2014-2015

PRISON RAPE ELIMINATION ACT
ANNUAL REPORT

AN INCIDENT OVERVIEW OF SEXUAL MISCONDUCT REPORTING IN LARIMER COUNTY CRIMINAL JUSTICE SERVICES FACILITIES:

LARIMER COUNTY COMMUNITY CORRECTIONS
LARIMER COUNTY ALTERNATIVE SENTENCING

INCLUDING INCIDENT SYNOPSES, STATISTICS, RESPONSES, AND FINDINGS

LARIMER COUNTY

COMMITTED TO EXCELLENCE

LARIMER COUNTY
COMMITTED TO EXCELLENCE

CRIMINAL JUSTICE SERVICES DIVISION
Criminal Justice Planning Unit
2307 Midpoint Drive, Fort Collins, CO 80524 / Phone (970) 980-2671
Alternative Sentencing Department
2307 Midpoint Drive, Fort Collins, CO 80525 / Phone (970) 980-2600 / Fax (970) 980-2610
Community Corrections Department
2255 Midpoint Drive, Fort Collins, CO 80525 / Phone (970) 498-7530 / Fax (970) 498-7511

Prison Rape Elimination Act Annual Compliance Report

Background

In 2003, Congress enacted the Prison Rape Elimination Act (PREA) mandating that correctional facilities nation-wide implement measures to prevent, detect, and respond to sexual misconduct and sexual violence in America's prisons, jails, and community confinement facilities. The Act directed the Attorney General to create national standards applicable to all correctional facilities, public and private, in the United States. In 2013, specific standards required by this legislation were disseminated nationally by the Department of Justice, and a time table for compliance and a subsequent federal compliance audit were set.

This legislation, along with the national standards and audit requirements, stem from a fundamental belief that American prisons and jails should be as safe as possible, and that no matter the crime committed, being sexually assaulted while in custody is never a part of the sentence.

In late 2013, both the Community Corrections Facility and the Alternative Sentencing Work Release Facility, operated by Larimer County, began the task of forming the policies, procedures, best practices, and community partnerships necessary to meet Federal requirements.

PREA standards require that an annual report be published detailing statistics regarding sexual harassment, abuse, and assault of offenders in our custody. The annual report is required to aggregate the data collected from PREA-qualifying incidents, provide an explanation of what measures were taken in investigating and responding to the data collected, and indicate what additional measures, if any, are needed and/or being taken to address the safety of offenders from incidents of sexual violence while in custody.

Additionally, the annual report should present the data from this year in contrast to data from previous years. As this is the inaugural year of PREA protocols, no past data is included.

Finally, the annual report is to be published publically, on the agency's web-site, for review and comment by interested parties.

The data presented in this annual report was compiled using the 2013 Survey of Sexual Violence (form SSV-IA) from the United States Department of Justice. Data was obtained from victim and perpetrator statements and interviews, police reports, witness statements and interviews, video surveillance review, and confidential source statements. All personal indentifying information has been redacted from the annual report, as has information which, if disseminated, could pose a threat or danger to the safety and security of offenders in custody and/or the staff responsible for supervising them.

Section 1- Reporting Statistics

1.1 Number of Reports
1.2 Nature of the Reports
1.3 Substantiated Reports and Report Characteristics
1.4 Unsubstantiated Reports and Report Characteristics
1.5 Unfounded Reports and Report Characteristics

1.1 Number of Reports

Between April of 2014 and April of 2015, seventeen (17) reports of sexual misconduct were reported by offenders which met PREA's reporting guidelines. Other reports were received which did not fall under the requirements of PREA, such as reports of past sexual abuse (both in confinement and in the community,) sexual abuse while in custody by an employer or co-worker, or sexual abuse while outside the facility by a stranger while at work.

Five reports were made by offenders alleging sexual misconduct by offenders or staff at other correctional facilities. In all cases, notification was made to the Director or Warden of the facility at which the alleged misconduct took place.

One of the most positive by-products of implementing PREA protocols in our facilities has been the openness and willingness of past and current victims to come forward to gain the resources necessary, whether through PREA obligations or on their own, to move forward after being sexually assaulted.

The 17 reports listed meet the criteria of offender-on offender or staff on offender sexual abuse allegations, and do not contain data from these other reports.

1.2 Nature of Reports.

PREA Reports are broken down in a manner designed to a) identify who the alleged abuser is, b) identify what type of sexual misconduct occurred, and c) indicate whether the report was substantiated. For the purpose of this report, the alleged abuser will be identified as either staff or offender. The type of sexual abuse will be identified as either harassment or abuse. Finally, each report will be determined to be either substantiated (a preponderance of evidence exists to show that the incident occurred,) unsubstantiated (no determination could be made to determine whether the incident occurred based on available evidence,) or as unfounded (preponderance of evidence indicated that the incident reported never took place.) Lastly, each report concludes with a review of the incident by a team of experts to determine if changes can be made to policy, procedure, or best practices to prevent a similar event from occurring in the future. This information is presented below, in 1.3 through 1.5.

1.3 Substantiated Reports

Of the 17 reports, six were determined to be substantiated, indicating that enough evidence was found during the investigation to indicate that the report was made in good faith, was accurate, and actionable. The reports are listed below. Information concerning the names of those involved, and the specific locations at which the event(s) occurred have been redacted for security purposes.

Report 1 Substantiated Harassment Made July 11, 2014 at Community Corrections.

Female offender reported sexual harassment by roommate. Incident occurred in a women's treatment group. Perpetrator was reprimanded and referred for issue-specific counseling and education. Victim was happy with her current counselor and declined further referrals. Clinical Services Director indicated he would talk more with the IRT team about the incident.

Report 2 Substantiated Abuse Made August 18, 2014 at Alternative Sentencing.

Third party reported that illegal sexual contact and coercive threats had been made against a male offender by a female offender in an effort to force him to have sex with her. Perpetrator was placed into custody at the Larimer County Jail for an internal rule violation of sexual abuse. No criminal charges were filed in this case. Victim refused advocate and counseling. No further action was recommended by incident review team. Incident was reported, investigated, and properly acted upon. Video footage of the incident was preserved for evidenciary purposes.

Report 3 Substantiated Harassment Made October 27, 2014 at Community Corrections.

Female Offender reported being sexually harassed by a male offender while at work. The harassment rose to a level of criminal behavior, and the perpetrator was arrested, charged with harassment, and removed from custody and placed in the Larimer County Jail. Victim was offered and accepted advocacy and other victim services. Incident review team noted the good work done by the employment specialist and women's team on this issue.

Report 4 Substantiated Harassment Made March 28, 2015 at Community Corrections.

Female Offender reported being sexually harassed both in her room and in common areas. The perpetrator was removed from custody on unrelated charges during the investigation. The investigation concluded with a finding of substantiated harassment (non-criminal). Victim is being provided ongoing advocacy by in-house victim services coordinator. Incident review team noted the need for a better coordinated response to this allegation, as an alleged accomplice was able to destroy potential evidence that would have aided the investigation. Improved coordination between first responders and security personnel was discussed.

Report 5 Substantiated Abuse Made April 21, 2015 at Community Corrections.

Third party report gave information that illegal sexual contact had occurred between two male offenders. Subsequent investigation found that a male offender had committed illegal sexual contact on another male resident, without his consent. The perpetrator was removed from custody and charged with illegal sexual contact. Victim advocate and counseling were declined. Incident review team determined that no further action was needed. All protocols were properly followed, resulting in video evidence and charges filed.

Report 6 Substantiated Harassment Made May 5, 2015 at Community Corrections.

Third party report indicated that sexual harassment was occurring in one of the men's dorm rooms. Reports indicated that the incidents were potentially gang or bias-related. Enough evidence existed to substantiate the allegation of sexual harassment. No charges were filed, and the perpetrator was removed from the facility on other, unrelated charges. Victim(s) had a meeting with in-house victim services coordinator and declined further advocacy or counseling. Incident response team found no further action that could have been taken to gain a better outcome.

1.4 Unsubstantiated Reports.

Unsubstantiated reports are reports which, upon investigation, fail to provide a preponderance of evidence as to whether an alleged event occurred or not. These reports can include third party reports in which not enough information is given to identify a victim and/or a perpetrator despite efforts to do so, reports in which no evidence exists other than an allegation of one party and a denial by the other, or reports in which conflicting reports, evidence, or data make it impossible to determine if the incident happened as described, happened differently than described, or didn't happen at all.

If an incident is determined to be unsubstantiated, victim services are still offered to the victim, and action will be taken to make sure the victim and alleged assailant are separated, counseled, and monitored closely. Without direct evidence, however, no disciplinary action may be taken, or criminal charges filed, against an alleged perpetrator.

Of the seventeen reports, eight were determined to be unsubstantiated. The reports are summarized below.

Report 1 Unsubstantiated Harassment Made March 28, 2014 at Community Corrections

Female victim made allegations of sexual harassment against a male co-worker who is also an offender. No witnesses, no evidence. Male denies allegations. Called employer who agreed to send them to separate job sites from that point on. Employer conducted own investigation and also concluded that it was impossible to substantiate. Victim offered and accepted advocate services from SAVA. Both were given direct order to stay away from each other in the facility.

Report 2 Unsubstantiated Harassment Made May 22, 2014 at Alternative Sentencing

Female victim approached staff and reported being sexually harassed, threatened, and intimidated by her dorm mates. Victim refused to give specifics, and refused to give names of perpetrators. Victim had significant mental health needs. Interviews with dorm mates indicated that victim was not well liked, and that she frequently tried to pick fights with them and yelled at them. All claimed that no sexual harassment or other bullying was taking place, but that that they had told her to change her behavior. The victim was placed on an extra monitoring list, and the other women in the room were counseled to approach staff any time an issue arose and not to handle it themselves. There was insufficient evidence to substantiate the claim, but no direct evidence that her allegations were untrue. She was not moved rooms due to her PREA classification status as a known victim.

Report 3 Unsubstantiated Abuse Made June 13, 2014 at Community Corrections

Female victim reported to her therapist that two other offenders were sexually active in front of her and propositioned her to engage in the behavior with them, and touched her inappropriately. Therapists at Community Corrections are limited on their obligation of confidentiality in incidents that involve sexual abuse, and the therapist reported this interaction to her supervisor. Both an internal and criminal investigation were conducted. In all cases, victim and alleged perpetrators refused to cooperate with law enforcement and internal investigators; and all parties agreed to resolve it through the IRT counselors. All were separated, and placed into issue-specific counseling and education.

Report 4 Unsubstantiated Abuse Made August 16, 2014 at Community Corrections

Female victim reported that she was touched inappropriately while in her bathroom. The case was referred for internal and criminal investigation. The investigations found no evidence that the allegation occurred as described, as only the victim and alleged assailant were present. There are no cameras in the bathroom areas at Community Corrections.

Report 5 Unsubstantiated Harassment Made October 19, 2014 at Community Corrections

Male victim reported that another male had been "peeping" at him while he was in the shower. Alleged perpetrator denied the allegation. No evidence of wrong doing available. Certain aspects of the victim's story did not meet scrutiny with either internal or criminal investigators, but were not enough to definitively classify the incident as unfounded. Both were given new housing assignments, separate from each other.

Report 6 Unsubstantiated Abuse Made November 11, 2014 at Community Corrections

Male victim reported that he was sexually touched at night while he was sleeping. Victim refused to cooperate further, only saying that he did not feel safe in the room and that he wanted to change rooms. Interviews with roommates were not definitive, but indicated that some manner of bullying or other intimidation was ongoing. Victim met with in-house victim services coordinator and was offered advocacy and counseling which he refused. Victim was move to a room close to control center and monitored by victim services coordinator.

Report 7 Unsubstantiated Abuse Made March 3, 2015 at Community Corrections

Male victim alleged that a male staff member touched his genitals inappropriately and in a sexual manner during a pat down search. Incident Review Team and Security Supervisors viewed the video of the search and deemed the complaint to be unsubstantiated, though the search did not meet the strict guidelines for pat down searches. The staff member involved was removed from his duties, re-trained, tested, and placed back on duty. The victim was satisfied with this effort, and declined any victim services.

Report 8 Unsubstantiated Harassment Made April 22, 2015 at Community Corrections

Female offender alleged that two female offenders were exposing themselves to each other and touching each other in their room. Both denied that such activity was taking place, and no other evidence existed to demonstrate the veracity of the claim. All parties were counseled about appropriate behavior, the victim was moved to another room and the two alleged perpetrators separated. Victim was offered and declined victim services.

1.5 Unfounded Reports

Unfounded reports are reports which, upon investigation, are deemed to be have no basis in fact, malicious (false reporting), or simply don't meet the criteria to be investigated and reported as an incident under PREA standards. According to the Federal Bureau of Investigation's Uniform Crime Index, the false reporting rate for sexual assault is just less than 5 percent- on par with most other violent crimes. Of the seventeen reports received, three were deemed to be unfounded, and none were deemed to be maliciously and falsely reported. The reports are summarized below.

Report 1 Unfounded Harassment Made October 19, 2014 at Alternative Sentencing

Offender reported that a staff member had touched him inappropriately. Further investigation revealed that no sexual intent was present, nor was any contact made with any part of the offender's body that could be construed as sexual in nature. The offender agreed, and said he reported it through the PREA channels as that was what he thought he should do. The incident was referred out of PREA investigative protocols and turned over to Larimer County Human Resources.

Report 2 Unfounded Harassment Made December 19, 2014 at Community Corrections

Offender complained that a staff member had shown him pictures of herself in lingerie. The picture in question was identified and was in fact not inappropriate in and of itself. The offender has high mental health needs and misinterpreted the picture. The staff member was counseled to not share private photographs with offenders.

Report 3 Unfounded Abuse Made March 17, 2015 at Community Corrections

Offender complained that she was being sexually assaulted at night, and that she was being watched and recorded in the showers, bathroom stalls, and in bed through cameras hidden in everyday objects. She and other offenders and staff were interviewed and there was no evidence of wrongdoing by staff or offenders, and sufficient evidence to demonstrate that many of her statements simply could not be true based on a number of factors. Complainant has significant mental health needs, and was referred for counseling and further evaluation.

Section 2- Analysis of Data/Actions Taken

2.1- Number of Reports
2.2- Coordination of Response
2.3- Offender Education
2.4- Staff Education

2.1 Number of Reports

Analysis: Though no formal data exists from years past to compare the recent seventeen reports of sexual misconduct, the reports made during the previous twelve-month period are most likely due to increased awareness efforts, staff and offender education, and intake procedures that specifically address sexual misconduct and offender rights to be free from any kind of sexual abuse or harassment. Still, the number of incidents reported is less than national averages, and significant roadblocks still exist in getting offenders to report sexual misconduct. Some offenders have indicated that they will not report due to feeling unsafe and are in fear of being retaliated against, and some do not want law enforcement involvement in what they view as a private matter.

Action Taken: **Continued education efforts for offenders** has been identified as a high priority. **Building self-esteem and increasing awareness about the damage that sexual misconduct can cause is a high priority for our offender population**. Classes and programs- designed to elicit character, healthier lifestyles, stronger decision making, and better problem solving- are offered throughout offenders' sentences, and resources are given to offenders upon release to allow them to continue their growth.

Fear of retaliation is a real and difficult roadblock to navigate when looking at reasons for not reporting. Community Corrections and Alternative Sentencing are not secure facilities, and have extremely limited ability to truly separate offenders and keep them safe from retaliation. Even should we accomplish this inside the facility, offenders are released to work, attend counseling, etc in the community. **Continued vigilance in enforcing strict zero tolerance policies against sexual misconduct and retaliation** for reporting is a focus for continued staff education and practice.

Continued efforts in breaking down barriers between offenders and staff and other law enforcement personnel need to be made. Reporting sexual violence can be a frightening and harrowing experience for most people. Given the mistrust that many offenders already hold toward law enforcement, it is not surprising that many victims of sexual violence do not come forward. **Victims will report to people they trust, and establishing trusting relationships with appropriate boundaries is ultimately the key to getting victims the help they need.**

2.2 Coordination of Response

Analysis: Coordination of responses to allegations of sexual misconduct were at times a strong point during an incident and at times needed improvement. Incident reviews conducted at the conclusion of each case were conducted and several items were identified that could improve the coordinated efforts of first responders, investigators, advocates, and other support staff. Overall, The Division has a very strong SART Team and a solid PREA program in place.

Action Taken: The Sexual Assault Response Team was formed to coordinate responses to reports of sexual misconduct. First responders are primarily line staff who initially receive a report. All staff has been trained in first response protocols, including crime scene preservation, security procedures, and how to respond to a victim of sexual assault. Training is provided by Victim Services Coordinator Ruth Carrothers, PREA Coordinator Sean Grogan, and SAVA Prevention and Outreach Director Katie Ashby, and stresses the victim component in responding to a sexual assault.

Procedures are in place to streamline the pass-off from first responder to a member of the Sexual Assault Response Team, as were procedures to keep all relevant data and notes in a manner accessible to SART members and investigators. These procedures help with continuity of care for the victim, and allowed investigators more access to information necessary to pursue the case.

2.3 Offender Education

Analysis: Every offender that enters either Community Corrections or Alternative Sentencing is given an orientation to PREA that includes a video and an assessment for potential victimization. They are also given a brochure which advises them of the agency's zero tolerance policy towards sexual abuse and harassment, as well as different reporting options if they are, or have knowledge of, a victim of sexual abuse or harassment.

Action Taken: Greater emphasis has been placed on staff interaction with offenders during orientation. A video, assessment, and brochure do not, by themselves, sufficiently educate the offender population concerning sexual violence in a confinement setting. Further, the professional relationship necessary to encourage reporting and vigilance in this area needs to be established immediately upon intake by staff who take the time to explain how important this information is, and how committed the agency is to preventing sexual violence in our facilities.

2.4 Staff Education

Analysis: All staff attend a mandatory training on PREA protocols and sexual assault responses upon hire. All staff are re-trained at least annually on topics directly related to PREA responses and sexual violence prevention. Staff education remains the single most important characteristic of our successful culture in preventing, detecting, and responding to sexual violence.

Action Taken: Continued training on issues specific to this issue will remain ongoing. Binders with first responder information, emergency/crisis contact information, victim interview guides, and security procedures have been placed in all staff work areas to aid them in their response to a PREA allegation. Annual training will continue to be held on the subject, including education about high risk populations, trauma-informed care, and sexual assault investigation. Our partnership with SAVA remains strong, and continued intervention by their staff in incidents of sexual abuse, and training conducted by their staff will remain a strong component of our staff training.

Conclusion

The data above (represented graphically in appendix A) indicates the need for continued vigilance against sexual violence in Larimer County correctional facilities. Seventeen reports, only three of which were proven to be unfounded, indicate that sexual misconduct in our facilities is an issue that requires further monitoring and remedy.

A recent survey of our female population indicated that 9 in 10 have been victims of sexual violence in their lifetimes. The presence of sexual misconduct in our facilities, whether minor or serious in nature, presents unique challenges to treating the trauma and residual effects that impact offenders' journeys toward healing and healthy community re-entry.

Continued education and awareness on this subject with both offenders and staff will be a continued point of emphasis, as will coordination of efforts between first responders, advocates, counselors, and investigative staff. By fostering an environment in which sexual harassment, abuse, and assault are simply not tolerated, the offenders in our custody can progress more confidently and more safely toward reaching the goal of release with the skills and attitudes necessary to successfully re-integrate into the Community that we serve.

Sean Grogan, PREA Coordinator — Date: 071315

Tim Hand, Community Corrections Director — Date: 7-13-15

Laurie Stolen, Alternative Sentencing Director — Date: 071315

Gary A. Darling, Criminal Justice Services Director — Date: 071315

Appendix A: Data Reporting

Figure 1- Investigative Outcomes.

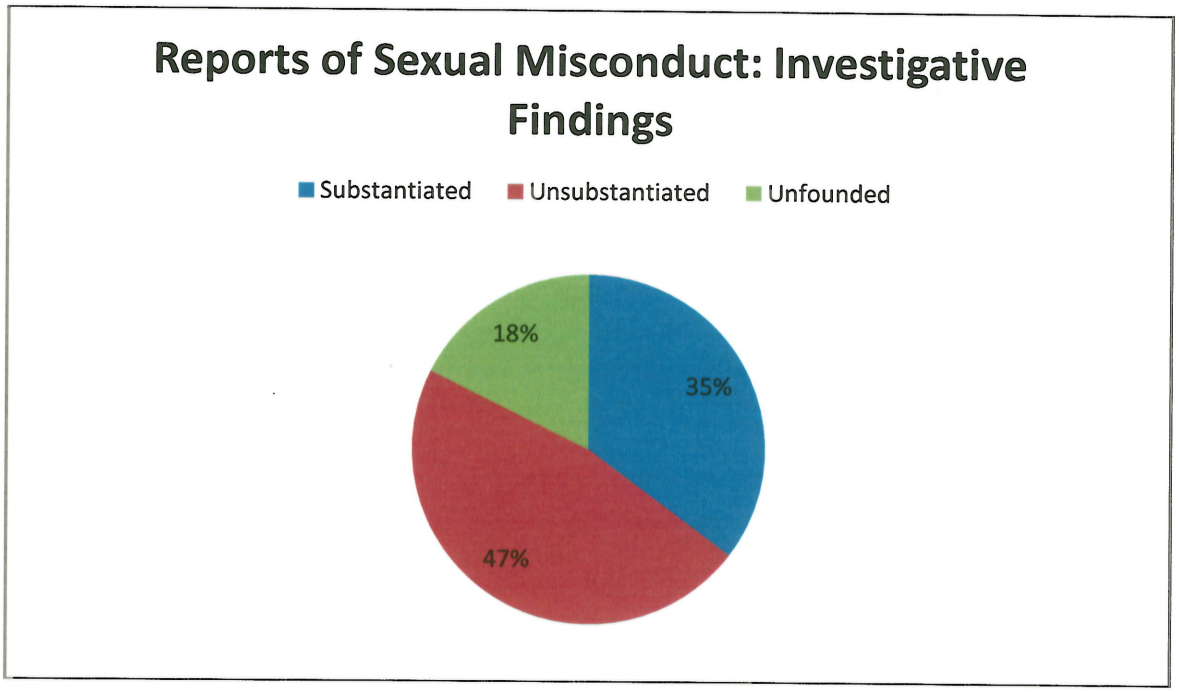
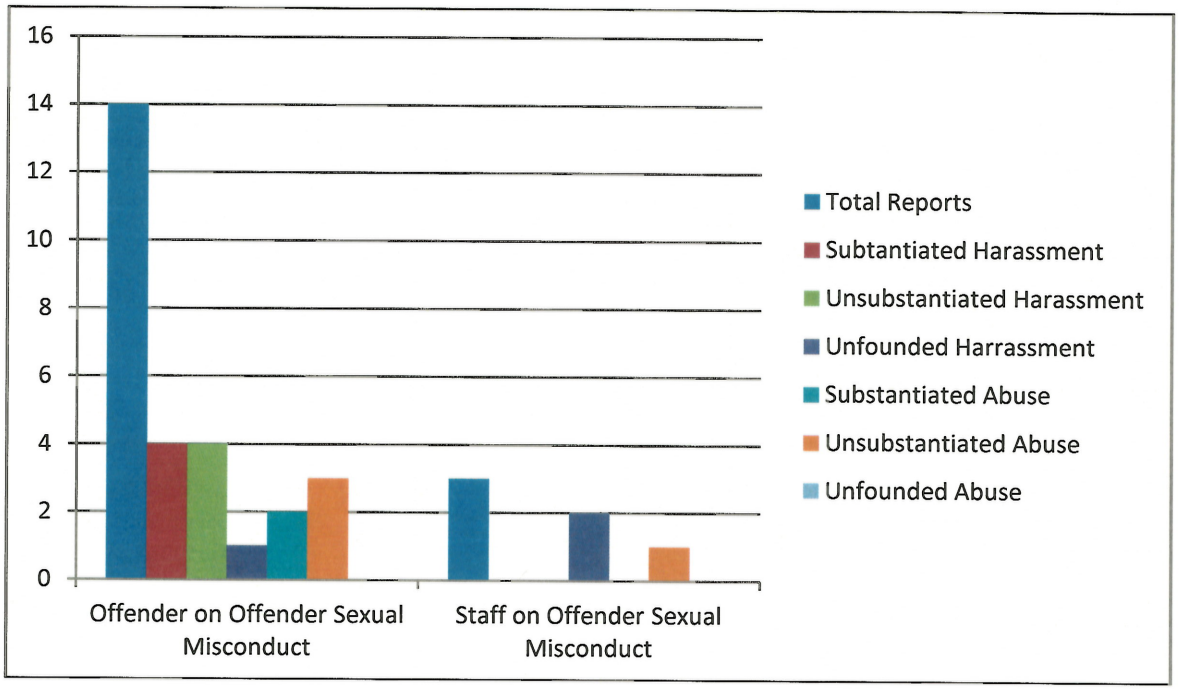
Figure 2- All Reports Received, Type of Allegation, Resolution.