

The Hawaii Department of Public Safety 2021 Annual Prison Rape Elimination Act Report

INTRODUCTION

The State of Hawaii is committed to preventing, detecting, and responding to sexual abuse and sexual harassment in confinement. The Hawaii Department of Public Safety has a zero-tolerance policy for sexual abuse and sexual harassment in all its confinement facilities. This report is an overview of agency and facility aggregated data.

PURPOSE

The Prison Rape Elimination Act (PREA) requires that each agency collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. The agency shall, then, aggregate and review data to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training. The data collection includes and is intended to:

- Identifying problem areas and corrective action taken on an ongoing basis for each facility and the agency as a whole;
- Compare the current year's data and corrective actions with those from prior years; and
- Assess the agency's progress in addressing sexual abuse.

BACKGROUND

The Prison Rape Elimination Act of 2003 (PREA) was signed into federal law in September 2003 following unanimous support from both parties in congress. The purpose of the act is to "provide for the analysis of the incidence and effects of prison rape in federal, state, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape. PREA seeks to establish a zero-tolerance policy regarding sexual abuse, assault, and harassment in all correctional institutions, including prisons, jails, lockups and other confinement facilities for adults and juveniles.

PREA mandated the publication of standards to ensure compliance and to improve prevention, detection, and response strategies in addressing sexual abuse, and assault. The federal law created the National Prison Rape Elimination Commission and charged it with developing standards for the elimination of sexual abuse and sexual harassment of inmates and juveniles in confinement. The PREA standards were published in the federal register on June 20, 2012, and became effective on August 20, 2012. The four sets of standards correspond to different types of facilities: (1) Adult prisons and jails, (2) Lockups, (3) Community confinement facilities, and (4) Juvenile facilities.

All correctional agencies were required to be compliant with the PREA standards. Agencies must demonstrate zero tolerance not merely by written policy, but through procedures and practice. Compliance is demonstrated through DOJ PREA Audits. Over a three-year period (1 cycle), one-third of an agency's facilities must be audited each year. The final PREA Audit Compliance Tool was officially released in final form in 2014.

The Department of Public Safety (PSD) began its initial efforts to comply with the finalized PREA standards in August of 2012. As a result, PSD began implementing policies and procedures, training employees, contractors, volunteers, and educating offenders.

PSD supports all efforts to detect, prevent, report, investigate, offer victim support services, and prosecute criminally and/or administratively perpetrators of sexual abuse/assault and sexual harassment in its prison system, jails, and lockups. PSD is committed to providing a safe environment for all offenders committed to the custody and supervision of its Director.

GOVERNOR CERTIFICATION

PREA Standards require annual audits of one-third of the facilities under the agency's jurisdiction as well as Annual Governor Certification of Compliance in all facilities under the operational control of the state's executive branch, and all private facilities operated on behalf of the executive branch to house incarcerated individuals. Failure to annually certify compliance with standards will result in a loss of five percent of identified federal grant funding. Three options are provided to Governors:

- Certification that the state and all applicable facilities are in full compliance with the National Standards to Prevent, Detect, and Respond to Prison Rape, 28C.F.R. Part 115.
- Assurance that the state/jurisdiction will use not less than five percent of grant funds as identified by the Department of Justice to enable the state/jurisdiction to adopt and achieve full compliance with the National Standards to Prevent, Detect, and Respond to Prison Rape, 28 C.F.R Part 115.
- Decisions on the part of the Governor not to certify compliance or provide an assurance that the state/jurisdiction is moving toward compliance.

In September 2021, Hawaii Governor David Ige provided a certification that the state of Hawaii is in full compliance with the National PREA Standards.

BUREAU OF JUSTICE STATISTICS (BJS) REPORTING DATA

PREA requires data be collected and aggregated on sexual abuse/assault and sexual harassment incidents for PSD facilities and PSD contracted private prisons. 28 CFR §115.87. Aggregated data can be reviewed for calendars years 2011–2021 at <http://dps.hawaii.gov/policies-and-procedures/pp-prea/>.

PREA also requires PSD to review data collected and produce an annual report of its findings from its data review and any corrective actions for each facility, as well as the agency. 28 CFR §115.88. The annual report includes a comparison of the current year's data and an assessment of the corrective action from prior years and provides an assessment of PSD's progress in addressing sexual abuse. This report is PSD's formal report as it relates to this PREA standard. PSD will make its report readily available to the public annually through its website at www.hawaii.gov/psd.

Additionally, the U.S. Bureau of Justice Statistics (BJS) requires correctional agencies collect and report detailed information regarding the sexual victimization of offenders. This report includes a summary of the information that is to be submitted to BJS for the 2021 Survey of Sexual Violence which was submitted in December of 2022.

This report focuses on providing a review of the incident-based and aggregate data collected related to sexual abuse/assault or sexual harassment with offender victims from January 1, 2021, to and including, December 31, 2021.

DEFINITIONS

The PREA standard definition of **Offender-on-Offender Sexual Abuse** (28 CFR §115.6) is defined as consisting of any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, and the anus;
- (3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- (4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

The PREA standard definition of **Offender-on Offender Sexual Harassment** (28 CFR §115.6) is defined as repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one offender, detainee, or resident directed toward another.

The PREA standard definition of **Staff-on-Offender Sexual Abuse** (28 CFR §115.6) is defined as Sexual Abuse of an offender, detainee, or resident by a staff member, contractor, or volunteer which includes any of the following acts, with or without consent of the Offender, detainee, or resident:

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;

- (3) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (4) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (5) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or buttocks that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section.
- (7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an offender, detainee, or resident, and
- (8) Voyeurism by a staff member, contractor, or volunteer. Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an offender, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an offender who is using a toilet in his or her cell to perform bodily functions; requiring an offender to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an offender's naked body or of an offender performing bodily functions.

The PREA standard definition of **Staff-on-Offender Sexual Harassment** (28 CFR §115.6) is defined as repeated verbal comments or gestures of a sexual nature to an offender, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing; or obscene language or gestures.

Substantiated – An allegation that was investigated and determined to have occurred.

Unsubstantiated – An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

Unfounded – An allegation that was investigated and determined not to have occurred.

AGENCY AGGREGATED DATA

Sexual Abuse and Sexual Harassment Data for 2021

The PSD facilities in 2021 consisted of eight (8) state prison and jail facilities on four islands; (1) Mainland Branch Unit (MBU), that contracts with Core Civic, Saguaro Correctional Center (SCC) to house sentenced inmates and the Federal Detention Center (FDC) in Honolulu to house PSD inmates. Although not typically used to house

inmates and detainees overnight, Sheriff's Kaka'ako Booking Station and the Daniel K. Inouye International Airport Cell Block are also subject to the PREA standards. PSD Prisons – HCF, KCF, WCF, WCCC. Jails – HCCC, KCCC, MCCC, OCCC.

Four (4) of the eight (8) PSD Correctional Facilities are located on the island of Oahu. They are Halawa Correctional Facility (HCF), Oahu Community Correctional Center (OCCC), Waiawa Correctional Facility (WCF), and Women's Community Correctional Center (WCCC). Two (2) of the eight (8) PSD Correctional Facilities are located on the island of Hawaii, and they are the Hawaii Community Correctional Center (HCCC) and Kulani Correctional Facility (KCF). Kauai Community Correctional Center (KCCC) is located on the island of Kauai and Maui Community Correctional Center (MCCC) is located on the island of Maui.

SCC is a privately-operated prison located in Eloy, Arizona, that PSD contracts with for housing Hawaii offenders committed to the custody and care of the Director of PSD. As a private prison, SCC is required to comply with the PREA standards that became effective in August 2012. PSD incorporated the PREA standards requirement and language into the contract renewal with Core Civic, Inc. in August 2021. SCC has a supplemental contract to house PSD inmates set to expire in July 2024. SCC successfully completed its DOJ PREA Audit in May 2021, with final findings as meeting all PREA standards.

PSD houses jail inmates and/or special management inmates at FDC. As a federal prison, FDC is required to comply with the PREA standards. FDC successfully completed their DOJ PREA Audit with a final report issued in November 2021 having been found to meet all PREA standards.

2021 Offender-on-Offender Sexual Abuse and Sexual Harassment

In 2021, using the PREA definitions, five (5) PSD Correctional Facilities reported allegations of Offender-on-Offender sexual abuse and six (6) facilities reported allegations of Offender-on-Offender sexual harassment. In addition, out of the contracted facilities, MBU (Saguaro Correctional Center) reported two (2) allegations of Offender-on-Offender sexual abuse, and one (1) allegation of Offender-on-Offender Sexual Harassment. The MBU (Hawaii Federal Detention Center) there were no allegations of Offender-on-Offender sexual abuse or sexual harassment.

There were one hundred and two (102) Offender-on-Offender allegations all together including contracted facilities: fifty-four (54) sexual abuse allegations and forty-eight (48) sexual harassment allegations. Of the fifty-four (54) allegations of Offender-on-Offender sexual abuse, eight (8) were substantiated, fifteen (15) were unsubstantiated, twenty-eight (28) were unfounded, and three (3) are currently pending investigation. Of the forty-eight (48) allegations of Offender-on-Offender sexual harassment, ten (10) were

substantiated, twenty-four (24) were unsubstantiated, eleven (11) were unfounded, and three (3) is pending investigation. The following table presents the allegations by facility.

**Offender-on-Offender Sexual Abuse and Sexual Harassment Allegations
January 1 – December 31, 2020**

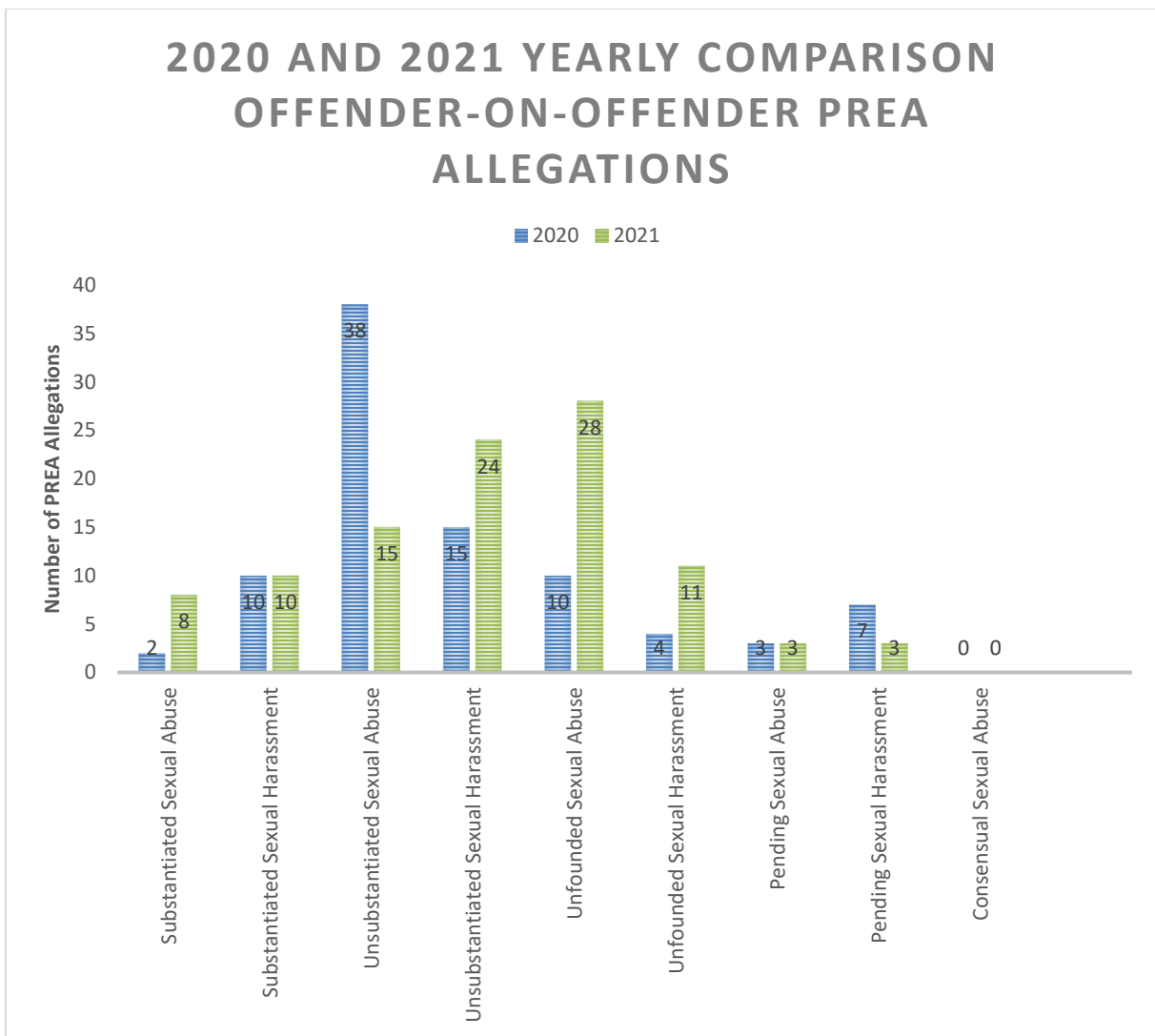
FACILITY	TYPE	TOTAL	SUBSTANTIATED	UNSUBSTANTIATED	UNFOUNDED	PENDING
MBU CC/SCC (private contracted facility)	SEXUAL ABUSE	2	0	0	1	1
	SEXUAL HARASSMENT	1	0	1	0	0
FEDERAL DETENTION CENTER (federally contracted facility)	SEXUAL ABUSE	0	0	0	0	0
	SEXUAL HARASSMENT	0	0	0	0	0
HCCC*	SEXUAL ABUSE	10	0	3	7	0
	SEXUAL HARASSMENT	4	1	1	2	0
HCF	SEXUAL ABUSE	12	1	6	4	1
	SEXUAL HARASSMENT	9	0	6	1	2
KCCC*	SEXUAL ABUSE	0	0	0	0	0
	SEXUAL HARASSMENT	10	3	3	4	0
KCF	SEXUAL ABUSE	0	0	0	0	0
	SEXUAL HARASSMENT	0	0	0	0	0
MCCC*	SEXUAL ABUSE	5	4	0	1	0
	SEXUAL HARASSMENT	6	2	4	0	0
OCCC*	SEXUAL ABUSE	23	3	5	14	1
	SEXUAL HARASSMENT	15	2	9	3	1
WCCC (F)	SEXUAL ABUSE	2	0	1	1	0
	SEXUAL HARASSMENT	3	2	0	1	0
WCF	SEXUAL ABUSE	0	0	0	0	0
	SEXUAL HARASSMENT	0	0	0	0	0

*Facility has both male and female Offenders.

(F) Female Facility

Offender-on-Offender Sexual Abuse and Sexual Harassment Allegations 2020 and 2021 Yearly Comparison

Year	Substantiated		Unsubstantiated		Unfounded		Pending		Consensual
	Sexual Abuse	Sexual Harassment	Sexual Abuse	Sexual Harassment	Sexual Abuse	Sexual Harassment	Sexual Abuse	Sexual Harassment	Sexual Abuse
2020	2	10	38	15	10	4	3	7	0
2021	8	10	15	24	28	11	3	3	0



Staff-on-Offender Sexual Abuse and Sexual Harassment

Using the PREA definitions, five (5) PSD Correctional Facilities reported allegations of Staff-on-Offender sexual abuse and three (3) facilities reported allegations of Staff-on-Offender sexual harassment. In addition, out of the contracted facilities, MBU (Saguaro Correctional Center) reported four (4) allegation of Staff-on-Offender sexual abuse and two (2) allegations of Staff-on-Offender sexual harassment. FDC reported no allegations of staff-on-offender sexual abuse and or harassment.

There were a total of forty-five (45) Staff-on-Offender allegations all together including contracted facilities: twenty-seven (27) sexual abuse allegations and eighteen (18) sexual harassment allegations. Of the twenty-seven (27) allegations of Staff-on-Offender sexual abuse, seven (7) were substantiated, eight (8) were unsubstantiated, nine (9) were unfounded, three (3) are currently pending investigation. Of the eighteen (18) allegations of Staff-on-Offender sexual harassment, there were no substantiated allegations, seven (7) were unsubstantiated, eight (8) were unfounded, and three (3) are pending investigation. The following table presents the allegations by facility.

**Staff-on-Offender Sexual Abuse and Sexual Harassment Allegations
January 1 – December 31, 2021**

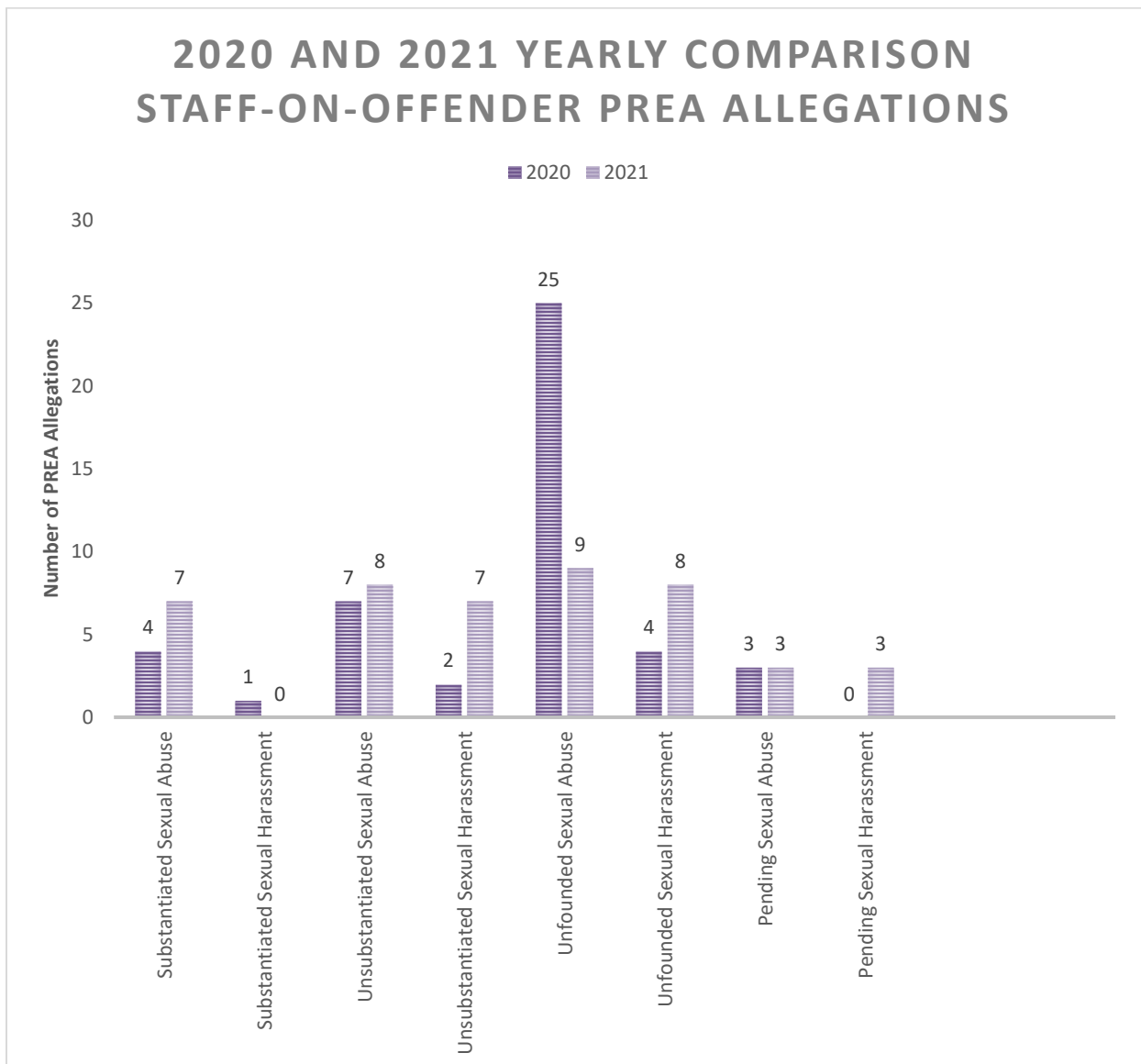
FACILITY	TYPE	TOTAL	SUBSTANTIATED	UNSUBSTANTIATED	UNFOUNDED	PENDING
MBU CC/SCC (private contracted facility)	SEXUAL ABUSE	4	2	1	0	1
	SEXUAL HARASSMENT	2	0	1	0	1
FEDERAL DETENTION CENTER (federally contracted facility)	SEXUAL ABUSE	0	0	0	0	0
	SEXUAL HARASSMENT	0	0	0	0	0
HCCC*	SEXUAL ABUSE	1	0	0	1	0
	SEXUAL HARASSMENT	0	0	0	0	0
HCF	SEXUAL ABUSE	6	0	4	1	1
	SEXUAL HARASSMENT	10	0	4	5	1
KCCC*	SEXUAL ABUSE	0	0	0	0	0
	SEXUAL HARASSMENT	0	0	0	0	0
KCF	SEXUAL ABUSE	0	0	0	0	0
	SEXUAL HARASSMENT	0	0	0	0	0
MCCC*	SEXUAL ABUSE	0	0	0	0	0
	SEXUAL HARASSMENT	0	0	0	0	0
OCCC*	SEXUAL ABUSE	12	4	3	4	1
	SEXUAL HARASSMENT	4	0	0	3	1
WCCC (F)	SEXUAL ABUSE	4	1	0	3	0
	SEXUAL HARASSMENT	2	0	2	0	0
WCF	SEXUAL ABUSE	0	0	0	0	0
	SEXUAL HARASSMENT	0	0	0	0	0

*Facility has both male and female Offenders.

(F) Female Facility

**Staff-on-Offender Sexual Abuse and Sexual Harassment Allegations
2020 and 2021 Yearly Comparison**

Year	Substantiated		Unsubstantiated		Unfounded		Pending	
	Sexual Abuse	Sexual Harassment	Sexual Abuse	Sexual Harassment	Sexual Abuse	Sexual Harassment	Sexual Abuse	Sexual Harassment
2020	4	1	7	2	25	4	3	0
2021	7	0	8	7	9	8	3	3



AGENCY AND FACILITY PREA SUMMARY, ACHIEVEMENTS AND PROGRESS

The Department continues its efforts to maintain compliance with the PREA standards, and working to prevent, detect, and respond to sexual abuse and sexual harassment in confinement settings. Some of these efforts include, but are not limited to internal reviews, Department of Justice PREA audits, updating policies, partnering with the community rape crisis centers that provide emotional counseling support services for offenders, updating PREA training with current information and materials. In 2012, PSD appointed an Agency Wide PREA Coordinator located in the Litigation Coordination Office to coordinate and oversee the agency's implementation and compliance efforts. Each facility Warden designated a staff member to act as a PREA Compliance Manager who would be responsible for facility-level implementation of PREA procedures, and protocols, and to foster a sexually safe environment by maintaining compliance with national PREA standards

PREA training initially began in 2012 providing training, and education, emphasizing zero tolerance for sexual abuse and sexual harassment, victim services, inmate and staff rights to not be retaliated against, the importance of preventing, detecting, deterring, prosecuting violators, and encouraging the reporting of sexual abuse/sexual assault and sexual harassment incidents. Staff is also informed about the serious impact of offender sexual victimization within a correctional setting and its effects. PSD staff members, volunteers, and contractors are provided with refresher PREA training every two (2) years to ensure that they are aware of PREA policies, procedures, and goals. In years when a staff member does not receive refresher training, they are provided with updated information on current sexual abuse and sexual harassment policies, and any relevant updates or changes through handouts, memoranda, and posters.

In July 2014 PSD finalized the departments PREA policy (ADM.08.08). The policy is reviewed annually and updated based on the need to address updated information and changes due to modified protocols or additional guidance on PREA standards provided by the PREA Resource Center (PRC) and the PREA Management Office (PMO). The policy has been updated in 2017, 2020, and 2021, which can be accessed at:

<https://dps.hawaii.gov/wp-content/uploads/2014/07/ADM.08.08.pdf>

All new admission and transfers receive comprehensive PREA education within thirty (30) days of arrival through an education video developed by Just Detention International, and provided with an informational brochure about PSD's zero tolerance policy, medical and mental health care, victim services, strategies to stay safe, and how to report incidents or suspected incidents of sexual abuse or sexual harassment. PREA related information is consistently posted throughout the facility and on the department's website. Written materials can be accessed at:

<https://dps.hawaii.gov/wp-content/uploads/2020/10/FINAL-PREA-Brochure-GTL-FINAL-BLACK-4-17-19-FINAL.pdf>.

The agency created multiple methods for staff and offenders to report incidents of sexual abuse and sexual harassment; methods include internal and external reporting hotlines,

providing addresses for confidential written correspondence, grievance procedures, and verbal reporting processes. Family, friends, attorneys, and other third parties are informed of ways they can report incidents of offender institutional sexual abuse and/or sexual harassment by other offenders, PSD staff, contractors, or volunteers. The information can be accessed at:

<http://dps.hawaii.gov/wp-content/uploads/2015/02/How-to-report-PREA-Incident-2-3-15.jpg>.

All offenders are assessed through a PREA screening process during admission or transfer. Screening occurs by utilizing the PSD PREA Screening Tool which assesses an offender's vulnerability or predatory risk factors for sexual abuse or having the propensity to be sexually abusive towards other offenders. In April 2016, PSD conducted training for key staff on the electronic PREA screening form through PSD's Offendertrak system. The electronic process went live on June 1, 2016. The electronic screening process considers all screening variables from the National PREA Standards which enables an effective and efficient process for offender designations that will assist in housing, work assignment, programming, education and keeping separate those inmates at high risk.

In 2021, the agency and its facilities rose to unexpected challenges, repeatedly adapting to the shifting requirements of Covid-19 and pandemic restrictions, unprecedented staffing shortages while prioritizing the health, safety, and security of those in our care, and for those tasked to ensure care. The agency and its facilities have demonstrated teamwork to continually implement and enforce the departments zero-tolerance PREA policy, adapt and strengthen practices to remain compliant with the National PREA Standards.

The department conducts quarterly PREA Compliance Manager (PCM) meetings and check-ins, rather than annually. The frequency was changed for the intended purpose of increasing contact for efficiency and effectiveness in monitoring and status check on PREA protocols and standards within each institution. This also reinforces PCM roles and responsibilities, includes issuance of updated PREA and current audit information, reviews of facility progress in audit preparedness, PREA investigations, and addressing issues of sustainability for compliance, address agency and facility wide corrective measures from internal or external audits, and have discussions concerning proactive approaches for improvement and compliance.

The total number of combined reported allegations slightly increased between 2020 and 2021, from (135) to (147) allegations. The number of allegations between the two years is based on a continued and heightened comprehensive education for offenders, fostering a facility climate which condemns sexual abuse, promoting a safe environment for alleged victims, reporters and witnesses due to active monitoring for retaliation, and the agency's efforts towards investigating all allegations, providing victims with sensitive care, resources, and support.

The Department recently completed the second (August 2020 – August 2021) and third (August 2021 – August 2022) year in the third cycle of PREA audits. Conducting one third of its facilities in each of the years of the cycle. PSD's eight facilities were audited for compliance with the PREA standards by two (2) different Certified Department of Justice PREA Auditors within the Western State Consortium. PSD's contract facilities, Core Civic (CC) Saguaro Correctional Center (SCC) and the Federal Detention Center (FDC) were also audited during 2021. All eight (8) PSD facilities and the two (2) contracted facilities received a final PREA Audit report and were deemed to be in full compliance with the National PREA Standards for the third audit cycle. All final PREA audit reports for all eight (8) PSD facilities and two (2) contracted facilities for all three audit cycles can be accessed at:

<https://dps.hawaii.gov/policies-and-procedures/pp-prea/>

PSD has conducted annual staffing plan reviews, and has continued its partnership with the Western State Consortium (WSC) for required DOJ PREA audits. PSD's DOJ Certified Auditors conducted seven (7) out of state DOJ PREA audits in years two and three of the third audit cycle within the WSC.

Plans for the future, in addition to maintaining existing procedures, protocols, and compliance with the national PREA standards, are to elevate the commitment to zero tolerance for sexual abuse and sexual harassment that will assist in reaching the departments vision of prevention in its confinement facilities, improve PREA training and comprehensive education, continued reviews of operational practices to improve sexual safety, and drafting of advanced policies, procedures for management of transgender and intersex populations within the institutions.