

November 8, 2013

Joseph Swiderski ([Joseph.Swiderski@usdoj.gov](mailto:Joseph.Swiderski@usdoj.gov))  
Program Analyst  
Review Panel on Prison Rape  
U.S. Department of Justice

Re: Hearing on Sexual Victimization in U.S. Jails  
Harris County Sheriff's Office Response to the 2011- 2012 BJS Survey

Dear Mr. Swiderski:

The Harris County Sheriff's Office ("HCSO") would like to thank the U.S. Department of Justice, Bureau of Justice Statistics ("BJS") Review Panel on Prison Rape ("Panel"), for the opportunity to respond to the Inmate Survey entitled "Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12—National Inmate Survey, 2011-12" ("Inmate Survey" or "Survey"). The HCSO takes the issue of inmate sexual victimization very seriously and has thoroughly reviewed the Inmate Survey. Based on our analysis, we believe the Inmate Survey to be flawed and misleading due to a number of factors. Still, the HCSO continues to review the Inmate Survey results to see what, if anything, should be done differently to bring us closer to the desired rate of zero in the Harris County jail facilities.

The HCSO is committed to safeguarding all inmates incarcerated in the Harris County jail facilities. As part of that effort, the HCSO has closely studied the Prison Rape Elimination Act of 2003 (PREA) and jail commanders continue to seek new and better ways to proactively address the issue of inmate sexual victimization. As part of our on-going efforts, the HCSO has improved Harris County Jail operations by installing more surveillance cameras, hiring additional detention officers, adding a PREA overview to our staff training program, hiring a PREA coordinator, adding PREA-related information to the Inmate Handbook, and by establishing a toll-free line that inmates can call to report allegations of sexual abuse in the jail. Inmates incarcerated in the Harris County jail facilities have numerous ways to report sexual abuse including, for example, the toll-free phone line, cell intercom, grievance process, outcry to an officer or health care provider, health services, chaplaincy and letter to the Texas Commission on Jail Standards. Once reported, every allegation of sexual assault in the Harris County jail facilities is fully investigated, and upon a finding of probable cause such investigations are referred to the Harris County District Attorney's Office for prosecution.

In your letter dated September 6, 2013, you advised that the Panel has requested our written responses to five specific questions. Please find our responses to the Panel's questions listed below. We anticipate that we may supplement or amend these responses prior to the hearing, which we understand will be held sometime in 2014.

- 1. What are the factors that lead to the high incidence of sexual victimization at the HCJ during the time of the BJS report?**

The Harris County Sheriff's Office (HCSO) submits that this question is not a fair, reasonable or even-handed question. The question presented is based upon a false premise—that there was a high incidence of sexual victimization in the Harris County jail facilities between February of 2011 and May of 2012. There was and is no high incidence of sexual victimization in the Harris County jail facilities.

The HCSO challenges, among other things, the reliability of the anonymous inmate survey, as well as the validity of the results of the survey. Inmates often make false claims, and no provisions were made to test the accuracy of the claims made during the course of this survey. BJS statisticians readily acknowledge the unreliability of their survey results in these caveats at page 8 of their Inmate Survey Report:

Since participation in the survey is anonymous and reports are confidential, the survey does not permit any follow-up investigation or substantiation of reported incidents through review. Some allegations in the NIS-3 may be untrue. At the same time, some inmates may not report sexual victimization experienced in the facility, despite efforts of survey staff to assure inmates that their responses would be kept confidential. Although the effects may be offsetting, the relative extent of under reporting and false reporting in the NIS-3 is unknown.

Without the ability to conduct follow-up investigation or to otherwise substantiate the claims made by anonymous survey participants, the results of the survey are unreliable.

While the HCSO may supplement or amend this response on or before the date of the hearing, at least one more example of the fallacious nature of Question One is in order at this point. Approximately 9,000 inmates are incarcerated in the Harris County jail facilities. Rather than combining and collectively reporting the survey results from inmates incarcerated in *all* of the Harris County jail facilities, the BJS report inexplicably fragmented and separately counted, by building, the number of claims made by inmates. Focusing only on the highest number of uninvestigated, unsubstantiated claims made during the survey by anonymous prisoners incarcerated in one building, Question One incorrectly assumes there to be a high incidence of sexual victimization in one building, and further incorrectly assumes there to be a high incidence of sexual victimization throughout *all* of the Harris County jail facilities

The Inmate Survey indicated that about 1.6% of responding inmates reported a victimization incident with another inmate.<sup>1</sup> In three of the four Harris County jail facilities, inmates participating in the survey reported inmate-on-inmate victimization incidents below the reported national average.<sup>2</sup>

- 1307 Baker Street - 1%
- 701 N. San Jacinto - 0.9%
- 711 N. Jacinto - 0%

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<sup>1</sup> See Inmate Survey at p. 8.

<sup>2</sup> See Inmate Survey at Appendix, Table 6, at p. 81.

The Inmate Survey, however, indicates that 6.3% of the inmates housed in the 1200 Baker Street jail facility reported a victimization incident with another inmate.<sup>3</sup> It appears that the unique inmate demographics of the 1200 Baker facility skewed this survey statistic. In the Inmate Survey, the authors noted that certain inmate demographics across the nation reported *higher* rates of inmate-on-inmate victimization in their survey responses than the rest of the of the jail population. These higher survey rates were submitted by:

- Females<sup>4</sup>
- Inmates with serious psychological distress<sup>5</sup>
- Gay, lesbian, bi-sexual and other non-heterosexual inmates<sup>6</sup>

In the Harris County Jail, the above inmate groups are consolidated and housed at the 1200 Baker facility. Approximately 93% of the females, 75% of non-heterosexuals and 100% of the seriously mentally ill are housed at the 1200 Baker Street facility. These inmate groups are housed at the 1200 Baker facility in order to facilitate their access to our main clinic, infirmary, pharmacy, specially designed mental health cellblocks and protective housing cellblocks. The fact that the 1200 Baker facility houses the vast majority of inmate groups who, according to the Inmate Survey, tend to report higher rates of victimization in their survey responses, explains why inmates housed in this facility reported a higher rate as compared to the other three facilities constituting the Harris County jail facilities. It is only when the 1200 Baker Street facility is reported individually, with its unique inmate demographics, that the Inmate Survey includes the Harris County Jail among the highest anonymously reported rates of inmate-on-inmate victimization.

While the inmate demographics are clearly unique in the 1200 Baker Street facility as compared to the rest of the Harris County Jail facilities, the HCSO wanted to examine the survey data more closely to help ascertain whether a problem actually existed. On September 25, 2013, BJS Senior Statistical Advisor Allen J. Beck provided the HCSO with the demographic breakdown of the inmate surveys completed in the Harris County jail facilities. The demographic breakdown confirmed that the 1200 Baker inmate surveys included much more participation, and a higher rate of reported victimization, by female inmates, non-heterosexuals inmates and inmates with psychological distress. The HCSO attempted to obtain additional information to help further assess the validity of the survey statistics, but was unsuccessful. Unfortunately, since participation in the Inmate Survey was anonymous and the reports are confidential, the survey does not permit any follow-up investigation or substantiation of reported incidents through review. As noted above, the Inmate Survey acknowledges that some allegations may be untrue and that the effects of under reporting and false reporting are “unknown.”<sup>7</sup> Without access to all the underlying data, the HCSO has been unable to follow-up on the anonymous inmate reports or Survey findings.

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<sup>3</sup> See Inmate Survey at Appendix, Table 6, at p. 81.

<sup>4</sup> See Inmate Survey at p. 6.

<sup>5</sup> See Inmate Survey at p. 7.

<sup>6</sup> See Inmate Survey at p. 7.

<sup>7</sup> See Inmate Survey at p. 8.

In the Harris County jail facilities, all inmate outcries of alleged sexual assault are investigated as criminal offenses. From January 1, 2011 to December 31, 2012, thirty-four sexual assault-related criminal reports were generated in the Harris County Jail facilities. During that period, the Harris County jail facilities received more than 240,000 inmates, with an average daily jail population of approximately 9,000. Based on our internal data, there is not a high rate of sexual assault incidents within the Harris County jail facilities. One factor that helps prevent sexual assaults is the fact that all facilities in the Harris County Jail are designed to facilitate direct, 24/7 staff observation into the inmate housing cellblocks. The officer duty stations face directly into the cellblocks.

**2. A summary of the measures that the HCSO and the HCJ have taken to reduce the prevalence and incidence of both inmate-on-inmate and staff-on-inmate sexual assault.**

The HCSO has been proactive in attempting to prevent incidents of inmate-on-inmate and staff-on-inmate assault. Some of the HCSO's initiatives include:

- Creation of an orientation videotape for inmates which plays in the Inmate Processing Center. This video addresses, among other things, the issues of inmate sexual activity and sexual assaults, and explains, among other things:

“Sexual conduct between inmates is STRICTLY PROHIBITED. The Harris County Sheriff's Office will investigate all allegations of sexual misconduct. If you feel that you are a victim of sexual harassment or sexual assault, you should immediately bring it to the attention of any staff member.”

- Creation of a new-hire orientation DVD that has a PREA disclaimer. This, for example, helps the HCSO create a culture of PREA awareness before employees even begin employment:

“It is important to note that the Harris County Sheriff's Office strictly prohibits fraternization and socialization with inmates. It is also the policy of the Sheriff's Office to comply with all standards set by the Prison Rape Elimination Act to prevent, respond, educate, screen and report sexual misconduct in all of its facilities.”

- Creation and implementation of a Staff Sexual Misconduct Policy (D-115).
- Creation and implementation of a PREA Policy (D-116).
- Presentation of a two-hour PREA overview in New-Hire Training Program and mandate requiring all new detention officers to sign a PREA acknowledgement form.
- Creation of a toll free telephone line for Harris County Jail inmates to report sexual abuse.
- Installation of additional inmate surveillance cameras in the laundry, commissary and kitchen areas.

- Amendment of HCSO policy to require more frequent security rounds in the administrative separation cellblocks.
- Since January 2012, the HCSO has hired, trained and deployed more than 800 new Detention Officers in the Harris County jail facilities.
- The HCSO's PREA Assault Hotline Flyers have been placed in every cellblock at all Harris County jail facilities in English and Spanish. The newest HCSO PREA Poster (hourglass) is displayed throughout public areas (visitation areas, lobby areas, and bonding). PREA flyers are also being placed inside inmate commissary bags before delivery.
- HCSO has established a PREA Compliance Committee. The PREA Compliance Committee will meet once a month to help the HCSO transition into full implementation and compliance with PREA standards.
- Revision, in March of 2013, of the Harris County Jail Inmate Handbook to add a section addressing the topic of sexual assault, to include inmate rights, safety, criminal consequences, reporting an incident, and available health services.
- The Texas Commission of Jail Standards ("TCJS") conducts a comprehensive inspection of the Harris County Jail facilities on an annual basis and at irregular intervals.
- The U.S. Marshal's Office inspects the Harris County jail facilities on an annual basis.

In 2012, the HCSO Office of Inspector General, Internal Affairs Division ("IAD"), completed an investigation that revealed that several jail staff members had engaged in inappropriate sexual contact with female inmates in the laundry area of the 1200 Baker Street facility. As a result of that proactive investigation, the HCSO fired five officers. Two other employees resigned during the course of the IAD's investigation. The IAD investigative findings were presented to the Harris County District Attorney's Office, resulting in one indictment. The HCSO continues to train staff members that sexual contact with inmates is prohibited by policy and is against the law, and to make it abundantly clear to all employees that violators will be disciplined and referred to the District Attorney's Office for possible prosecution.

**3. Summarize the HCSO's and the HCJ's progress in implementing the Prison Rape Elimination Act National Standards, 28 C.F.R. pt. 115 (2012).**

Please refer to our response to Question No. 2, above, since it includes many of the actions already taken by the HCSO to implement PREA standards. Some additional actions being taken by the HCSO include:

- The HCSO is currently working with MHMRA to identify an approved outside victim advocacy. Our PREA Policy states we will make available a victim advocate to accompany the victim through the forensic medical exam process. The HCSO PREA Coordinator has contacted the Montrose Counseling Center and is in the process of gathering additional information.

- The HCSO has created a contractor/volunteer PREA acknowledgement form and PREA staff, contractor and volunteer brochure. After this form is signed and the brochure is in their possession, the contractor/volunteer must successfully complete PREA and sexual harassment-related training.
- HCSO has PREA training available on its flex training website for all staff members. This course can be taken at home or at the HCSO facilities, and employees earn eight hours of Texas Commission on Law Enforcement (“TCOLE”) credit for this course.
- The PREA Compliance Committee will help develop a vulnerability PREA Screening Checklist form for use by the HCJ Classification Section. Classification currently uses inmate assessment forms approved by the Texas Commission on Jail Standards.
- HCSO Systems and I.T. are working to create a database for all sexual assault allegations generated within the HCJ. This database will eventually help consolidate all data and reports.
- On June 17, 2013 the HCSO applied for and subsequently received a \$237,693.00 grant from the Bureau of Justice Assistance to further expand and enhance our current PREA efforts. The vast majority of these grant funds will establish working agreements with various experts in their respective fields. Academics from local universities, specializing in “incarcerated populations” will assist the HCSO in measuring the success of their PREA efforts. Counselors, specially trained in issues surrounding sexual abuse, will assist the HCSO in developing PREA based policies including policies addressing LGBT populations and will work with the HCSO in developing PREA based curriculum for all detention based personnel and, if needed, provide counseling services to victims. Professionally trained specialists will be assigned as advocates to accompany victims through the initial phases of the investigation process.

Since seventeen year olds are considered adults for purposes of criminal prosecution under Texas law, they are incarcerated in facilities housing adult detainees, including large urban jails like the Harris County Jail. Given the numbers of prisoners housed in the Harris County jail facilities, the design of the facilities, and the need to otherwise comply with the State’s detailed regulations regarding the classification and incarceration of prisoners housed in the jail facilities, it is operationally impossible to comply with all of the sight, sound, physical contact, supervision, isolation, exercise, education, work and other program-related standards issued in accordance with PREA.

**4. Describe the measures that the HCSO and the HCJ have taken to protect from sexual victimization those inmates who have mental-health problems, are non-heterosexual, or have a history of prior victimization.**

The HCSO has a robust system to identify inmates with mental health and/or other health issues beginning at the entry point into the Harris County Jail. Trained deputies perform a mental health screening at the entry of Booking so that individuals with mental health issues are identified and so that the booking process can be expedited if necessary. The HCSO also performs intake health screening during the booking process. The screening is conducted by a registered nurse, who screens for medical and/or mental health issues. Any affirmative finding causes the inmate to be referred to the 1200 Baker Street facility medical/mental health clinic,

which is staffed on a 24/7/365 basis by both medical physicians and psychiatrists. Detainees with medical and/or mental health needs are evaluated by physicians before undergoing the classification and housing process. Physicians not only prescribe medication, other treatment and/or testing, but also identify those inmates for whom specialized medical or mental health housing is indicated. The HCSO operates a 100-bed medical infirmary, staffed by a physician each day and staffed by nurses on a 24/7 basis. The HCSO also operates a 108-bed mental health infirmary, staffed by psychiatrists each day and staffed by nurses and psychiatric technicians on a 24/7 basis. The HCSO also operates 138-bed mental health step down units, monitored by deputies and detention officers with 112 hours of specialized mental health training. The step-down units often serve as a transition between the more acute mental health infirmary and general population.

The role of HCSO Classification in protecting inmates from sexual victimization involves the identification of (1) inmates who may be victimized and (2) inmates who may subject another person to victimization. Classification runs a criminal history check, a "CCQ" (mental health check), conducts an interview, checks for "keep separates", and completes a security risk level assessment on every inmate prior to housing the person in the jail. At minimum, inmates are housed separately based on gender, level of security (*i.e.*, minimum, medium and maximum) and any special handling issue (medical, mental health, protection, etc.). When deemed necessary, Classification will place the individual in protective custody or administrative separation.

During the Classification process, non-heterosexual males are specifically given the opportunity to request protective housing. If the request is made, the non-heterosexual inmate is housed separately from the general population.

The HCSO has an extensive network of surveillance cameras throughout the Harris County jail facilities that are used to monitor inmate activities. In 2014, the HCSO will be installing another \$800,000 in additional cameras at the 1200 Baker Street facility. In addition, all Harris County jail facilities are designed to facilitate direct, 24/7 staff observation into the inmate housing cellblocks (duty stations face into the cellblocks). In addition, officers make security rounds every 25 minutes in the administrative cellblocks and every 15 minutes for those inmates considered potentially suicidal.

Inmates who make outcry of an alleged sexual assault are evaluated by the physicians in the 1200 Baker clinic and referred to the Harris Health hospital district facilities for Sexual Assault Nurse Examiner (SANE) evaluation. Every allegation is treated as factual and evaluated by a physician and SANE provider. Upon return to the jail facilities, inmates are re-evaluated by physicians and referred to the providers of the Harris County Mental Health and Mental Retardation Authority (MHMRA) for evaluation. Policies and Procedures regarding Health Services' response to sexual assault allegations are extensive. Those policies and procedures have been reviewed and meet the standards of the National Commission on Correctional Health Care ("NCCHC"). Since July 19, 1985, the NCCHC has continually accredited the Harris County Jail's health care services, including its medical and mental health services. On October 28, 2013, the NCCHC awarded the Harris County Jail its 2013 "Program of the Year Award" for its mental health and medical security units.

**5. Identify the specific challenges of big-city jails in preventing inmate sexual victimization.**

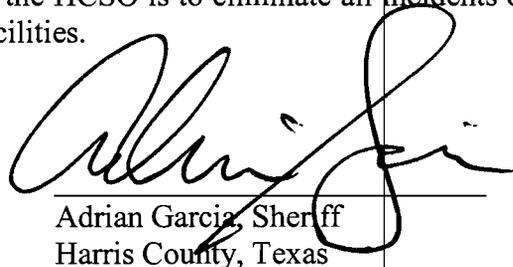
Large urban jails, including the Harris County Jail, are challenged by the high volume of prisoners incarcerated into and released from jail on a daily basis, and by the rapid turnover of prisoners. The volume and turnover of detainees exacerbates the difficulties inherent in furnishing provider continuity, whether the provider is healthcare staff or security staff. Urban environments with high rates of substance use also lead to an increase in the number of detainees with serious medical and mental health needs, which increases the demands on the health care staff. Large urban jails include a wide variety of prisoners, including violent offenders, all of whom must be incarcerated in accordance with State classification standards.

Large jails face a number of unique number concerns in preventing inmate sexual victimization. Foremost, the Harris County jail population of approximately 9,000 inmates is constantly changing as hundreds of inmates are booked into and released from HCSO custody daily. The HCSO emphasizes its zero tolerance policy with all inmates upon reception (via orientation video presented in English, Spanish, American Sign Language, and closed captioned). The HCSO staff then maintains a vigilant watch over the evolving prisoner population to enforce the HCSO's zero tolerance policy regarding inmate sexual victimization.

Big-city jails also face concerns associated with a large at-risk inmate population. Certain populations, such as lesbian, gay, bisexual, transgender, intersex (LGBTI), and gender nonconforming individuals, have been shown to be more vulnerable to sexual abuse in confinement settings, and the Standards have taken that into account.”<sup>8</sup> The Harris County Sheriff's Office is no exception and continues to proactively safeguard these inmates through our internal policies, operations, and PREA initiatives.

In response to all these challenges, the Harris County Sheriff's Office uses staff training, technology, proactive policies and procedures, enhanced camera surveillance, proactive inmate screening, a robust jail classification system and numerous other means to proactively safeguard the persons incarcerated in the Harris County Jail.

We hope this information is useful to the Panel in its review of the BSJ Inmate Survey. Again, through all our proactive initiatives, the goal of the HCSO is to eliminate all incidents of inmate sexual victimization in the Harris County jail facilities.



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Michael L. Alston, Attorney Advisor

<sup>8</sup> Hastings, A., McGarry, P., & DiZerega, M., “Screening for Risk of Sexual Victimization and for Abusiveness,” <http://www.vera.org/sites/default/files/resources/downloads/prea-screening-guidelines.pdf> (May, 2013).