or incidents.
- The number of staff investigations and disciplinary actions taken regarding founded PREA cases are documented.
- Records of offenders' disciplinary reports regarding inmate-on-inmate PREA cases are documented.
- Copies of Informal Complaints alleging PREA violations are maintained and reviewed.
- Investigations conducted by the Institutional Investigator are reviewed and maintained.
- DOC measures the effectiveness of the security protocols by reviewing documentation and comparing statistics on a regular basis.

5. The former head of security of FCCW, Major Patrick Owen Gee, was convicted in Fluvanna County Circuit Court in October 2008, for having sex with inmates in his office at FCCW.

(a) What are the conditions at FCCW that allowed for the incidents involving Major to Gee to occur?

Some other factors included the following:

- There was a lack of supervision to the Chief of Security due to the location of his office and his supervisor's office. Their offices were at different locations within the institution.
- The major's office had 3 access points into the office; two of them could be accessed from the hallway not visible to the staff working in the Shift Commander's office.
- The entry door to the internal compound was not being secured, which provided offenders unobstructed access to the major without other staff members knowledge.
- Inadequate procedures for Control Movement were in place at that time.
- Surveillance cameras were not strategically located throughout the institution.
- The former major often isolated himself from others and worked during non-business hours, as well as met with offenders behind closed doors often with the lights off except for a desk lamp.
- There was no protocol in place to instruct male staff on how to conduct meetings with female offenders alone.
- Staff allegedly felt intimidated by the Chief of Security and feared retaliation if they reported their suspicions.
- There was not adequate training for staff on their legal responsibilities to report suspicious sexual misconduct.
- Offenders' complaints were often dismissed due to perceived cliques between offenders and staff.

- Staff feared retaliation if they reported PREA related violations among their peers or supervisory staff.
- There was poor communication at several levels within the organization at the time of the PREA violations.

(b) Did VA DOC conduct a needs-assessment after these incidents came to light?

- The “Fluvanna Managerial Review” report was submitted in January 2010 and as a result personnel changes were made and procedures were put in place to provide for proper reporting and recording of PREA allegations.

(c) What did VA DOC learn about the institutional culture at FCCW that inhibited the staff from reporting sexual misconduct?

- The “Fluvanna Managerial Review” report was submitted in January 2010 and revealed the following:
 - i. Additional training on working with female offenders.
 - ii. Additional training on effective organization, organizational leadership and management styles.
 - iii. A more in depth look at the impact of policy changes and implementation on the total operations within the facility.
 - iv. The establishment of goals and objectives and expectations
 - v. A team building retreat
 - vi. A review of the Master Pass System to include special activity sign up sheets.

(d) In light of Major Gee’s conviction, please describe any revisions that VA DOC undertook at FCCW related to employee screening.

- Policy has been implemented to require background investigations to be conducted for all employees being promoted or transferred within the agency. Previously this was only required for new hires to the agency.
- Full background investigations are done on all new hires, to include criminal checks, reference checks with the current and former employers.
- Potential employees with any history of sexual misconduct reported on the job application or during the recruitment process requiring a background investigation are screened out.
- Greater emphasis is placed on recruiting more same gender staff for positions at Fluvanna.

(e) How does VA DOC currently oversee hiring and retention practices at FCCW?

- All vacant positions require a Notice of Vacancy (NOV). Each NOV must be submitted through the Regional Director for approval. The NOVs are then forwarded to Central HR where they are reviewed and subsequently approved or rejected. Once the NOVs are approved the vacancies are posted to the Agency and State website (potentially to industry/trade websites as well). Job postings include minimum and preferred qualifications and required licensing, certification requirements.
- DOC recruits candidates through direct application, participation in job fairs, various advertising mediums (based on hiring need) including newspapers, radio, career sites. DOC also works with local colleges through job placement programs and internships. All candidates must apply through the on-line application system. All minimally qualified

candidate applications are screened against both the minimum and preferred qualifications advertised in the job posting.

- Based on the position, the selection process may include physical agility testing, behavioral interviewing, panel interviewing, series interviews and/or other testing or selection mechanisms. All selected candidates must successfully pass a drug screen, full background check (both VCIN and FBI fingerprint checks) and meet all employment eligibility requirements.
- The Department has worked diligently over the last several years to enhance the recruitment process and ensure selection of highly qualified staff. Similarly, the Department has developed several strategies designed to improve retention through the development of employee engagement communication models which focus on direct exchange with management. These models include town meetings, staff forums and regular informal management walkthroughs. The management team has fostered a supportive and caring atmosphere for all staff. Line staff recognize that they have a voice and they have support. Recognition programs are in place that award great performance, length of service and demonstration of organizational values and ethics.
- Monetary reward is provided to those Officers who act as Field Training Officers (FTO). Quarterly stipends are provided to encourage these outstanding Officers to assist with communication of operational excellence strategies, training and staff support initiatives.
- The Department has also enhanced orientation, on-boarding and annual in-service training and promotes aggressively from within. Robust training and development activities are offered through the Academy for Staff Development including two leadership programs designed to enhance promotability.

(f) What services has VA DOC provided to current and former inmates of FCCW who were Major Gee's victims?

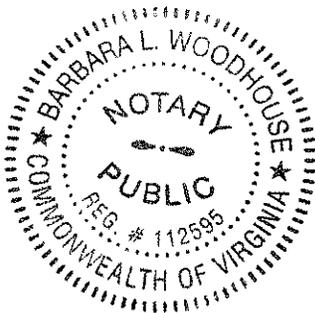
- Those offenders who were violated by Major Gee were provided counseling, chaplain and mental health services upon request or as referred by staff referrals.

HAROLD W. CLARKE



Harold W. Clarke, Director

Sworn and subscribed to before me, a Notary Public, in and for the State of Virginia, City of Richmond on this 15th day of April, 2011.




Notary Public

