

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



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STATE OF HAWAII | KA MOKU'ĀINA O HAWAI'I
**DEPARTMENT OF CORRECTIONS
AND REHABILITATION**
*Ka 'Oihana Ho'omalua Kalaima a
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Honolulu, Hawaii 96813
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No. _____

December 24, 2024

The Honorable Ronald D. Kouchi
President and Members of the Senate
Thirty-third State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Nadine K. Nakamura
Speaker and Members of the
House of Representatives
Thirty-third State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Nakamura, and Members of the Legislature:

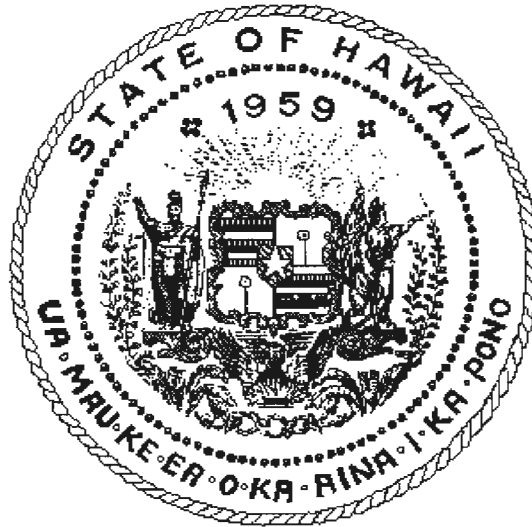
For your information and consideration, I am transmitting a copy of the Annual Report on the Sexual Assaults in Correctional Facilities in response to Act 194, SLH 2010. In accordance with Section 93-16, *Hawaii Revised Statutes*, I am also informing you that the report may be viewed electronically at: <https://dcr.hawaii.gov/2025-reports-to-legislature/>.

Should you have any questions regarding this report, please have your staff contact Teresita V. Fernandez, Business Management Officer, at 587-1236.

Sincerely,


Tommy Johnson
Director

Enclosure



**DEPARTMENT OF
CORRECTIONS AND REHABILITATION
REPORT TO THE 2025 LEGISLATURE**

**Response to HRS 353C-8/Act 194, Sessions Law of Hawaii 2010
SEXUAL ASSAULTS IN CORRECTIONAL FACILITIES**

December 2024

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

Act 194, Session Laws of Hawaii 2010, requires the Department of Corrections and Rehabilitation (DCR), formerly known as 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 DCR. 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 2023.

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

In 2023, there were sixty-seven (67) reported incidents of offender-on-offender sexual abuse. DCR is responsible for conducting the administrative investigation for all PREA sexual abuse incidents and DCR refers all reported PREA sexual abuse incidents to County law enforcement to process the parallel criminal investigation. DCR's administrative investigation process substantiated two (2) of the reported incidents made by offender victims, which resulted in administrative disciplinary action for the perpetrator of the sexual abuse. DCR's administrative investigation process determined that fifty-three (53) reported incidents were either unfounded or unsubstantiated. There are twelve (12) incidents still pending the administrative investigation process.

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

In 2023, there were twenty (20) reported incidents of staff-on-offender sexual abuse. DCR's administrative investigation process concluded that two (2) reported incidents were substantiated. These substantiated incidents were categorized as overfamiliarity/inappropriate relationships that were romantic in nature, including behaviors that may have led to sexual contact. Two (2) staff perpetrators were either terminated or submitted their resignations with stipulations prior to the completion of the investigation. Thirteen (13) of the twenty (20) reported incidents were deemed either unsubstantiated or unfounded, and the remaining 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 DCR.

In 2023, there were eleven (11) reported incidents of staff-on-offender sexual harassment. DCR's administrative investigation process concluded that three

(3) reported incidents were deemed either unsubstantiated or unfounded, and the remaining eight (8) reported incidents are still pending the administrative investigation process.

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

In 2023, there were four (4) substantiated sexual assault cases which were referred to County law enforcement for criminal investigation. Three (3) criminal cases were closed with no further action for sexual assault/abuse and one (1) is still being investigated by local law enforcement.

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

In 2023, there were no new civil lawsuits filed, related to allegations of sexual harassment and/or sexual abuse on behalf of the offender victim.

VI. PREA UPDATE

Act 194 also requires the Department of Corrections and Rehabilitation (DCR) report to the Legislature on its efforts to implement the Prison Rape Elimination Act of 2003 (PREA) in state correctional institutions. The goal of PREA focuses on preventing, reducing, eliminating, investigating incidents, providing treatment for victims, and prosecuting violators.

The final PREA National Standards were signed by U.S. Attorney General on May 16, 2012, published in the Federal Register on June 20, 2012, and became effective August 2012. All State, County and private prisons, jails, lockups, juvenile facilities, and community confinement facilities (halfway houses, re-entry centers, and day reporting centers) were required to comply with these standards by August of 2013 and are subject to independent audits conducted by Department of Justice (DOJ) Certified PREA Auditors.

DCR began its initial efforts to comply with the finalized PREA standards in August of 2012. As a result, DCR began implementing policies and procedures, training employees, contractors, volunteers, and educating offenders. Since the implementation of PREA standards the department has updated the policy and procedures, training presentations, and background check processes throughout the years. The updates and changes were based on previous DOJ PREA audits, PREA Resource Center (PRC) and PREA Management Office (PMO) updated guidance and trainings.

DCR 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. DCR is committed to providing a safe environment for all offenders committed to the custody and supervision of its Director.

In 2012, DCR 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 PREA information, and education, emphasizing zero tolerance for sexual abuse and sexual harassment, victim services, offender, 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 are also informed about the serious impact of offender sexual victimization within a correctional setting and its effects. DCR 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. The department continuously updates the staff training, and written material when new information becomes available that would affect the current policy, procedures, and process of the department. The most recent update of training materials was in December 2023.

In July 2014 DCR 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), the PREA Management Office (PMO) and DOJ PREA audits. The policy has been updated in 2017, 2020, 2021, and 2023, which can be accessed at:

<https://dcr.hawaii.gov/wp-content/uploads/2024/06/ADM.08.08-Prison-Rape-Elimination-Act-PREA.pdf>

All new admissions and transfers receive comprehensive PREA education within thirty (30) days of arrival through an education video developed by Just Detention International (JDI) and provided with an informational brochure about DCR'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. Recently the department refreshed the offender education comprehensive video that is shown to offenders upon admission and transfer. The video was made available by the Just Detention International (JDI) organization where the video includes closed caption (CC) and American Sign Language (ASL). Updated written materials and postings are published and can be accessed at:

<https://dcr.hawaii.gov/wp-content/uploads/2024/08/PREA-Brochure-DCR-2-9-24.pdf>

The agency created multiple methods for staff and offenders to report incidents of sexual abuse and sexual harassment; methods include free 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, DCR staff, contractors, or volunteers. The information can be accessed at:

<https://dcr.hawaii.gov/wp-content/uploads/2024/02/HOW-TO-REPORT-PREA-INCIDENTS.pdf>

<https://dcr.hawaii.gov/wp-content/uploads/2024/02/PREA-POSTER-UPDATE-DCR-12-14-23.pdf>

All offenders are assessed through a PREA screening process during admission or transfer. Screening occurs by utilizing the DCR 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, DCR conducted training for key staff on the electronic PREA screening form through DCR'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.

The PREA risk screening process and instructions were updated in 2021 and most recently in May 2022. The updates were based on previous and current internal/external audits, updated guidance by the PREA Resource Center (PRC) and PREA Management Office (PMO). The update included the ability to choose specific LGBTI, cognitive, and physical designations that assist in considering the type of housing, program, and work assignments. Additionally, the update assists in tracking of targeted/specialized populations throughout the department and individual

facilities. Prior to the effective date of the newly revised risk screening process, all those responsible for screening were provided training sessions.

In 2013 DCR entered into a Memorandum of Agreement (MOA) with several Western and Mid-Western States, creating the Western State Consortium (WSC) to conduct “circular auditing”, now known as the States PREA Circular Auditing Consortium. The goal of the MOA is to minimize audit costs by sharing state staff resources among the MOA member States and counties, on a rotational basis to conduct the mandated PREA audits as defined by the DOJ PREA Standards. The MOA is reviewed and renewed annually.

The MOA requires that DCR have DOJ Certified PREA Auditors on staff. As a result, DCR initially recommended seven (7) qualified staff members in 2014, and after passing initial application and minimum requirements by DOJ, four (4) of the (7) applicants were accepted and enrolled to the DOJ PREA Auditor Training for the certification process. DCR currently has two (2) Certified DOJ PREA Auditors due to retirement, or employment changes. Based on new requirements by DOJ and the PREA Resource Center, newly certified PREA auditors must participate in a field training Program (FTP) conducted by DOJ and the PREA Resource Center (PRC). Once the individual successfully completes FTP, then the individual is subject to a probational review until completing two (2) audits as the lead auditor. This new process has extended the certification process to about a year and a half. DCR recently referred four (4) current employees for the last DOJ PREA Auditor Certification training that was scheduled in 2023-2024; one (1) of the four (4) employees was accepted after a challenging application and interview process. The classroom sessions and the final written examination was held from May 2023 and was held virtually. The final examination was completed in September 2023 and the FTP process was completed in March to May 2024. The employee was certified after passing and completion of all stages of DOJ requirements.

The DOJ PREA audits are conducted on a three-year cycle which began in August of 2013, with one-third of DCR’s facilities audited each year. The Department completed the second year (August 2023 – August 2024) of the fourth cycle of PREA audits with Halawa Correctional Facility, Maui and Kauai Community Correctional Center being deemed compliant with the National DOJ PREA Standards after minimal corrective action and auditor recommendations were completed.

The agency is currently in the third year of the fourth cycle (August 2024 – August 2025) with Hawaii Community Correctional Center and Kulani Correctional facility completing the onsite portion of the DOJ PREA Audit.

The Women’s Community Correctional Center, Waiawa Correctional Facility, and Oahu Community Correctional Center is scheduled to be

audited by a Certified DOJ PREA auditor during the first year of the fifth audit cycle (August 2025 – August 2026).

Continuing to conduct one third of the agency's facilities in each of the years of the cycle. DCR's eight facilities were audited for compliance with the PREA standards. DCR's contract facilities, Core Civic (CC) Saguaro Correctional Center (SCC) and the Federal Detention Center (FDC) were also audited during 2023 – 2024 and is not due for their next audit until 2026 – 2027. All final PREA audit reports for all eight (8) DCR facilities and two (2) contracted facilities for all three audit cycles can be accessed at:

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

In September 2024, Governor Josh Green, M.D. informed the DOJ that the State of Hawaii was certified and in full compliance with the National PREA Standards for Audit year two (2) of cycle four (4).

The notification of certification allowed the Executive Branch to avoid forfeiting five percent of Federal grant funds dedicated to prisons, jails, lockups, and juvenile detention facilities. PREA impacts DCR in its Corrections Division.

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, and monitoring of status and progress in each institution.

DCR's budget, programs, and resources are significantly impacted by required PREA audits (internal and external), compliance, training, and education. The department does not have a specific budget designated for the maintenance of PREA within the agency or its institutions. The department had been dependent on previous federal grant funds to cover PREA audits, related materials, corrective action items needed based on auditing, cost of education, training, and materials used for PREA information and remedies. With compliance, comes a need for financial assistance to accomplish the vision and goals to prevent, detect, eliminate, and prosecute violators; therefore, DCR respectfully asks the Legislature's favorable consideration of PREA-impacted budgetary requests as they benefit all offenders, staff, contractors, volunteers, and the community at large.