



DEPARTMENT OF PUBLIC SAFETY  
REPORT TO THE 2016 LEGISLATURE

**Response to Act 194, Sessions Law of Hawaii 2010**  
**SEXUAL ASSAULTS IN CORRECTIONAL FACILITIES**

December 2015

**Act 194, Sessions Law of Hawaii 2010**  
**SEXUAL ASSAULTS IN CORRECTIONAL FACILITIES**

Act 194, Sessions Law of Hawaii 2010, requires the Department of Public Safety (PSD) to report to the Legislature the statistical information related to the number of sexual assaults that occurred while a person is in the custody of PSD. The Prison Rape Elimination Act's (PREA) definition of sexual abuse and sexual harassment will be adopted for this report. Accordingly, the data reported under paragraphs I - V is from the calendar year 2014.

**I. Sexual assaults (sexual abuse) by persons in custody against other persons in the custody of PSD.**

In 2014, there were twenty-four (24) reported incidents of offender-on-offender sexual abuse. PSD is responsible for conducting the administrative investigation for all PREA sexual abuse incidents and PSD refers all reported PREA sexual abuse incidents to County law enforcement to process the parallel criminal investigation. PSD's administrative investigation process substantiated three (3) of the reported incidents made by offender victims, which resulted in administrative disciplinary action for the perpetrator of the sexual abuse. PSD's administrative investigation process determined that nineteen (19) reported incidents were either unfounded or unsubstantiated. There are two (2) incidents still pending the administrative investigation process.

**II. Sexual assaults (sexual abuse) by correctional staff against persons in custody of the PSD.**

In 2014, there were twenty-one (21) reported incidents of staff-on-offender sexual abuse. PSD's administrative investigation process concluded that five (5) reported incidents were substantiated. The five (5) staff perpetrators were either terminated or submitted their resignations with stipulations. The remaining sixteen (16) reported incidents resulted in eleven (11) reported incidents deemed either unsubstantiated or unfounded, and five (5) reported incidents are still pending the administrative investigation process. All reported incidents of sexual abuse by staff, contractors, or volunteers were also reported to County law enforcement authorities to process the criminal investigation component, if warranted.

**III. Non-criminal sexual misconduct by staff, including sexual harassment of persons in custody of PSD.**

In 2014, there were 6 (six) reported incidents of staff-on-offender sexual harassment. PSD's administrative investigation process concluded that one (1) reported incident was substantiated and the staff volunteer was banned from the facility. The remaining five (5) reported incidents were deemed either unsubstantiated or unfounded.

**IV. Criminal cases initiated, and closed for sexual assaults (sexual abuse) by or upon a person in custody of PSD.**

In 2014, there were seven (7) substantiated sexual assault cases which were referred to County law enforcement for criminal investigation. These criminal cases are pending with the relevant County Police and/or the Prosecutor's Office.

**V. Civil Claims filed and closed for sexual assaults by or upon a person in custody of PSD.**

In 2014, there were zero (0) new civil lawsuits filed, related to allegations of sexual harassment and/or sexual abuse behalf of the offender victim.

**VI. PREA UPDATE**

Act 194 also requires PSD to report to the Legislature on its efforts to implement the Prison Rape Elimination Act of 2003 (PREA) in our state correctional facilities. The goal of PREA focuses on preventing, reducing, eliminating, investigating incidents, providing treatment for victims, and the prosecution of accusers.

The final PREA National Standards were signed by U.S. Attorney General on May 16, 2012 and published in the Federal Register on June 20, 2012. All State, County and private prisons, jails, lockups, juvenile facilities, and community confinement facilities (halfway houses, re-entry centers, and day reporting centers) must be in compliance with these standards by August of 2013 and are subject to independent audits conducted by a Department of Justice (DOJ) Certified PREA Auditor. The audits are conducted on a three-year cycle with one third of PSD's facilities audited each year in a three-year cycle beginning in August of 2013 to August of 2016. The first audits were required by August 20, 2014.

PSD entered into a Memorandum of Understanding (MOU) with several Western States to conduct "circular auditing." The goal of the MOU is to minimize audit costs by sharing State staff resources among the MOU State members on a rotational basis to conduct the mandated PREA audits as defined by the DOJ PREA Standards. The MOU requires that PSD has DOJ Certified PREA Auditors on staff. As a result, PSD has sent five (5) staff members to the Certified DOJ PREA Auditor Training. PSD has four (4) Certified DOJ PREA Auditors and one (1) staff member, who attended training in October of 2015 is pending the certification process.

In May of 2015, Governor David Y. Ige informed the DOJ that the State of Hawaii would provide assurances to work towards PREA compliance. The certification of assurances was provided because the Office of Youth Services Hawaii Youth Correctional Facility has not achieved full compliance with the

DOJ PREA Standards and there is no exception for certifying only the PSD Adult Prison and Jails. The certification and notification of assurances allowed the Executive Branch to avoid forfeiting five (5) percent of Federal grant funds dedicated to prisons, jails, lock ups, and juvenile detention facilities. PSD has applied and is approved to utilize the five (5) percent penalty to supplement PSD's compliance with the PREA Standards. As of this writing, PSD is pending approval for grant funds in the amount of \$23,253 related to the Justice Assistance Grant and \$51,076 related to the Violence Against Women Grant. These funds will be redirected to supplement PSD's compliance with the PREA Standards.

The following PSD facilities have been audited and certified as DOJ PREA Compliant: Halawa Correctional Facility, Kauai Community Correctional Center, Maui Community Correctional Center, Waiawa Correctional Facility, and Womens Community Correctional Center. PSD is pending audit reports for Hawaii Community Correctional Center and Kulani Correctional Facility, as they were audited in October of 2015. The Oahu Community Correctional Center is scheduled for a DOJ PREA Audit in March of 2016.

PREA impacts PSD in its Corrections and Law Enforcement Division, as well as the Office of Youth Services: Hawaii Youth Correctional Facility. The management of the finalized PREA national standards has a significant impact on PSD's budget, programs, and resources. Therefore, PSD respectfully asks for the Legislature's support of any PSD submittals based on PREA, for the benefit of offenders, staff, and the community.