

1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards

I Policy Index:



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Sexual Assault/Rape

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II Policy:

The South Dakota Department of Corrections (DOC) has a zero-tolerance policy relating to the sexual abuse or harassment of an inmate. The DOC will cooperate in the investigation, discipline, and prosecution of anyone involved in a sexual abuse or sexual harassment of an inmate in a DOC facility. This policy does not apply to incidents of sexual assault/rape or harassment by an inmate against a staff member, visitor, volunteer or any other individual who has business with the DOC.

III Definitions:

Bisexual:

A person emotionally, physically, and/or sexually attracted to males and females. This attraction does not have to be equally split between genders and there may be a preference for one gender over the other.

Facility:

For the purpose of this policy, facility refers to individual inmate housing locations and campus within the South Dakota Department of Corrections. The facilities are:

South Dakota State Penitentiary (including Jameson Prison Annex and Sioux Falls Community Work Center)

Mike Durfee State Prison

Yankton Community Work Center

Rapid City Community Work Center

South Dakota Women's Prison (including E Unit and Pierre Community Work Center)

Gay:

Term used to describe male-identified people attracted romantically and/or emotionally to other male-identified people

Gender Identity:

The individual's internal sense of being male or female, distinct from his or her sexual orientation. The way an individual expresses his or her gender identity is frequently called "gender expression," and may or may not conform to social stereotypes associated with a particular gender, the individual's sex at birth or their physical anatomy.

Gender Non-conforming:

Means a person whose gender expression is outside societal assumptions for how men and women are expected to appear or behavior.

Gender Non-Conforming Committee:

Comprised of PREA Compliance Manager, Director of Classification, Warden or designee, PREA Coordinator, Behavioral Health, Health Services, Facility PREA Investigator, Unit Manager, and Security.

Inmate:

For the purposes of this policy, an inmate is any offender in the custody of a DOC facility, including any parolee or Community Transition Program (CTP) detained within the facility.

Intersex:

Means a person whose external genitalia, internal reproductive organs chromosomal pattern at birth does not fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development. Not all people with intersex conditions identify as transgender.

Lesbian:

Term used to describe female-identified people attracted romantically, and/or emotionally to other female-identified people

New Admission Inmates:

For the purposes of this policy, a new admission inmate is any inmate, parole violator, parole detainee or inmate from another jurisdiction temporary housed at a DOC facility who at the time of admission does not currently have a PREA screen or assessment on file, or 90 days or more has elapsed since the screen/assessment was last complete.

PREA:

The Prison Rape Elimination Act of 2003. A federal act addressing the prevention, detection and punishment of prison sexual assaults.

Sexual Abuse- Inmate on Inmate:

Sexual abuse of an inmate includes any of the following acts, if the inmate 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, or 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.

Sexual Abuse-Staff on Inmate:

Sexual abuse of an inmate by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate:

- (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 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;
- (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 inmate, 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 inmate by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet 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.

Sexual penetration by any person employed by the State of South Dakota or employed within any DOC facility with an inmate who is housed at a DOC facility is a violation of state law (See SDCL § 24-1-26.1 and SDCL § 22-22-7.6).

Sexual Harassment- Inmate on Inmate:

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 directed toward another inmate.

Sexual Harassment-Staff on Inmate:

Repeated verbal comments or gestures of a sexual nature to an inmate 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.

Note:

The terms "Sexual Abuse or Sexual Harassment does not include:

- Custodial or medical personnel gathering physical evidence, or engaging in other legitimate medical treatment, in the course of investigating a sexual assault/rape.
- The use of a health care provider's hands or fingers, or the use of medical devices in the course of appropriate medical treatment unrelated to a sexual assault/rape.
- The use of a health care provider's hands or fingers and the use of instruments to perform body cavity searches in order to maintain security and safety within a facility. This exemption is contingent upon the search being conducted in a manner consistent with constitutional requirements and DOC policies 1.3.A.5 [Searches – Institutions](#).

- Consensual sexual contact/activity between inmates. Although this type of behavior is prohibited (See Prohibited Act 4-3 in the [Inmate Living Guide](#)).

Sexual Incident:

For the purpose of this policy, a sexual incident is an investigative event involving alleged or potential sexual abuse or sexual harassment of an inmate.

Staff Member:

For the purposes of this policy, a staff member is any person employed by the DOC, full or part time, including an individual under contract assigned to the DOC, an employee of another State agency assigned to the DOC, authorized volunteers and student interns.

Transgender:

Means a person whose gender identity (*i.e.*, internal sense of feeling male or female) is different from the person's assigned sex at birth. A transgender woman is a person whose birth sex is male but who understands herself to be female and desires to live her life as female. A transgender man is a person whose birth sex is female but who understands himself to be male and desires to live life as a male.

Unit Team:

A team of correctional staff assigned to a particular housing unit of an adult facility, usually consisting of a unit manager, case manager and unit coordinator.

Youthful Inmate:

For the purpose of this policy, a youthful inmate is any inmate under the age of 18.

IV Procedures:**1. Approach:**

- A. The Department of Corrections (DOC) has zero tolerance for sexual abuse/sexual harassment. Staff at each facility shall investigate all allegations of sexual abuse/sexual harassment, offer services to all identified victims, and respond to every identified perpetrator – including referral to law enforcement and prosecutors.
- B. PREA staffing.
 1. The DOC will employ at least one PREA Coordinator. The Coordinator will develop, implement, and oversee department compliance with PREA standards. Duties shall include (but are not limited to):
 - a. Development and review department PREA policies.
 - b. Develop compliance files and maintain PREA related documentation, consistent with PREA standards.
 - c. Oversight and assistance with PREA education and training for staff, inmates, contractors and volunteers.
 - d. Review of investigations into allegations of sexual abuse and sexual harassment of inmates.
 - e. Visit DOC facilities to monitor compliance with PREA standards and provide support and assistance to the facility PREA Compliance Managers.

- f. Facilitate data submission to U.S. Department of Justice (DOJ) and annual data reviews.
 - g. Develop, maintain and facilitate MOU's for investigation of alleged instances by outside investigators, at the request of the DOC, victim services and prosecution of criminal cases.
 - h. Schedule and maintain documentation of PREA audits.
 - i. Provide input concerning contracts with vendors who have contact with inmates.
 - j. Coordinate with outside entities, such as victim advocates, SANE's, medical and mental health providers, investigating agencies, prosecutors and others as needed to maintain PREA compliance.
 - k. Work with the PREA auditor to prepare for PREA audits.
 - l. Communicate with administrative staff and supervisors regarding any specific needs or changes in policy or practice to assure continued compliance with PREA standards.
 - m. Keep up-to-date with all new information concerning PREA and required standards.
2. Each DOC facility will designate a PREA Compliance Manager, who will have sufficient time and authority to coordinate the facility's compliance with PREA standards. PREA Compliance Manager duties shall include but are not limited to:
- a. Knowledge of PREA standards, compliance measures and audit requirements.
 - b. Review of facility practices and procedures to maintain compliance with PREA standards.
 - c. Develop level compliance files and maintain documentation required by PREA standards.
 - d. Documentation and tracking of all sexual abuse and sexual harassment allegations.
 - e. Assist in developing a facility level staffing plan, as directed.
 - f. Assist in responding to allegations of sexual abuse in another facility or unit.
 - g. Serve as the team leader when conducting facility sexual incident reviews.
 - h. Coordinate with the PREA Coordinator in development of the 'Pre-Audit' evaluation of the facility and make changes to the evaluation as needed.
 - i. Ensure inmate related PREA education and material is continuously and readily updated and available to inmates at the facility.
 - j. Report relative PREA related information and PREA needs to the PREA Coordinator.
 - k. Serve as the facility PREA contact person.
- C. Any unwanted sexual contact from an inmate is sexual abuse. Sexual abuse does not have to be a violent act. If the victim feels they would be harmed or retaliated against if they refused to participate, it is sexual abuse. Sexual abuse is a violation of institutional rules. Incidents of sexual abuse may be referred to law enforcement and prosecutors (See [Inmate Living Guide](#)). Consensual sexual contact from another inmate is not sexual abuse but is a violation of institutional rules and may result in disciplinary action (See DOC policy 1.3.C.2 [Inmate Discipline System](#)).

- D. Any sexual contact between a DOC staff member and an inmate is expressly forbidden and is a violation of DOC policy and South Dakota Codified Law (See DOC policy 1.1.C.1 [Staff Code of Ethics](#) and SDCL § 22-6-1 and SDCL § 22-22-7.6).
1. An inmate may only be disciplined for sexual contact with staff if the staff member did not consent to the sexual contact.
- E. Sexual harassment of an inmate by another inmate is a violation of institutional rules and will not be tolerated.
1. Staff is required to report to their supervisor all suspected incidents of inmate on inmate sexual harassment.
 2. All reported incidents of inmate on inmate sexual harassment will be investigated.
- F. Staff shall not engage, participate, or otherwise take part in any incident of sexual harassment of an inmate.
3. Sexual harassment of any inmate by a staff member is expressly forbidden (See DOC policy 1.1.C.10 [Staff Anti-Harassment and Discrimination Policy](#)).
 4. Staff is required to report directly to their supervisor or other person of authority all suspected incidents of staff on inmate sexual harassment.

2. Prevention of Sexual Abuse/Harassment:

- A. Inmates under the age of 18 (youthful inmates), will not be placed in a housing unit where the youthful inmate will have sight, sound, or physical contact with any adult inmate. This includes through use of a shared dayroom, common space, shower area, or sleeping quarters.
1. When a youthful inmate has sight, sound or physical contact with adult inmates, direct staff supervision of the inmate is required. This includes during transport (See DOC policy 1.1.A.8 [Adult and Juvenile Joint Transportation Procedures](#)).
 2. Youthful inmates sentenced to the custody of SD DOC will be housed in a designated facility with like inmates under the age of 18 (See DOC policy 1.4.B.6 [Adjudicated Delinquents and Children in Need of Supervision](#) and SDCL § 26-11-3.1).
- B. All contracts with public or private facilities for incarceration of inmates sentenced to the South Dakota DOC will include the facility's obligation to adopt and comply with the PREA Standards.
- C. PREA Coordinators will ensure contracted facilities comply with applicable PREA standards.
- D. Each Warden will develop, document, and ensure each facility and staff under his/her authority makes its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable appropriately placed video monitoring, to protect inmates against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring the following will be considered:
1. Generally accepted correctional practices;
 2. Any judicial findings of inadequacy;

3. Any findings of inadequacy from federal investigative agencies;
 4. Any findings of inadequacy from internal or external oversight bodies;
 5. All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated);
 6. The composition of the inmate population;
 7. The number and placement of supervisory staff;
 8. Inmate programs occurring during a particular shift;
 9. Any applicable state or local laws, regulations, or standards;
 10. The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
 11. Any other relevant factors.
- E. The Warden of each facility or designee will consult with the PREA Coordinator on an annual basis to assess, determine and document whether adjustments are needed at each facility under the authority of the Warden. The following will be reviewed and adjusted as needed:
1. The staffing plan established pursuant to this policy;
 2. The video monitoring systems and other technologies used to monitor or track inmate movement; and
 3. The resources available to ensure adherence to the facility's staffing plan.
- F. In circumstances where the facility is not compliant with the staffing plan, The OIC of the affected shift will document the reasons for the deviation from the approved staffing plan. A copy of this report will be sent to the Warden, the facility PREA Compliance Manager and PREA Coordinator.
- G. When designing or acquiring any new facility, planning any substantial expansion or modification of an existing facility housing inmates or installing or updating a video monitoring system, electronic surveillance system or other monitoring technology in a DOC facility, the PREA Compliance Manager and PREA Coordinator will consult with staff to consider the effect of the design, acquisition, expansion, or modification on staff's ability to protect inmates from sexual abuse/harassment.
1. The physical plant manager will complete the *Upgrades to Facilities and Technology* form (See [Attachment 1](#)) describing any such installation, upgrade or modification in monitoring equipment at the facility. A copy of this report will be sent to the Warden or designee.
- H. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, staff will consider the impact potential changes in technology may have on staff's ability to protect inmates from sexual abuse. This includes changes in duties, processes, and procedures as well as physical changes to the facility. This will be reported on the *Upgrades to Facilities and Technology* form (See [Attachment 1](#)).

1. A copy of this report/form will be sent to the Warden or designee, the facility PREA Compliance Manager and the DOC PREA Coordinator.
- I. Each facility's staffing plan will be reviewed annually for any adjustments, additions or updates prior to the budget review (See [Attachment 4](#)).
 1. Once completed, the facility staffing plan recommendations will be forwarded to the Warden, Secretary of Corrections and other designated staff for review and approval.
 2. Once approved, the staffing plan will be forwarded to the PREA Compliance Manager and the DOC PREA Coordinator.

3. Inmate Screening for Risk of Sexual Victimization and Abusiveness:

- A. Within 72 hours of an inmate's admission to a DOC facility, admissions and orientation (A&O) unit staff shall obtain and use information about the inmate's history and behavior to reduce the risk of sexual abuse caused by the inmate or committed against the inmate (See DOC policies 1.4.B.16 [PREA Institutional Risk Screens](#) and 1.4.A.2 [Inmate Admission](#)).
 1. Assessments will be conducted by staff trained to apply the PREA Risk Screen Review.
 2. Inmates identified as being at risk for sexual victimization and abuse may be temporarily segregated from other inmates until such time as appropriate long-term placement can be determined.
- B. New admission inmates will be reassessed within 30 days of admission by staff trained in the PREA Risk Screen to determine the inmate's potential risk of sexual vulnerability or potential to exhibit sexually assaultive behavior. Inmates may be reassessed whenever triggering events occur throughout their incarceration, i.e. staff referral, request of the inmate, incident of sexual abuse, receipt of additional information about the inmate's risk of victimization or sexual abuse. The PREA Risk Screen Review will be used to determine the inmate's institutional PREA Code.
 1. A PREA Risk Screen Review will be completed on inmates in accordance with DOC policy 1.4.B.16 [PREA Institutional Risk Screens](#).
 2. Intake screening shall consider at a minimum, whether the inmate is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming.
 3. Inmates may not be disciplined for refusal to answer or failure to disclose complete information in response to questions regarding sexual orientation.
- C. DOC staff will use the inmate's PREA Risk Screen scores, assessments and other relevant risk information when determining housing assignments, work assignments, educational and programming placement.
- D. Inmates determined through the PREA Risk Screen to have a high risk of victimization will not be housed in restricted housing/protective custody solely for the purpose of separating the inmate from potential abusers, unless the Protective Custody Hearing Board determines there is no alternative means of separating the inmate from likely abusers.
- E. Medical and Mental Health.

1. If the PREA Risk Screen administered at the time of the inmate's admission indicates the inmate has either previously perpetrated sexual abuse or experienced prior sexual victimization, whether in an institutional setting or the community, staff will ensure the inmate is offered a follow-up meeting with behavioral health staff within 14 days of the screening.
2. Any information/documentation related to the sexual victimization or abuse of an inmate that occurred in an institutional setting will be strictly limited to health service staff, behavioral health staff and authorized DOC staff. The information will be used to develop treatment plans and guide security and management decisions regarding the inmate; i.e. housing, bunk assignment, work, education, program assignments, etc.
3. Health services and behavioral health staff will obtain a signed informed consent form from the inmate before reporting information about prior sexual victimization that did not occur within an institutional setting. The signed informed consent form will be kept in the inmate's medical file.

4. Inmate Education:

- A. During the initial PREA Screen process, inmates will receive information explaining the DOC's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment. This information is also contained in the [Inmate Living Guide](#), which is available in printed form and on the inmate tablets issued to inmates upon admission. Inmates also have access to kiosks, which contain the Inmate Living Guide.
 1. This will be documented with the *Acknowledgement of Prevention of Sexual Abuse/Harassment Information* form (See [Attachment 2](#)).
- B. Staff assigned to the A&O units (located at Jameson Prison Annex and SDWP) will provide comprehensive education and information to inmates, either in person or through video, describing the inmate's right to be free from sexual abuse and sexual harassment, freedom from retaliation for reporting such incidents, and information about DOC policies and facility procedures for responding to such incidents.
 1. This education/information will be provided to the inmate within thirty (30) days of admission.
 - a. This will be documented with the *Acknowledgement of Prevention of Sexual Abuse/Harassment Information* form (See [Attachment 2](#))
- C. Inmates who have not received information explaining the DOC's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment in A&O, will receive the education/information from unit staff at the inmates' case planning and review (See DOC policy 1.1.E.6 [Case Management](#)).
 1. Inmates who do not have a signed *Acknowledgement of Prevention of Sexual Abuse/Harassment Information* form on file will be offered a video presentation of the information.
 2. Once completed, the inmate will sign the *Acknowledgement of Prevention of Sexual Abuse/Harassment Information - Part 2 Comprehensive PREA Education* (See [Attachment 2](#)) and the information entered in COMS/Assessments/Assessment Type: PREA Admissions and Orientation class.

3. All inmates housed at a DOC facility will receive comprehensive PREA Education and sign an *Acknowledgement of Prevention of Sexual Abuse/Harassment Information* form.
- D. The facilities will make accommodations to provide PREA education and information to inmates who are limited English proficient, deaf, visually impaired, intellectually disabled, has limited reading skills or otherwise is disabled and requires or request accommodation.
 1. The DOC will take reasonable steps to ensure all inmates have meaningful access to all safeguards in place to prevent, detect, and respond to sexual abuse and sexual harassment, including providing qualified interpreters as necessary or requested by an inmate.
 - a. The facility will not rely on inmate interpreters, inmate readers, or other types of inmate assistants to convey the PREA information except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety.

5. Staff Training:

- A. All new staff hires, volunteers and contract staff that may have direct contact with inmates and are not directly supervised by staff, will receive training on their responsibilities under PREA (See DOC policy 1.1.D.1 [Staff Training Requirements](#)).
- B. Annual staff in-service training will include training on PREA related issues and review of sexual abuse and sexual harassment related policies and procedures.
- C. DOC investigators who conduct sexual incident investigations will receive specialized training specific to conducting sexual incident investigations in the correctional environment.
 1. Specialized training will include but is not limited to:
 - a. Techniques for interviewing sexual abuse victims.
 - b. Proper use of *Miranda* and *Garrity* warnings.
 - c. Sexual abuse evidence collection in correctional/confinement settings.
 2. The criteria and evidence required to substantiate a case for administrative action or referral for criminal prosecution.
 3. The training specialist for each facility will maintain documentation supporting staff investigators have completed required specialized training.
- D. All full-and part-time health service and behavioral health service staff will be trained in:
 1. How to detect and assess signs of sexual abuse and sexual harassment;
 2. How to preserve physical evidence of sexual abuse;
 3. How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and
 4. How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

6. Victim Advocate/Rape Crisis Centers:

- A. Inmates will have access to outside victim advocates. Inmates will be provided with the mailing addresses and telephone numbers (including toll-free hotline numbers where available) of local, state, or national victim advocacy or rape crisis organizations.

1. Inmates will be informed of the extent to which such communications will be monitored and whether reports of abuse will be forwarded to authorities, in accordance with mandatory reporting laws (See DOC policy 1.5.D.4 [Inmate Access to Telephones](#) and DOC policy 1.5.D.3 [Inmate Correspondence](#)).
 2. The PREA Compliance Manager pursue and maintain any memoranda of understanding or other agreement with community service providers who agree to provide inmates with confidential emotional support services related to sexual abuse. The PREA Compliance Manager will maintain copies of such agreements or documentation showing attempts to enter into such agreements.
- B. Victim advocates provided by the rape crisis centers, qualified agencies and qualified community-based organizations, etc. that provide services to inmates through an agreement or memorandum with the DOC, will be offered specialized training from the DOC that will include information about being sensitive to the issues surrounding abuse and sexual harassment.
1. Training will include advocate responsibilities to prevent sexual abuse and sexual harassment, detection and response to sexual abuse and harassment in accordance with DOC policy procedures – including the DOC’s zero-tolerance policy and how to report such incidents.
- C. All victim advocates requesting access to DOC facilities will apply for an Orange ID Card (See DOC policy 1.1.D.3 [Facility Access & ID Requirements](#)).

7. Gender Non-Conforming Inmates:

- A. Transgender or intersex inmates will not be housed in dedicated units or cells/units solely on the basis of their gender identification or complaints received by other inmates about the inmate’s gender identity.
- B. Housing placement and programming assignments (educational, chemical dependency, vocational, etc.) will be reassessed twice a year for all transgender (self-determined) and intersex inmates for any threats to safety experienced by the inmate. These may be reported by the inmate or documented by staff. Additionally, reassessment will be completed whenever a triggering event occurs. Housing placement and programming assignments shall be based on consideration of all information available to staff at the time of the review.
1. The bi-annual reassessment of the inmate’s housing placement and programming assignments will be documented in COMS under Case Management/Case Note/Note Type: Case Management/Sub Type: GNC Review. These will be completed every 6 months by the inmate’s case manager.
- C. Gender Non-Conforming Committee.
1. The committee will convene when:
 - a. Staff identifies or suspects an inmate is transgender or intersex (usually when an inmate is in A&O or following assessment of the inmate by behavioral health staff for treatment issues or concerns related to their transgender or intersex status) and the staff member has concerns about the safety of the inmate or other inmates where the inmate is currently housed. Staff may complete the Gender Review Request form ([Attachment 5](#)) on an inmate at any time during the inmate’s incarceration with the DOC.

- b. An inmate who self-identifies as transgender or intersex has submitted a request to the Gender Review committee ([Attachment 5](#)).
 - 1) Staff may assist the inmate in completing the form.
2. The committee has authority to approve and make recommendations on the following:
 - a. Housing placement, including transfer to different facility.
 - 1) Transgender or intersex inmates shall not be placed in dedicated facilities or units solely on the basis of such identification or status, unless such placement is in connection with a consent decree, legal settlement, or legal judgement for the purpose of protecting the inmate(s).
 - 2) The committee will make recommendations for housing to ensure the inmate's safety from sexual abuse (sexual harassment or sexual assault). Inmates will not be placed in involuntary protected custody housing unless an assessment of all available alternatives has been made and a determinate is made that there is not available alternative means of separation from likely abusers.
 - 3) Housing placement will be decided following a medical screening and analysis of the inmate's medical and behavioral health needs by Health Services and Behavioral Health Services and after review of the inmate's most recent risk assessment (See DOC policy 1.4.B.16 *PREA Institutional Risk Screens*). Recommendation for housing will be made only after considering the inmate's safety, the safety of other inmates, security and programming needs of the inmate.
 - b. A transgender or intersex inmate's request for separate showers. The committee must confirm the inmate's request is legitimate and sincere.
 - 1) Transgender and intersex inmates will be given the opportunity to shower separately from other opposite gender inmates upon request.
 - 2) Separate showers are accomplished either through physical separation (e.g., separate shower stalls) or by time-phasing or scheduling (e.g., allowing an inmate to shower before or after other inmates).
 - 3) Transgender and intersex inmates will be given the opportunity to disrobe and dress apart from other inmates upon request by the inmate.
 - c. A transgender or intersex inmate's search preference request. The committee must confirm the inmate's request is legitimate and sincere. Transgender inmates may request search preferences by contacting unit staff or submitting a request to the committee. The committee may reconsider any search preference previously denied, including providing a response to an Administrative Remedy filed by an inmate involving search preference.
 - 1) Transgender or intersex inmates may request to be searched by male or female staff. (Female staff may search both male and female inmates. Male staff may only search male inmates). Inmates may not request to be searched by a particular staff member, only the gender of the staff member performing the search. Exceptions may be made by staff in the case of an emergency where search of the inmate is time sensitive.
 - 2) Searches will be conducted in a professional and respectful manner; in a least obtrusive manner, consistent with security objectives.
 - 3) Any staffing issues or concerns will be reviewed by the committee with input from security staff, i.e. availability of cross-gender staff to perform searches.
3. The committee will review requests within 30 days of the facility PREA Compliance Manager receiving the request ([Attachment 5](#)).

- a. The facility PREA Compliance Manager will be the leader of the committee and will coordinate with the other committee members to schedule a date and time for review or the request.
- b. The committee will consider each request on a case-by-case basis. In each case, the committee will consider how to ensure the inmate's health and safety and whether approval or denial of the request will have adverse effects or otherwise compromise the management, safety and security of the institution, staff or inmates.
- c. The committee must consider the following:
 1. The inmate's gender identity- that is, if the inmate self-identifies as either male or female.
 2. The inmate's current genital status.
 3. The inmate's own views of his or her safety and privacy concerns. The inmate may choose to be present before the committee to express his/her views and concerns regarding safety or privacy (as it relates to searches).
 4. Any incidents of victimization or perpetrating abuse on others. Inmates may have adjustments made to their care, placement, privileges, etc. based on victimization or perpetration.
 5. Medical and behavioral health treatment plans and treatment recommendations that address the needs, treatment and care of the inmate.
 6. Custody classification, criminal history, disciplinary history and security concerns. Recommendations for accommodation must be consistent with preservation of safety and security of the facility, staff and inmates.
4. The committee will complete a response form (see [Attachment 7](#)).
 - a. The committee will summarize all of the items considered and list any decisions/recommendations. Action may include the following:
 - 1) Recommend appropriate and safe housing placement or transfer.
 - 2) Add the inmate to the separate shower list.
 - 3) Notify security of the inmate's gender preference for searches.
 - b. The inmate's unit staff shall document the committee's response in COMS as a COMS Alert- Alert type: Security: Alert Code: gender non-conforming. Relevant information may be added in the comment box. This lists what the inmate is allowed. If it is not listed, it is not allowed.
 - c. Transgender or intersex inmates will not be recommended for protective custody housing based solely on their high risk of victimization, unless a review of available alternatives has determined there are no other options available (see this policy- Section 10. Response to Incidents, B.)
 - d. Staff will not disclose an inmate's sexual orientation or gender identity except to those who must know.

- e. If the committee recommends an inmate be transferred from a male facility to a female facility, or vice versa, the Director of Prison Operations will review the recommendation for transfer prior to transfer of the inmate.
- f. No inmate who has received accommodation from action taken by the committee will have the accommodation removed without notification being provided in advance to the deciding committee. Notice will include the reason(s) why the accommodation is no longer available to the inmate. This includes removal from the separate shower list, changes in search procedure affecting the inmate, or transfer of the inmate from the facility where they were placed.
- g. Inmates may appeal any decision reached by the committee and any removal or modification of accommodation provided to the inmate by the committee by grievance filed in accordance with the administrative remedy process (See DOC policy 1.3.E.2 [Administrative Remedy for Inmates](#)).

8. Reporting of Incidents:

- A. The PREA Compliance Manager shall provide multiple ways for inmates to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, staff neglect, or violations of staff responsibilities pertaining to PREA that may have contributed to sexual abuse or harassment of the inmate. The following are some of the ways an inmate may report these concerns:
 1. Verbal report by the inmate;
 2. Written report (kite) by the inmate;
 3. Anonymous report to staff; or
 4. Third party reports, including from other inmates, the public or a victim advocacy entity.
- B. The PREA Compliance Manager will provide at least one way for inmates to report abuse or harassment to a public or private entity or office that is not part of the DOC. The public or private entity must be able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to the DOC and allow the inmate to remain anonymous, upon request by the reporting inmate.
- C. Staff are required to immediately report any knowledge, suspicion, or information received regarding an incident of sexual abuse or sexual harassment that occurred in a DOC institution, retaliation by staff against inmates or staff who report such an incident, and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. If a DOC staff member fails to promptly report such information, the staff member may be subject to disciplinary action, including termination of employment (See DOC policy 1.1.C.1 [Staff Code of Ethics](#)).
 1. If staff has reasonable belief an inmate is at risk of being sexually abused, staff will take immediate action to protect the inmate.
 - a. Immediate action may consist of:
 - 1) Separate the alleged victim and potential abuser.
 - 2) Notify directly the officer in charge.
 - 3) Potential placement of participants on segregation status pending an investigation.

- 4) Additional actions as the officer in charge determines.
2. The DOC will have a method to receive third-party reports of sexual abuse and sexual harassment and will distribute publicly via the DOC website <http://doc.sd.gov/>, information about how those with knowledge of the sexual abuse and/or harassment of an inmate may report this information on behalf of the inmate.
- D. Upon receiving information of an allegation an inmate was sexually abused while confined at another facility, the Warden or his/her designee will notify the head of the facility or appropriate office of the agency where the alleged sexual abuse of the inmate occurred.
1. Such notification will be provided by the Warden or designee as soon as possible, but no later than 72 hours after receiving the allegation.
 2. The Warden or designee will document this information has been provided to the facility or office. A copy of the notification shall be sent to the DOC facility PREA Compliance Manager and the DOC PREA Coordinator.

9. Investigations:

- A. The DOC will respond to all allegations of sexual abuse and sexual harassment received, including third-party reporting and anonymous reports. All allegations will be promptly, thoroughly and objectively investigated by designated staff (See DOC policy 1.3.E.6 *PREA Response Investigation of Sexual Abuse-Harassment*).
1. The sharing of information pertaining to the alleged sexual abuse/harassment and identity of the victim(s) will be limited to those who must know. Sharing information regarding the victim will be conducted in a manner that is in accordance with all applicable policies, state statutes and professional licensure and ethics standards.
- B. Staff at each facility will follow a uniform and accepted evidence handling protocol set in place at the facility to maximize the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecution.
- C. Incidents of sexual abuse or sexual harassment that include potentially criminal behavior will be referred to the Division of Criminal Investigation (DCI). SIU staff will document all such referrals.
- D. The Warden will ensure inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations are protected from retaliation by other inmates or staff.
1. Each facility will employ multiple protection measures; such as housing changes/transfers for inmate victims or abusers, restricting contact by staff or inmate abusers with the victim and offering emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
 2. For at least ninety (90) days following a report of sexual abuse, the facility staff will monitor the treatment of inmates or staff who report the sexual abuse and any inmate who is reported to have suffered sexual abuse to see if evidence exists that suggest or support retaliation by inmates or staff. The Warden will act promptly to remedy any such retaliation.
 - a. Items staff should monitor include any disciplinary reports, housing, program or work

assignment changes or negative performance reviews by staff which lack substance or are inconsistent with practice, policy or procedure. Staff shall continue such monitoring beyond ninety (90) days if the initial monitoring indicates a continuing need.

10. Response to Incidents:

- A. Any incident of alleged sexual abuse/harassment involving inmates, or inmates and staff, will be reported to the DOC Administration in accordance with DOC policy 1.1.A.3 [Staff Reporting Information to DOC Administration](#).
1. Any media inquiries regarding an incident of sexual abuse or harassment at a DOC facility will be forwarded to the Communications & Information Manager for response/action.
 2. The Warden will assign a staff member who is responsible for the following:
 - a. Ensuring all investigations is completed thoroughly and in a timely manner.
 - b. All information relating to the investigation is accurately documented and recorded in a database.
 3. The Warden is responsible for ensuring:
 - a. Investigations are completed appropriately and in a timely manner.
 - b. All tracking and logging of investigations is entered appropriately.
- B. Inmates may not be placed in protective custody based solely on their high risk of victimization unless a review of all available alternatives has determined there are no other options available.
1. Following an investigation into an inmate's allegation he or she suffered sexual abuse or harassment in the facility, the inmate will be informed as to the results of the investigation.
 2. Inmates are subject to disciplinary sanctions pursuant to the disciplinary process following an administrative finding the inmate engaged in inmate to inmate sexual abuse or sexual harassment; or following a criminal finding of guilt of inmate to inmate sexual abuse (See DOC policies 1.3.C.2 [Inmate Discipline System](#)).
- C. SDCL § [24-1-26.1](#) any person, employed by the state, or employed within any state prison or other detention facility, who knowingly engages in an act of sexual penetration with another person who is in detention and under the custodial, supervisory, or disciplinary authority of the person so engaging, is guilty of a Class 6 felony.
- D. SDCL § [22-22-7.6](#) Any person employed at any jail or juvenile correctional facility, who knowingly engages in an act of sexual contact or sexual penetration with another person who is in detention and under the custodial, supervisory, or disciplinary authority of the person so engaging, and which act of sexual contact or sexual penetration does not otherwise constitute a felony pursuant to the provisions of chapter 22-22, is guilty of a Class 6 felony if the victim is an adult and a Class 4 felony if the victim is a juvenile. A juvenile correctional facility pursuant to this section is a juvenile detention facility as defined in subdivision [26-7A-1\(16\)](#).
- E. A sexual incident review will be completed at the conclusion of all sexual incident investigations where an allegation of inmate abuse concluded in a substantiated or unsubstantiated result.

1. The Warden shall designate a DOC staff member to serve as the sexual incident review team leader.
2. The facility's investigative office (Special Investigation Unit (SIU)) shall maintain documentation that agency investigators have concluded all sexual incident investigations regardless of the final determination of the investigation.
 - a. Such review shall ordinarily occur within thirty (30) working days of the administrative conclusion of the investigation.
 - b. The designated review team leader will receive a copy of all investigative forms and information from the investigative office within three (3) working days from the conclusion of the investigation of a sexual incident report.
 - c. The review team will include the facility PREA Coordinator or PREA Compliance Manager (Team Leader), Warden or his/her designee, facility security supervisors, facility investigators and a representative each from Behavioral Health Services and Health Services, as appropriate.
3. The review team shall complete the Sexual Incident Review (See [Attachment 4](#)). The review will consider the following items:
 - a. Whether the investigation supports a need to revise or implement policy or practice to better prevent, detect, or respond to sexual incidents;
 - b. Whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification; status or perceived status; gang affiliation; or motivated or otherwise caused by other group dynamics at the facility;
 - c. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
 - d. Assess the adequacy of staffing levels in the area where the incident occurred and at the time the incident occurred;
 - e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
 - f. Prepare a report of findings, including but not necessarily limited to determinations made pursuant to this policy and any recommendations for improvement. The report will be submitted to the Warden and PREA Coordinator.
4. The Warden or his/her designee considers the recommendations for improvement and/or document reasons for not implementing the recommendations.

11. Recording Incidents:

- A. The DOC will collect accurate, uniform data for every allegation of a sexual incident at facilities under its direct control, using a standardized instrument and set of definitions.
 1. SIU or designated staff will enter all sexual incident investigations information on a database.

- a. The PREA Coordinator will aggregate the incident-based sexual incident data at least annually.
 - b. The incident-based data collected will include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.
 - c. The PREA Coordinator will maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual incident reviews.
 - d. The PREA Coordinator will obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates.
 - e. Upon request, the PREA Coordinator will provide all such data from the previous calendar year to the Department of Justice no later than June 30.
- B. The Secretary of Corrections, Deputy Secretary, Director of Grants and Research and PREA Coordinator will review data collected and aggregated in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:
1. Identifying problem areas;
 2. Taking corrective action on an ongoing basis; and
 3. Compiling an annual PREA report of its findings and corrective actions for each facility, as well as the DOC as a whole, which shall be prepared by the PREA Coordinator.
 - a. Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.
 - b. The DOC's report shall be approved by the Secretary of Corrections and made readily available to the public through its website.
 - c. The DOC may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.
- C. The PREA Coordinator will ensure data collected is securely retained. Only aggregated data will be placed in the annual PREA report. The data will be reviewed by the Secretary, Deputy Secretary, and Director of Grants before it is placed in the report for approval by the Secretary.
1. The approved report will include all aggregated sexual abuse data, from facilities under direct control of the DOC and private facilities with which it contracts and will be made readily available to the public at least annually through the DOC website.
 2. Before making aggregated sexual abuse data publicly available, the DOC will remove all personal identifiers. Any information that may present a clear and specific threat to the safety and security of the institution may be redacted.
 3. The DOC will maintain sexual incident data collected for at least ten (10) years after the date of the initial collection.

V Related Directives:

- DOC policy 1.1.A.3 -- [Reporting Information to DOC Administration](#)
- DOC policy 1.1.A.8 -- [Adult and Juvenile Joint Transportation Procedures](#)
- DOC policy 1.1.C.1 -- [Code of Ethics](#)
- DOC policy 1.1.C.10 -- [Staff Anti-Harassment and Discrimination Policy](#)[Harassment.doc](#)
- DOC policy 1.1.D.1 -- [Staff Training Requirements](#)
- DOC policy 1.1.D.3 -- [Facility Access & ID Requirements](#)
- DOC policy 1.1.E.6 -- [Case Management](#)
- DOC policy 1.3.C.2 -- [Inmate Discipline System](#)
- DOC policy 1.3.E.2 -- [Administrative Remedy for Inmates](#)
- DOC policy 1.4.A.2 -- [Inmate Admission](#)
- DOC policy 1.4.B.6 -- [Adjudicated Delinquents and Children in Need of Supervision](#)
- DOC policy 1.4.B.16 -- [PREA Institutional Risk Screens](#)
- DOC policy 1.5.D.4 -- [Inmate Access to Telephones](#)
- DOC [Inmate Living Guide](#) and [Juvenile Inmate Living Guide](#)

VI Revision Log:

July 2014: New Policy.

April 2015: **Added** 2. to Section 2 A.

June 2016: **Added** definition of "Gender Identity, Gender Non-Conforming, Lesbian, Gay, Bisexual, Transgender, Intersex". **Deleted** reference to STAR and to "Superintendent". **Deleted** "for the juvenile facilities and one for the adult facilities" in Section 1 B. **Deleted** B. In making housing and programming assignments, staff will consider on a case-by-case basis, whether a placement would ensure the inmate's health and safety and whether the placement may compromise the safety and security of the facility, its staff and other inmates" in Section 7. **Deleted** 1. Placement and programming assignments for each transgender or intersex inmate will be reassessed at least twice each year to review any threats to safety experienced by the inmate" in Section 7 B. **Deleted** 2. "A transgender or intersex inmate's own views with respect to his or her own safety will be considered when making placement and programming assignments" in Section 7 b. **Deleted** "Each facility will document this process with the Individualized Gender Identity Determination form (See Attachment 6)" in Section 7 B. **Added** new B and D in Section 7. **Deleted** Attachment 3. STAR Sexual Abuse/Harassment Information. Deleted "Individualized Gender Identity Determination form" and **Added** new Attachment 5 "Inmate Gender Determination Request" **Added** Attachment 6 "Gender Non-conforming Committee" and **Added** Attachment 7 "Gender Non-Conforming Committee Response".

March 2017: **Revised** definition of "Gender Identity", "Intersex", "Transgender" and "Youthful Offender". **Added** 2. to Section 3 A. **Added** "Inmates may be reassessed whenever triggering events occur throughout their incarceration" in Section 3 B. **Added** 2. and 3. to Section 3 B. **Added** "or solely on complaints of other inmates about the inmate's gender identity" in Section 7 A. **Deleted** "case management" and **Replaced** with "classification" in Section 7 B. **Added** "upon request by the inmate" to Section 7 B. 1. **Added** 1. to Section 7 B. **Deleted** "determination" and **Replaced** with "review" in Section 7. **Added** a. and 2. To Section 7 C. **Added** 1) 4) and 5) to Section 7 D. 4. a. **Added** e. to Section 7 E. **Added** a. to Section 8. **Updated** Attachment 5 and 6. **Added** Attachment 8.

Denny Kaemingk (original signature on file)

Denny Kaemingk, Secretary of Corrections

08/23/2017

Date

Attachment 1: Upgrades to Facilities and Technology

The *Upgrades to Facilities & Technology Form* is located on the State WAN
Click [here](#).

Upgrades to Facilities and Technology PREA Standard Review

Facility/ Unit / Area: [Click here to enter text.](#) Date: [Click here to enter a date.](#)

Upgrade is for: [Choose an upgrade](#)

Date range of design, modification, installation or upgrade:

From: [Click here to enter a date.](#) To: [Click here to enter a date.](#)

1) Brief Description of Upgrade(s).
[Click here to enter text.](#)

2) Has the design, modification, installation or update been reviewed to consider how it will affect the agency's ability to protect offenders from sexual abuse? [Choose response](#)

3) Brief Explanation of the projects effect (or not effect) the agency's ability to protect offenders from sexual abuse.
[Click here to enter text.](#)

Physical Plant Manager Date

Facility Administrator Date

Copy to Physical Plant Manager Copy to Facility PREA Compliance Manager / DOC PREA Coordinator

Attachment 2: Acknowledgement of Prevention of Sexual Abuse/Harassment Information

The **Acknowledgement of Prevention of Sexual Abuse/Harassment Information** form is located on the State WAN. Click [here](#).

South Dakota Department Of Corrections Policy Distribution: Public	Attachment: Acknowledgement of Prevention of Sexual Abuse / Harassment Information 1.4.B.16 PREA Institutional Risk Screens
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Acknowledgement of Prevention of Sexual Abuse/Harassment Information

PART 1 Initial PREA Risk Information: To be completed with the inmates Initial PREA Risk Screen (72 hrs) and initial briefing on PREA.

I acknowledge receiving information on the prevention of sexual abuse/harassment and the Department of Corrections policy on Zero Tolerance of sexual abuse/harassment.

INMATE NAME (PRINT) _____ NUMBER _____

INMATE SIGNATURE _____ DATE _____

STAFF WITNESS _____ DATE _____

PART 2 Comprehensive PREA Education: To be completed after the inmate has attended the in person or video presentation education regarding their rights to be free from:
1) Sexual abuse, 2) sexual harassment, and 3) retaliation.
In addition, how to report such incidents and the DOC's policy on Zero Tolerance.

Location: A&O PREA Education Class or PREA Housing Unit Education

I acknowledge receiving information on my rights to be free from sexual abuse/sexual harassment and to be free from retaliation for reporting such incidents.

I acknowledge reviewing information on the prevention of sexual abuse/harassment and the Department of Corrections policy on Zero Tolerance of sexual abuse/harassment.

INMATE NAME (PRINT) _____ NUMBER _____

INMATE SIGNATURE _____ DATE _____

Inmate was offered education and refused participation. Inmate was given PREA brochure.

STAFF WITNESS _____ DATE _____

Revised: 07/28/2014 Page 1 of 1

Attachment 4: Facility Staffing Plan Form

The **Facility Staffing Plan Form** is located on the WAN.

Click [here](#)



South Dakota Department of Corrections
Facility Staffing Plan

Annual Review of staffing plan, facility organizational chart and compliance review.

DOC Facility: Date:

Staffing Plan: Calculating staffing levels and determining need for video monitoring.

- 1) Are there any judicial findings of inadequacy? If yes-note below:
Note:

- 2) Any findings of inadequacy from Federal Investigative agencies? If yes-note below:
Note:

- 3) Any findings of inadequacy from Internal or external oversight bodies? If yes-note below:
Note:

- 4) Review all components of the facilities physical plant (including "blind-spots" or areas where staff or inmates may be isolated): Note issues below. Note if video camera coverage.
Note:

- 5) Review and note any applicable State or local laws, regulations, or standards:
Note:

- 6) Review and note the prevalence of substantiated and unsubstantiated incidents of sexual abuse:
Note problem areas:

Facility Organizational Chart:

- 1) Attach and organizational chart that depicts all positions assigned to the facility.
- 2) Organizational Chart should, at a minimum, include the following:
 - a. Composition of inmate population.
 - b. Institutional work, programming, and educational areas
 - c. Job description of each position: Job title, duties, full or part time, etc...
 - d. Post description of each job: Description of post, shift hours (i.e. 6/2, 2/10/10/6; 5 day/7 day post, 8/10/12 hour post, etc...)
 - e. Identify and note placement of supervisory staff.
 - f. Identify any problem areas in post (blind spots, isolated, etc...)

Attachment 5: Inmate Gender Review Request

The *Inmate Gender Review Request* is located on the WAN.
Click [here](#).



**SOUTH DAKOTA
DEPARTMENT OF CORRECTIONS**

**INMATE GENDER
REVIEW REQUEST**

Offender Information

Name: _____ Number: _____

Current housing location: _____ Fac type : Male Female

Offenders biological gender at birth: Male Female Intersex

Available court documentation identifies the offender as: Male Female N/A

Request Information

The request for a DOC review of the offenders gender is based upon: (check all that apply)

Offender has requested / or considers themselves to be a different gender than the assigned facility.

Offender self identifies as a transgender or intersex individual.
Note: Have the offender write a written request identifying their issues and concerns. Attach written request to this document

Offender presents gender non-conforming physical characteristics. (Note characteristics in Comments box below)

Comments

Notifications

The following notifications have been completed. (A notification for the purposes of this document is a e-mailed notice to the facilities department supervisor)

The offender's Unit Manager / Case Manager:
Who was notified: _____ Date notified: _____

The facilities Correctional Health Services:
Who was notified: _____ Date notified: _____

The facilities Correctional Behavioral Health Services:
Who was notified: _____ Date notified: _____

The facilities PREA Compliance Manager Notified:
Who was notified: _____ Date notified: _____

Form completed by:

Staff: _____ Title: _____

Send E-mail copy of this form to:
AW/DW of Facility
Facility PREA Compliance Manager
DOC PREA Coordinator

Original to offenders unit file.

Attachment 6: Gender Non-conforming Committee

The **Gender Non-conforming Committee** is located on the WAN.

Click [here](#)

	SOUTH DAKOTA DEPARTMENT OF CORRECTIONS	GENDER NON-CONFORMING COMMITTEE
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Definitions

Gender Non-conforming: means an offender whose appearance or manner does not conform to traditional societal gender expectations.

Intersex offender: means an offender who's sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female.

Transgender offender: means an offender whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.

Purpose

The purpose of the Gender Non-conforming Committee (GNC) is to determine an individualized, appropriate and safe housing placement for gender non-conforming offenders, intersex offenders, and transgender offenders.

The committee members will be a cross disciplinary group sharing their expertise to get an informed decision on the offenders needs. When determining an appropriate and safe housing placement the committee members will consider medical history, mental health status, inmate self-identification, the safety of the offender, other offenders and staff, past inmate behaviors, and any other relevant information. Each housing placement is on a case-by-case basis.

Role and Responsibility of the GNC

1. Respond to Inmate Gender Determination Requests
2. Identify and collect all relevant information
3. Identify the needs of the gender non-conforming offender.
4. Review the information and needs pertaining to placement
5. Identify housing placement options
6. Prepare a written recommendation to the Director of Prison Operations.

Staffing of the GNC

The Facility PREA Compliance Manager will organize and lead the meeting.

Additional members of the GNC

- Facility Warden or designee
- Director of Classification and Transfers
- Facility Correction Behavioral Health designee
- Facility Correctional Health designee
- PREA Coordinator
- Facility PREA Investigator
- Housing Unit Manager (Inmates current housing assignment)

Meetings

Will be scheduled at the inmate's facility on an as needed basis.

Decisions

The written recommendation to the Director of Prison Operations, the Individualized Gender Identity Determination form (Director of Prison Operations response), and all relevant information will be recorded as one report. Original placed in inmate Unit file. Scanned copy to facilities PREA Compliance Manager.

10/1/15

Attachment 7: Gender Non-conforming Committee Response

The **Gender Non-conforming Committee Response** is located on the WAN.
Click [here](#).

The image shows a two-page form titled "GENDER NON-CONFORMING COMMITTEE RESPONSE" from the South Dakota Department of Corrections. The form is divided into several sections:

- OFFENDER INFORMATION:** Fields for Name, Number, Current housing location, and Sex type (Male/Female).
- BACKGROUND INFORMATION:** A section for the committee to record information received, including checkboxes for Inmate Gender Determination Request (AND/OR), Inmate's written request, and various accommodation needs (Transgender Female/Male, Interests, Other - non in comms, Separate shower accommodations, Gender appropriate housing - in/facility, Gender appropriate property, Other (non in comms), Different housing - same facility, No action at this time).
- COMMITTEE:** Fields for Meeting Location, Date, and Meeting Staff (Facility Captain/Chief, Facility Director/Manager, Director of Compliance, Facility Coordinator, Facility Correctional Services Team, Facility Manager/Supervisor, and Other).
- COMMITTEE RECOMMENDATION:** A section for the committee's recommendations, with checkboxes for adding the inmate to the GNC Shower list, recommending safe & secure housing, and if mental health follow-up is necessary.
- FORM COMPLETED BY:** Fields for Facility Compliance Manager and Date.
- DIRECTOR OF PRISON OPERATIONS (OR DESIGNEE) RESPONSE:** A section for the Director's response, including checkboxes for Approved, NO I Approved, and With exception listed below in comments, and a field for Additional comments.

At the bottom of each page, there are page numbers: "1 | Page" on the left and "2 | Page" on the right. The form ID "UP0100 2100017" is visible at the bottom of page 2.