

2020

# Annual Report



# PREA

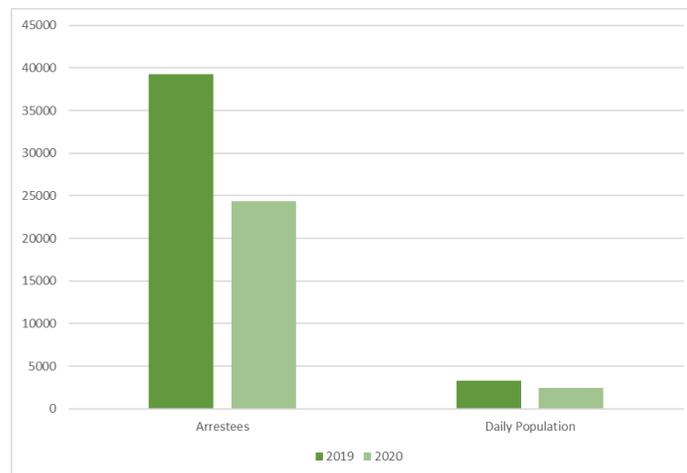
The Santa Clara County Sheriff's Office is committed to meeting the requirements of the Prison Rape Elimination Act of 2003 and enhancing the safety and security for the agency's offenders as a result thereof. This report is a summary of the agency's efforts in PREA compliance. By examining the collection of agency data, the Santa Clara County Sheriff's Office is dedicated to improving the effectiveness of sexual abuse detection, prevention and response.

## Introduction

PREA requires all law enforcement agencies with detention facilities of any kind to create an annual report of all sexual abuse and harassment reported within its facilities. The Santa Clara County Sheriff's Office is making this statistical data available to the public. By providing this information publicly, it will outline the amount of cases received annually, the findings of such allegations and the constant efforts made to detect, investigate and prosecute cases accordingly. We have redacted any personal identifiable information for the safety of staff, inmates and the agency. The Santa Clara County Sheriff's Office is committed to reviewing PREA incidents from multiple perspectives including: training, procedures, staffing, building construction and surveillance technology with the ultimate goal of identifying problem areas and applying appropriate corrective action to make improvements.

## General Jail Information

The Santa Clara County Sheriff's Office serves the nearly 1.92 million residents of Santa Clara County, California. Santa Clara County is the 6<sup>th</sup> most populated county in California. The Santa Clara County Sheriff's Office manages the adult jail population with three facilities, Main Jail Complex, Elmwood Men's Complex and Elmwood Women's Complex (CCW). Last year, The Santa Clara County Sheriff's Office booked 24,304 arrestees; this was a 38% decrease from 2019. The average daily population was 2,405; this was a 26% decrease from 2019.



The inmate population decrease is due the Sheriff's Office response to COVID-19. The goal is to reduce the population while also limiting the intake of new inmates to reduce exposure within the facilities. The Sheriff's Office was able to reduce the inmate population by releasing sentenced misdemeanor inmates on alternative custody programs, delaying court-ordered commitments and other scheduled sentences, and by working with justice partners, including Pre-Trial Services and the Court to re-evaluate pre-trial inmates for release.

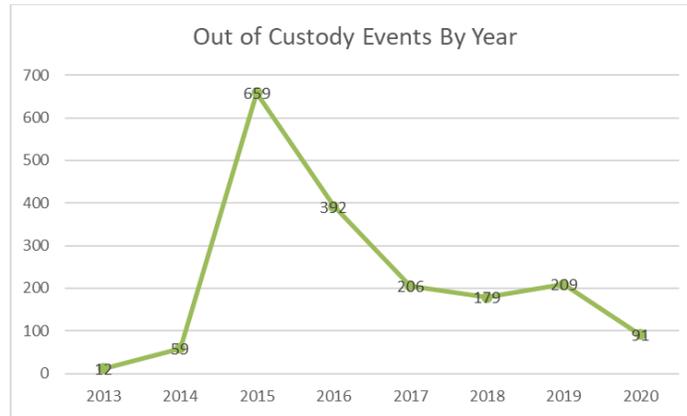
### **Inmate Reporting and Education**

In 2012, the Santa Clara County Sheriff's Office implemented the PREA policy, procedural changes, provided training to our staff, and provided educational and informational material to inmates. The educational material informs inmates how to avoid and report sexual assault, sexual harassment and sexual misconduct. We provide Sexual Assault Awareness pamphlets to all inmates, post PREA signage in all common areas throughout our facilities, and play video in all housing areas twice a day. We provide a toll-free/pin free reporting number for inmates on the pamphlets and signage so inmates may confidentially report sexual abuse, sexual misconduct, sexual harassment, and seek outside advocacy and counseling. These toll-free/pin free numbers are not monitored or recorded. PREA standards require an outside agency to provide advocacy and counseling services. Our contract for this service is with the YWCA of Silicon Valley.

### **Santa Clara County Sheriff's Office Reported PREA Incident Data**

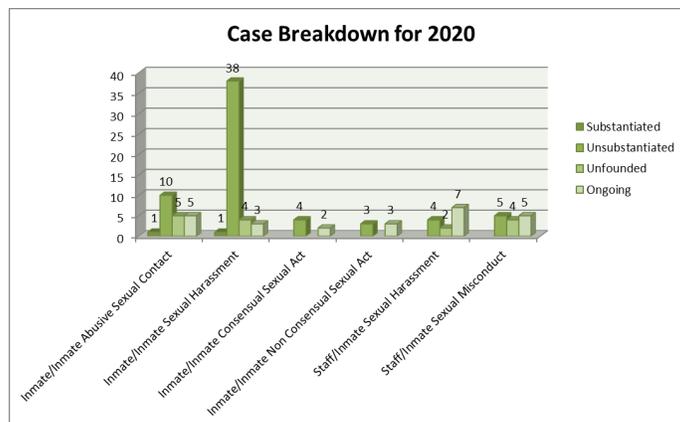
No matter when an incident occurred, the Santa Clara County Sheriff's Office attempts to collect data on all PREA incidents, including those reported by arrestees and/or inmates that took place in another jurisdiction. If needed, each incident is reviewed and investigated by our Jail Crimes Unit (JCU). For example, as part of the Sheriff's Office's booking and classification process, arrestees are asked in a confidential setting if they have ever been sexually victimized. At this point, an arrestee may advise staff if an incident occurred at another facility, in another state or jurisdiction, regardless of the amount of time that has passed since the incident occurred. All reported incidents will be investigated within the

Sheriff's Office facility. These incidents are known as Out of Custody reports. In 2020 Santa Clara County Sheriff's Office took 91 Out of Custody reports.



## 2020 Annual Statistics

Sexual Harassment, Nonconsensual Sexual Acts, and Abusive Sexual Contact are all defined as PREA related incidents involving inmates. Staff Sexual Misconduct and Staff Sexual Harassment are defined as PREA related incidents involving staff. During the year, 2020 there were (106) PREA related complaints filed by inmates while incarcerated in our facilities. Consensual Sexual Acts are not PREA related incidents, however, there is a challenge in determining what consent looks like in a custody setting. A Consensual Sexual Act may later be reported as a Non-Consensual Sexual Act due to power dynamics with in a custody setting. (6) Consensual Sexual Acts were reported in 2020. The Jail Crimes Unit investigated each complaint. A breakdown of those 2020 complaints follows.



Sexual Harassment continues to be the highest reported PREA event in our facilities. The identification and review of sexual harassment is a challenge in our PREA reporting efforts. The agency uses a more expansive definition of sexual harassment than the federal definition in the PREA Standards. All sexual harassment is reported, not just "repeated instances" as defined by the PREA standards. The Sheriff's Office has erred on the side of caution and has included these reports in our sexual harassment data. Identifying when inappropriate comments are sexual harassment vs crude horseplay or teasing, but not sexually aggressive can be subjective. The Sheriff's Office takes every PREA allegation seriously and understands that in order to stop sexual violence; the behaviors have to be stopped at the start of the continuum of sexual violence. The number of Sexual Harassment reports reflects this practice.

### **Disposition Definitions**

PREA defines the dispositions of the above sexual abuse and sexual harassment cases as the following:

- **Unfounded** refers to an allegation that was investigated and determined not to have occurred.
- **Unsubstantiated** refers to an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
- **Substantiated** refers to an allegation that was investigated and the investigation produced sufficient evidence to make a final determination that the event occurred.
- **Ongoing** refers to an investigation that has not been completed.

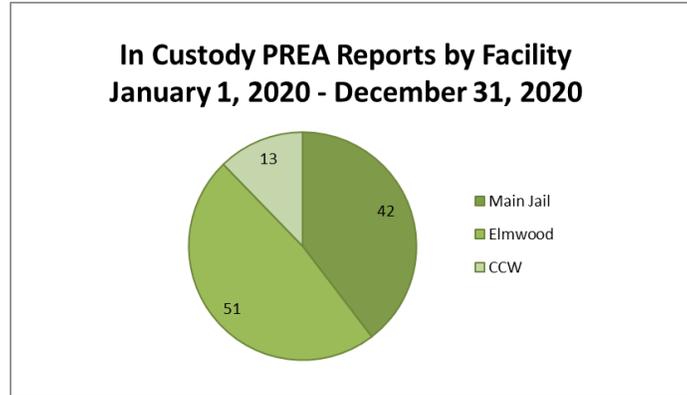
### **PREA Reports by Facility**

Below is a graph representing the PREA reports filed by facility for calendar year 2020. The disproportion between Elmwood (Men's Facility) and CCW (Elmwood Women's facility) is due to the differences in population between the two facilities. As of this writing, the facilities' populations are as follows.

Elmwood Men's population: 1,351

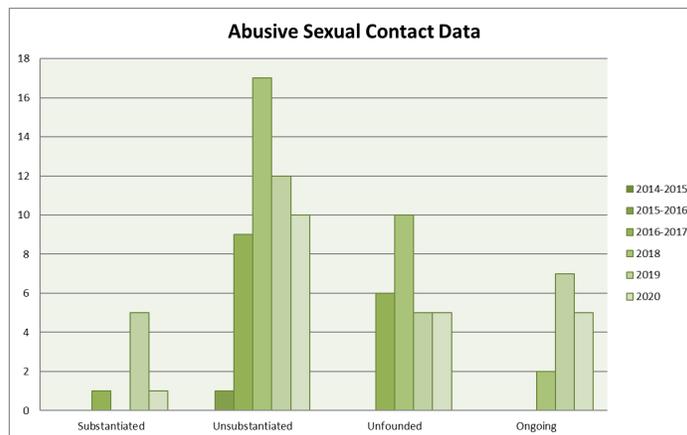
Elmwood Women's population: 162

Main Jail's population: 729.



### Annual Statistical Comparison

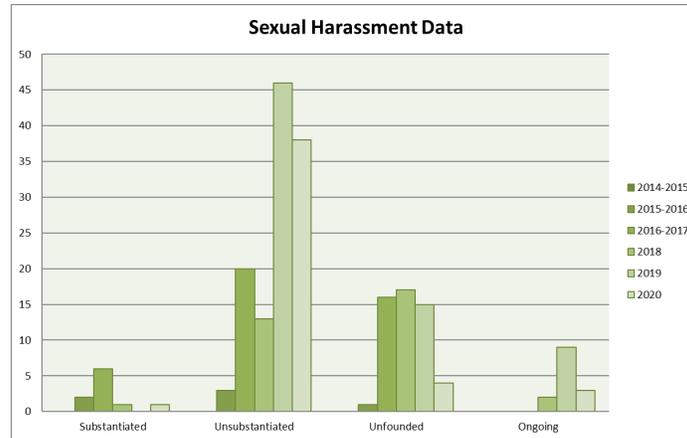
Below is a comparison of the PREA cases for the periods between 2014 through 2020. 2016-2017 statistics include 16 months of data. The reason for this was to start tracking the 2018 statistics by calendar year (from January to December).



### Federal Definition of Abusive Sexual Contact:

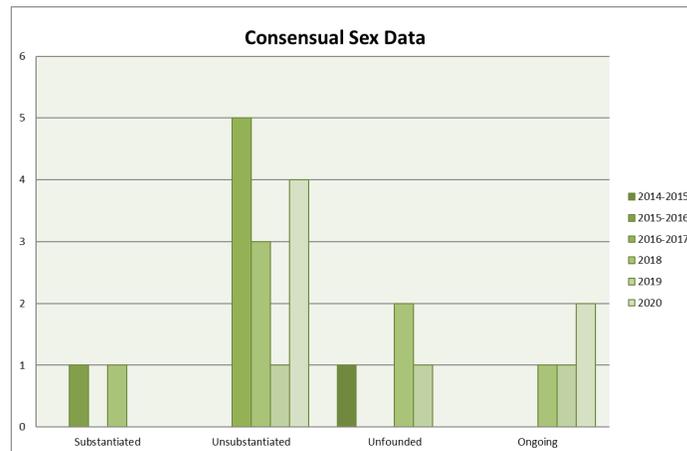
Sexual contact of any person without his or her consent, or of a person who is unable to consent or refuse; AND

- Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person. EXCLUDED are incidents in which the contact was incidental to a physical altercation

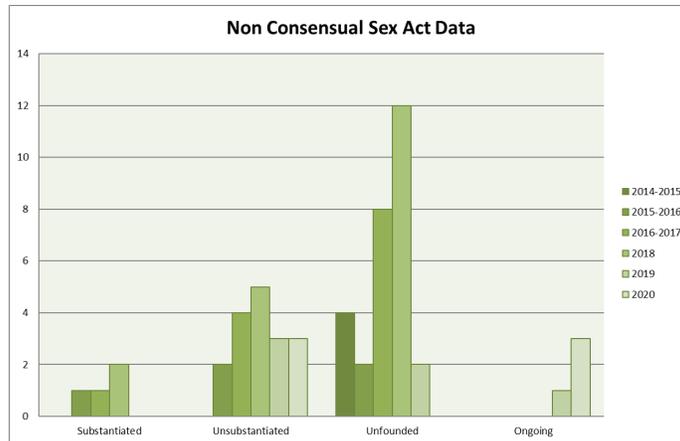


### Federal Definition of Sexual Harassment:

Repeated and unwelcomed sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate directed toward another.

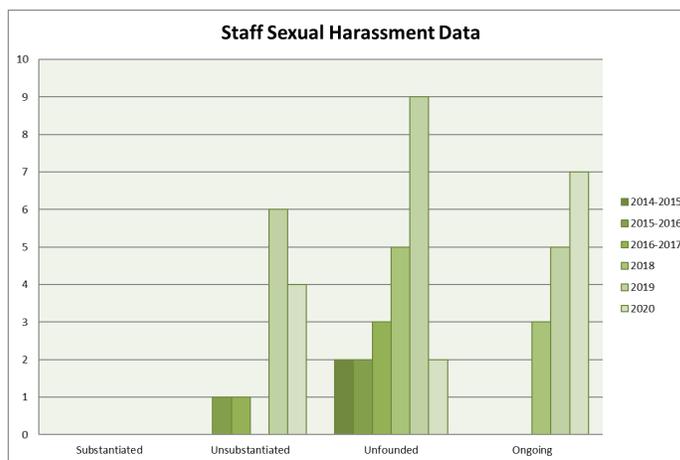


**Consensual Sex is not a PREA violation. However, it is a jail rule violation and a crime.**



**Federal Definition of Non-Consensual Sexual Acts:**

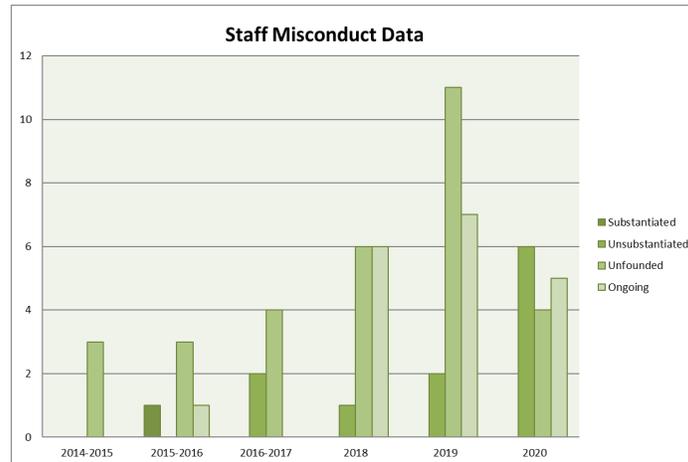
Sexual contact of any person without his or her consent or of a person who is unable to consent or refuse; AND contact between the penis and the vulva or the penis and the anus including penetration, however slight OR contact between the mouth and the penis, vulva or anus OR penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instrument



**Federal Definition of Staff Sexual Harassment:**

Repeated verbal statements, comments or gestures of a sexual nature to an inmate by an employee, volunteer, contractor, official visitor, or other agency representative (exclude family, friends, or other visitors) including:

- Demeaning references to gender; or sexually suggestive or derogatory comments about body or clothing OR repeated profane or obscene language or gestures



### **Federal Definition of Staff Sexual Misconduct:**

Any behavior or act of a sexual nature directed toward an inmate by an employee, volunteer, contractor, official visitor or other agency representative (exclude family, friends or other visitors). Sexual relationships of a romantic nature between staff and inmates are included in this definition. Consensual or nonconsensual acts include:

- Intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks that is unrelated to official duties or with the intent to abuse, arouse, or gratify sexual desire; OR complete, attempted, threatened, or requested sexual acts; OR occurrences of indecent exposure, invasion of privacy, or staff voyeurism for reasons unrelated to official duties or for sexual gratification

A review of statistical data collected from 2014 through 2020 shows that inmates typically victimize other inmates.



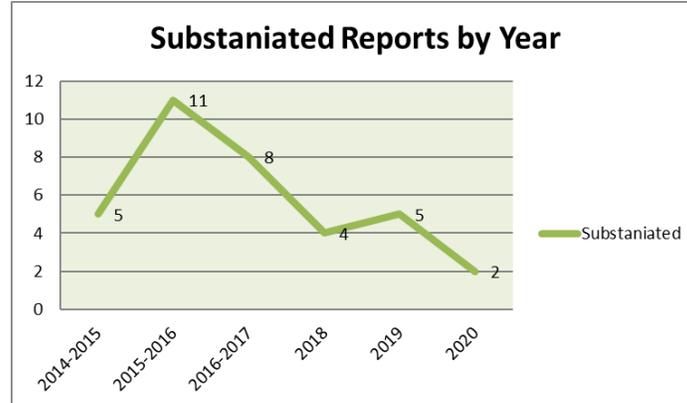
These PREA events occur primarily in inmate living areas, where the inmates have a certain amount of concealment from staff. Further, it can be inferred that the amount of reporting is lower due to the record low population due to the Sheriff's Office response to COVID-19 (detailed under **General Jail Information**).

## **Training**

Although the population has decreased, we continue to offer PREA related education to staff and inmates. Education for inmates has allowed people in custody to feel more comfortable bringing complaints forward. Staff Education is an important part of training and has resulted in better response to incidents of sexual abuse and sexual harassment. Staff is aware that every allegation must be submitted for investigation. In addition to staff training, we provide PREA training for Contractors and Volunteers. Due to COVID-19 restrictions, we cancelled all In-Person PREA Training for Contractors and Volunteers. We worked with Training and Compliance Division to create a web based PREA training. Over (118) Contractors and Volunteers completed the training when the program launched in November 2020. Prior to online training, we were limited to two classes a month, with a (30) person capacity. Often times, Contractors and Volunteers were unable to attend the in-person training, or had difficulty finding the training location. The Online training has provided Contractors and Volunteers a greater opportunity to take PREA training at times and locations convenient for their schedules.

## Substantiated Reports

While ultimately the number of substantiated incidents is low, it is the type of incident that has remained consistent. Sexual Harassment is a difficult area to combat in a jail facility where inmates have difficulty getting along. Consistent response to these types of incidents will assist in keeping this behavior to a minimum.



## Continuous Prevention Measures

The Sheriff's Office is continuously working to prevent sexual victimization. In an attempt to reduce the number of incidents of sexual victimization, staff conducts thorough physical searches of identified blind-spots in isolated areas within inmate housing areas. These blind-spot checks are in addition to the standard welfare checks conducted at set-time intervals. To date, we have installed over 500 fixed video surveillance cameras in the Main Jail Complex and over 800 fixed video surveillance cameras at the Elmwood Men's and Women's Complex. Body worn cameras have been issued to all badge staff assigned to the facilities.

The Sheriff's Office has completed and passed seven PREA audits dating back to, August 2014. Our ongoing efforts, as expected, have been successful as we ensure that all inmates are screened closely for potential victimization. We have mandated that PREA educational and informational material outlining how to report abuse is available in pamphlet and poster form in all housing areas. This information is also available in our updated Inmate Rule Book.

In September 2018 the Santa Clara County Sheriff's Office started conducting monthly audits of each facility. These audits are unannounced and the locations are randomly selected by the Agency PREA Compliance Manager on the day of the audit. During these monthly audits, the Facility PREA Compliance Manager and Agency PREA Compliance Manager inspect the site as if they were undergoing a PREA-required audit. The PREA team interviews random staff and random inmates to see if they are aware of inmate PREA rights and methods of reporting. When the PREA team discovers a non-compliant issue, they fix it onsite or take the time to re-educate the staff member or inmate on the non-compliant issue. A report is generated and submitted to the PREA Coordinator and the facility's Administration. Corrective action is tracked and monitored just as it would be for a PREA-required audit. The goal of these audits are to maintain compliance between PREA-required audits and to utilize the time to continuously educate staff and inmates.

Additionally, the YWCA Rape Crisis hotline continues to be a useful way for inmates to report sexual abuse. The YWCA Rape Crisis hotline is a pin free, toll-free, non-recorded line for anonymity. In 2020 the YWCA of Silicon Valley reported receiving (62) calls from our facilities. This is an average of 5.2 calls a month. The characteristics of the calls break down as: seeking emotional support, requesting advocacy services, seeking in-person support, seeking information about reporting other than sexual assault or sexual harassment, and wrong numbers.

Lastly, we continue to require staff to conduct regular inspections of areas identified as "blind-spots" as part of their routine welfare checks. During each shift, supervisors visit their areas of responsibility unannounced, ensuring staff are not alerted prior to their arrival in an attempt to deter both staff and inmates from participating in sexually abusive behavior.

In 2020 we continued our progress from 2019 with PREA compliance and inmate education. We have ensured all staff is educated with regard to PREA, starting at the academy level all the way through contractors and volunteers, to recognize signs of sexual abuse and how to report. We also have PREA education posted for all visitors who enter our facilities. A complete renovation of the grievance process have proven to be a trusted method for reporting incidents and are treated as emergent issues.

The new jail building will address the need for an increase in inmate programs and Mental Health treatment. Ultimately, the design will feature an increase in safety and security for both inmates and staff. Demolition of the Main Jail South facility is completed. Construction for the new jail building is on track with occupancy scheduled for 2024.

The Incident Review Board (IRB) reviews all substantiated or unsubstantiated cases of sexual abuse and is usually able to complete their reviews within 30 days from the conclusion of the investigation. The IRB is made up of the Facility Commander where the incident occurred, the PREA Coordinator, PREA Compliance Managers, Internal Affairs, Jail Crimes, Medical Staff, and Mental Health Staff. Crime Reports and internal reports are reviewed and the following areas are evaluated for corrective action:

- Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
- Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
- Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
- Assess the adequacy of staffing levels in that area during different shifts;
- Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

A report is then created with the findings and improvements recommended by the IRB. The report is submitted to the PREA Coordinator and the facilities with documented improvements needed. These reviews help the IRB develop its skills in assessing situations. Suggestions typically include adding more education for inmates and training for staff.

## **Conclusion**

The Santa Clara County Sheriff's Office is committed to continual and progressive culture change. The Sheriff's Office continues to implement the requirements of the PREA standards and make adjustments on an on-going basis. In doing so, the Santa Clara County Sheriff's Office is eager to raise the bar of confidence and integrity for our system agency wide, allowing us to develop a culture where reporting sexual abuse and sexual harassment is encouraged as a viable option.