



**STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES**



**OFFICE OF YOUTH SERVICES
HAWAII YOUTH CORRECTIONAL FACILITY
PRISON RAPE ELIMINATION ACT
2017 ANNUAL REPORT**

Prepared by:

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Approved by:

Merton Chinen, Executive Director of the Office of Youth Services

Prison Rape Elimination Act

The Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79) was enacted by Congress to address the problem of sexual abuse of persons in the custody of U.S. correctional agencies. The Act applies to all public and private institutions that house adult or juvenile offenders and is also relevant to community-based agencies. It addresses both inmate-on-inmate sexual abuse and staff sexual misconduct.

Definitions

The following are the definitions related to sexual abuse as defined in HYCF Policy 12.12, Prison Rape Elimination Act (PREA) and PREA standard [§115.6] and will be the definitions used to identify the data for this report.

Definitions related to sexual abuse [§115.6]

For purposes of this part, the term—

1. *Sexual abuse* includes—
 - (A) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and
 - (B) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.
2. Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident includes 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:
 - (A) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - (B) Contact between the mouth and the penis, vulva, or anus;
 - (C) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
 - (D) 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.
3. Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:
 - (A) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - (B) Contact between the mouth and the penis, vulva, or anus;
 - (C) 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;
 - (D) 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;
 - (E) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the 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;

- (F) 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;
 - (G) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and
 - (H) Voyeurism by a staff member, contractor, or volunteer.
4. Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.
5. *Sexual harassment* includes—
- (A) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and
 - (B) Repeated verbal comments or gestures of a sexual nature to an inmate, 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.

General Definitions [§115.5]

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.

OTHER

An allegation in which the case is under investigation and no disposition has been assigned.

Youth Education:

To ensure youth are well informed about PREA, education is offered within 10 days of intake to ensure youth:

- Understand the agency's zero tolerance policy regarding sexual abuse and sexual harassment;
- Understand how to report incidents or suspicions of sexual abuse and sexual harassment;
- Understand their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents.

PREA Reporting Mechanisms

PREA incidents based on sexual abuse or sexual harassment, including retaliation against individuals for reporting, if substantiated, shall be subject to the administrative disciplinary process. The PREA incident shall be referred for criminal investigation, unless the allegation does not involve potentially criminal behavior.

Anyone may make a report of sexual abuse and/or sexual harassment and may do so by contacting any of the following sources:

The Office of Youth Services Executive Director, Merton Chinen;

Princess Victoria Kamamalu Bldg.
1010 Richards Street, Suite 314
Honolulu, Hawaii 96813
Phone: (808) 587-5710
Email: mchinen@dhs.hawaii.gov

The Youth Facility Administrator, Mark Patterson;

Office: 42-470 Kalaniana'ole Hwy.
Kailua, Hawaii 96734
Phone: (808) 266-9500
Cell: (808) 228-8295
Email: mpatterson@dhs.hawaii.gov

The Attorney General's Office;

Department of the Attorney General
425 Queen Street
Honolulu, Hawaii 96813
Telephone: (808) 586-1500
Fax: (808) 586-1239
Email: <http://ag.hawaii.gov/contact-us/email-the-department-of-ag/>

The OYS/HYCF Investigator:

Princess Victoria Kamamalu Bldg.
1010 Richards Street, Suite 314
Honolulu, Hawaii 96813
Phone: (808) 587-5700

The Deputy Youth Facility Administrator, Richard Mello;

Office: 42-470 Kalanianaʻole Hwy.
Kailua, Hawaii 96734
Phone: (808) 266-9531
Cell: (808) 683-6617
Email: rmello@dhs.hawaii.gov

The Ombudsman;

Office of the Ombudsman
465 South King Street, 4th Floor
Honolulu, Hawaii 96813
Telephone: (808) 587-0770
Facsimile: (808) 587-0773
TTY: (808) 587-0774
E-mail: complaints@ombudsman.hawaii.gov

Neighbor island residents may call us using the following toll-free numbers:

Hawaii: 974-4000
Maui: 984-2400
Kauai: 274-3141
Molokai/Lanai: 1-800-468-4644

Upon dialing the appropriate number for your island, you will be asked to enter the extension number. Our telephone extension is 7-0770, our fax extension is 7-0773, and our TTY extension is 7-0774

The Honolulu Police Department, phone: 911;

The Sex Abuse Hotline at 524-7273. This call shall be facilitated by staff in a confidential manner and without reservation;

Hawaii State Coalition Against Domestic Violence;

810 Richards St., Suite 960
Honolulu, Hawaii 96813
Phone: 808-832-9316
Fax: 808-841-6028

The Hawaii Coalition Against Sexual Assault; or

PO Box 10596
Honolulu, Hawaii 96816
Phone: 808-533-1637
Fax: 808-733-9032

The Sex Abuse Treatment Center;

Kapi'olani Medical Center for Women & Children, An Affiliate of
Hawai'i Pacific Health
Harbor Court
55 Merchant Street, 22nd Fl.
Honolulu, Hawaii 96813
Phone: (808) 524-7273 (RAPE) 24-hr hotline
www.SATCHawaii.org

Prevent Child Abuse Hawaii

P.O. Box 147
Honolulu, Hawaii 96810
Phone: (808) 951-0200
Fax: (808) 235-3881
www.preventchildabusehawaii.org

Identification of State Facilities:

Hawaii Youth Correctional Facility

The Hawaii Youth Correctional Facility (HYCF) is the sole juvenile secured custody correctional facility in the State of Hawaii that sits on approximately 323 acres of state owned land. Juveniles from the 4 counties are committed to HYCF by the State Judicial Family Courts. The secured custody facility is comprised of three housing modules, with ten cells and a common area in each module, a school, a gymnasium, kitchen facilities, offices for administrative and medical staff, and two isolation cells. Presently, two modules (20 beds) are assigned to boys and one module (10 beds) is assigned to girls. The average population ranges from 20-25 youth per year in secured custody with an average range of 5-10 youth per year on parole.

HYCF began implementation of PREA Standards in September 2013 by assigning a PREA Coordinator. At that time, efforts toward PREA compliance was stalled due to the agency having recently undergone a Department of Justice (DOJ) investigation and was struggling to meet the requirements of a Memorandum of Agreement (MOA), and a transitioning Administration. In 2014, the agency hired an Administrator to provide greater continuity and move the facility (HYCF) forward and fulfill federal and state mandates.

HYCF established a zero tolerance for any incidence of sexual activity with youth in our care. HYCF commits to full compliance with the PREA standards and all criminal laws.

In conjunction with efforts to meet DOJ compliance, Juvenile Justice Reform and other laws/provisions governing human trafficking and LGBTI, the new administration's emphasis was placed on PREA compliance.

ACCOMPLISHMENTS

The Hawaii Youth Correctional Facility continuously assesses the physical environment, investigates and completes after action reviews to eliminate sexual abuse and harassment within facilities. All PREA standards are being integrated into daily operating policy and procedures. The PREA Coordinator oversees facility compliance. The PREA Coordinator will meet quarterly or at least annually to review incidents and assess agency wide systems related to PREA.

Video surveillance systems have been upgraded in the secured custody facility and additional cameras are being installed in other areas of the property to enhance surveillance and eliminate blind spots. Video surveillance has been an invaluable tool to assist with investigations.

The following was completed during 2017:

- A PREA policy was formulated in 2015 with the technical assistance of the Moss Group through the PREA Resource Center. This policy was then scrutinized through consultation with the United Public Workers Union (UPW) and after a year and a half was finally in September 2016.
- The agency investigator received specialized training to investigate allegations of sexual abuse and harassment.
- Medical and Mental Health Staff received specialized training through the National Institute of Corrections (NIC) website.
- Contractor and volunteer training began through the National Institute of Corrections (NIC) website and at HYCF.
- Established a Memorandum of Understanding (MOU) with the Sex Abuse Treatment Center to provide forensic exams and victim counseling while in their care.
- Established an agreement with the Family Court Liaison Branch (FCLB) to provide initial victim advocacy and counseling for sex abuse victims.
- Gender announcements were implemented for all housing units.
- Consultation with UPW led to the implementation of gender-specific posts for the girls.
- Minimum staffing ratios of 1:8 during wake hours and 1:16 during sleep was implemented. A procedure was implemented where staff could obtain

authorization to seek overtime to fill vacancies when staffing fell below the minimum.

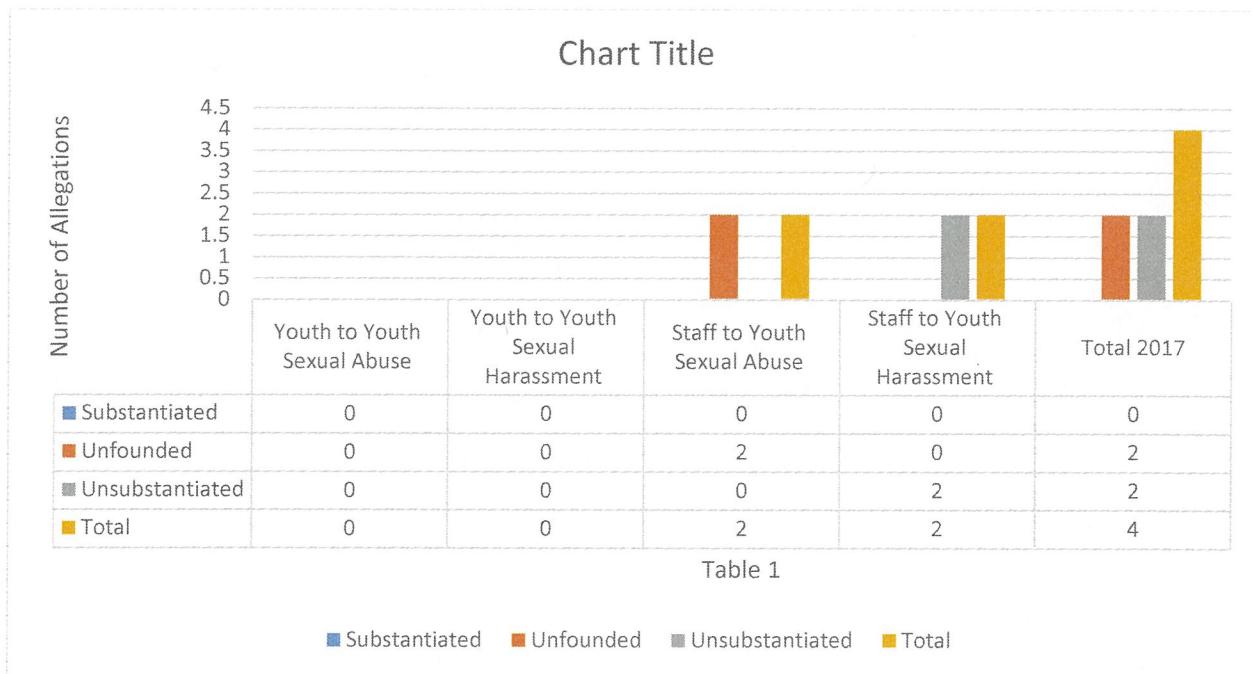
- The agency personnel office implemented the PREA required standards in the recruitment, promotion and hiring processes.
- A more comprehensive background check was implemented for all staff, volunteers and contractors to include state and national sex offender registries and the child abuse and neglect registry.
- Personnel completed a comprehensive background check for all staff good for 5 years.
- The facility through the PREA Coordinator conducts and receives comprehensive background checks for contractors and volunteers.
- A PREA Orientation/Education for youth was implemented meeting all provisions in the standards
- PREA posters and pamphlets were produced and placed in areas of the facility where everyone could view or have access to. The posters and pamphlets stressed that HYCF is a Zero Tolerance facility toward sexual abuse, harassment or retaliation and provided various ways to report an incident.
- A Housing assessment tool was included in the orientation to ensure potentially vulnerable or predatory youth are identified and placed in an appropriate housing.
- A Vulnerability assessment (VA) tool was implemented to ensure the physical plant was fully operational, secure and safe. It is also used to identified systems or areas that require repair(s) or need to be implemented to prevent blind spots, etc.
- The VA has identified areas of potential vulnerabilities that has since been addressed.
- Critical incident debriefing was implemented for all incidents involving violence or sexual abuse.
- The procurement process began to procure a PREA Auditor.

Projections for 2018:

- A PREA Auditor will be secured.
- PREA Training for staff, contractors and volunteers can be secured.
- Train staff as trainers to ensure continuity and continuance of PREA compliance.
- Failed audit and in corrective action
- Issue PREA Standards Quick Series pocket guides to staff as a way to improve staff knowledge and understanding of the standards.
- Ensure annual PREA training is implemented and conducted.
- Conduct mock audits to evaluate our readiness to respond to an incident of sexual abuse.

In compliance with PREA reporting standards, the list below shows the Calendar Year 2017 PREA Incident Reports filed in HYCF and previous years for comparison. As with any institutional abuse reports that involve youth in our facilities, each incident is independently investigated by the agency investigator.

Table 1: Number and type of alleged incidents for January 01, 2017- December 31, 2017



Youth to Youth Sexual Abuse:

No reports for this period

Youth to Youth Sexual Harassment:

No reports for this period

Staff to Youth Sexual Abuse:

In the first allegation, an anonymous person contacted the NCMEC (National Center for Missing and Exploited Children), alleging that a staff member was “sexually abusing” children at HYCF. The matter was referred for investigation to the Attorney General’s (AG) office and an internal investigation was conducted as well. The AG investigation and the internal investigation was both UNFOUNDED.

Action taken: None

In the second allegation, staff observed a “marking/bruise” on the side of the neck of a youth. A report was made and the matter was sent for investigation. Upon review of video footage it was determined that the “marking/bruise” occurred when the youth in question had got into a brief physical altercation with another youth. Case was found to be UNFOUNDED.

Action taken: Supervisors were directed to address continuous visual supervision of all youth with their subordinates.

Staff to Youth Sexual Harassment:

Both allegations involve staff using alleged inappropriate language in a youth presence. These matters were investigated by the agency investigator and both cases were found to be unsubstantiated.

Immediate action: Supervisors were instructed to address inappropriate language with their subordinates in their weekly meetings.

Long term action: Stress boundaries, inappropriate language, etc. in future trainings for staff, contract workers and volunteers.

Other:

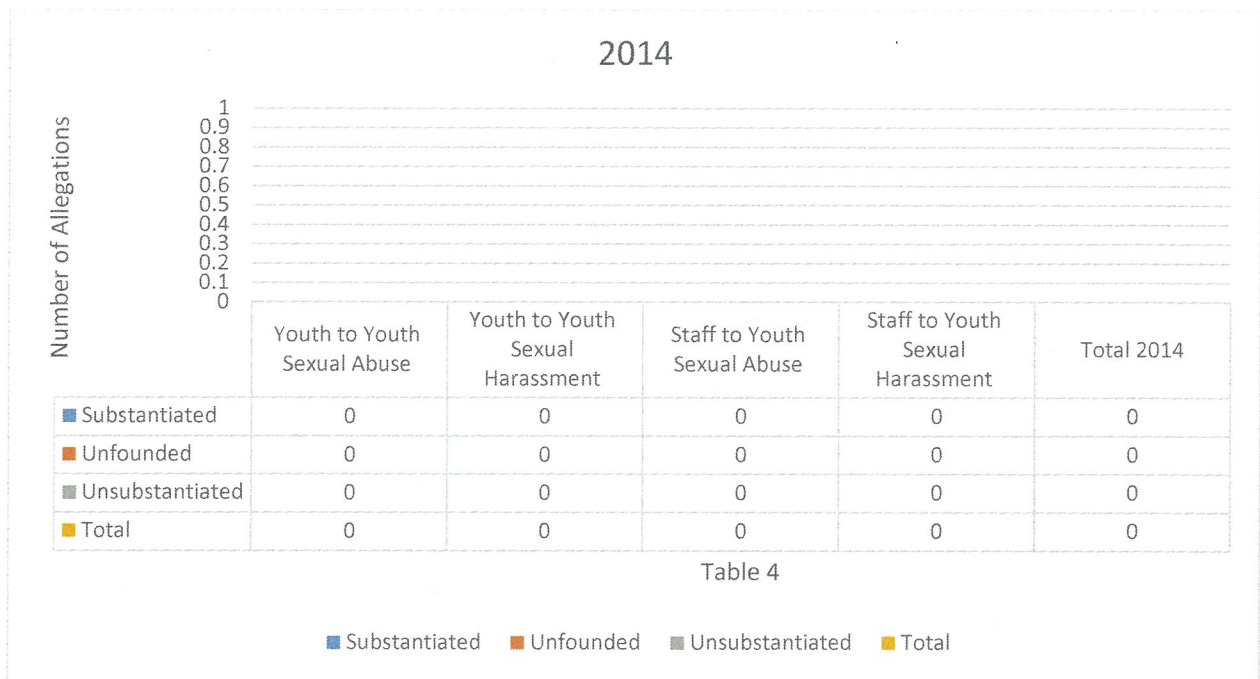
Two complaints were made citing failure to assign gender-specific staff in the girls housing. The matter was investigated and determined that this is not a PREA standard. At the time HYCF procedure was that in the event that staff vacancies did not exceed the minimum staff the girls housing unit could be staffed by two males (if no female staff was available) and constant camera surveillance would be conducted. Both cases were unfounded since this is not a PREA standard violation.

Action taken: Since that time there was consultation with the union (UPW) and concessions were made where HYCF would make available gender-specific posts in the girls housing unit and make best efforts to staff with gender-specific staff on occasions where no regularly scheduled gender-specific staff was available. This was fulfilled by authorizing gender-specific overtime.

Outside incidents reported to other facilities

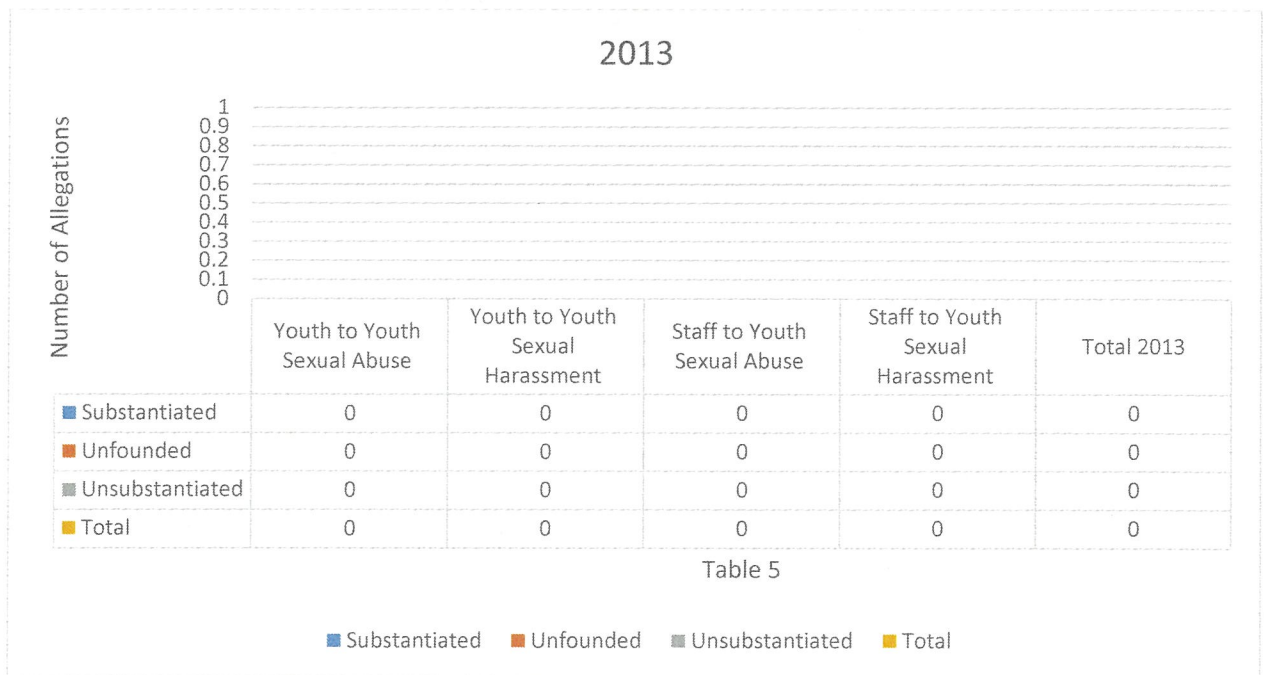
There was one incident where a youth alleged she was sexually assaulted by staff at a detention facility. This matter was referred to the other facility administrator. Outcome is unknown.

Table 4: Number and type of alleged incidents for January 01, 2014- December 31, 2014



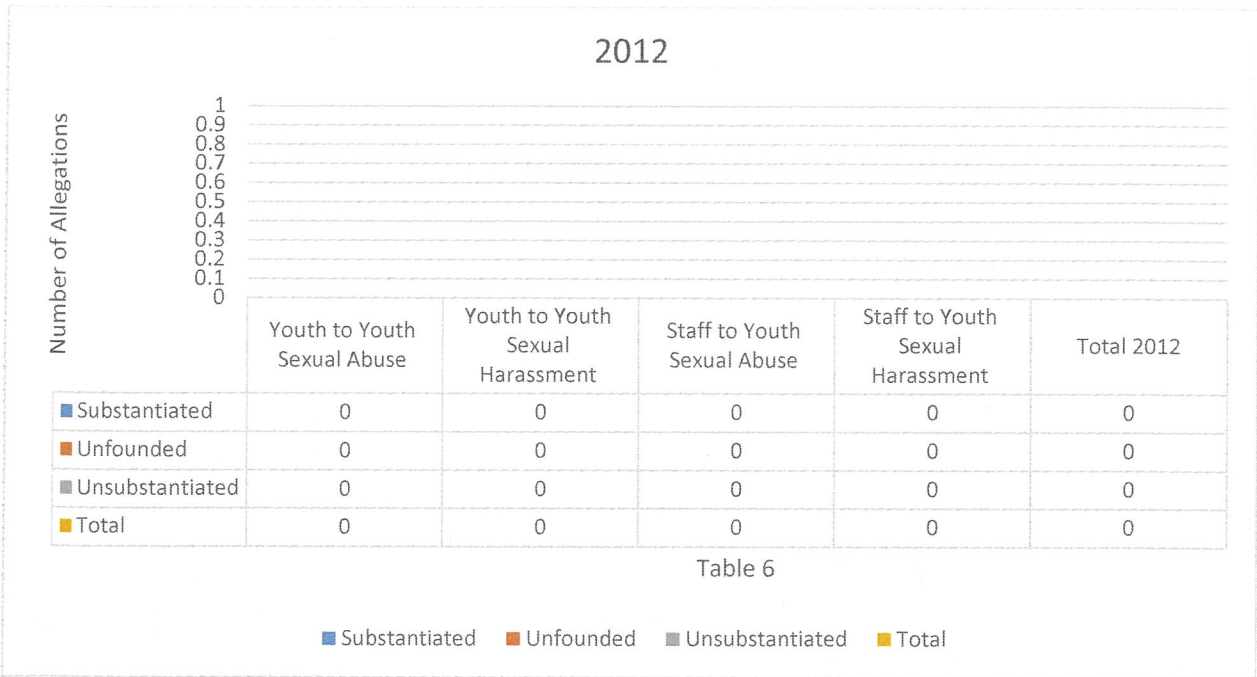
There was no reports of allegations in 2014

Table 5: Number and type of alleged incidents for January 01, 2013- December 31, 2013



There was no reports of allegations in 2013

Table 6: Number and type of alleged incidents for January 01, 2012- December 31, 2012



There was no reports of allegations in 2013.

Conclusion:

The Office of Youth Services is committed to working with our federal, state and local partners to reduce and eliminate sexual abuse and sexual harassment in our juvenile secure facilities and community residential programs. The agency works diligently to engage federal and private experts and to obtain technical assistance and resources. The Office of Youth Services will continue to pursue all efforts to develop and implement “Best Practices” in our processes and systems to improve the level of sexual safety for Hawaii’s youth in confinement and to enhance services for the youth in our care.

Publication Note:

PREA 2017 Annual Report will be posted on the HYCF Website as required by PREA Standard # 115.388.

<http://humanservices.hawaii.gov/oys/hawaii-youth-correctional-facility/>

Information Sources:

PREA Resource Center: <http://www.prearesourcecenter.org/>

Department of Justice Prison Rape Elimination Act Juvenile Facility Standards: <https://www.prearesourcecenter.org/sites/default/files/library/preafinalstandardstype-juveniles.pdf>