

SOUTH DAKOTA DEPARTMENT OF CORRECTIONS 2019 ANNUAL PRISON RAPE ELIMINATION ACT REPORT



October 2020

SOUTH DAKOTA DEPARTMENT OF CORRECTIONS
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In September of 2003, President Bush signed the Prison Rape Elimination Act (PREA). In August of 2012, the PREA standards promulgated by the United States Department of Justice went into effect. Since then, staff throughout the Department has taken action to prevent, detect, reduce and respond to sexual abuse and sexual harassment in confinement facilities, including community confinement facilities and privately-operated facilities that hold contracts with the Department of Corrections.

This report reflects the Departments continued efforts to move forward in complying with the national standards promulgated under PREA. The SDDOC is committed to keeping those in our custody safe and free from harm and has a zero tolerance for sexual assault and harassment of offenders under the jurisdiction of the department.

Staffing

Protecting inmates and youth from sexual assault and harassment and compliance with the PREA standards is the top priority for SDDOC. All SDDOC staff have been involved in achieving and maintaining these goals.

The Department Secretary has assigned a senior staff person in the Administrative Office the responsibility for overseeing the agency's PREA activities.

DOC PREA Coordinator

The PREA Coordinator manages the departments policies and procedures pertaining to PREA and the associated PREA Standards. The Coordinator oversees PREA policy development, PREA staff training, PREA investigator training and PREA documentation of agency procedures.

DOC PREA Compliance Manager

Each of the three main adult facilities has a PREA Compliance Manager to oversee facility level compliance with the PREA Standards. The juvenile division has assigned a Juvenile PREA Compliance Manager to oversee PREA compliance at the agency's contract facilities. Each adult facility designated a primary PREA investigator and trained additional staff as back-up PREA Investigators.

Adult Division

Each adult facility developed a PREA compliant staffing plan. The staffing plan outlined the minimum staffing levels, facility layout review, and video camera coverage. In 2019, staffing levels were maintained.

Juvenile Division

The Juvenile PREA Compliance Manager assists and monitors the community placement facilities under contract for compliance to the PREA Juvenile standards.

SOUTH DAKOTA DEPARTMENT OF CORRECTIONS
2019 ANNUAL PRISON RAPE ELIMINATION ACT REPORT

Training

The adult division continued with pre-service training programs for new staff, contractors, and volunteers. The yearly in-service training program continued to expand to the new PREA related updates and policies. In addition, there were several specialty training programs/events for PREA Investigators and PREA Compliance Managers.

Pre-service PREA

All staff must attend prior to contact with offenders; this standardized training includes all ten of the staff training requirements in the PREA Standard.

1. Zero-tolerance policy for sexual abuse and sexual harassment
2. How to fulfill staff responsibilities under DOC sexual abuse and sexual harassment prevention, detection, reporting and response policies, and procedures
3. Inmates' right to be free from sexual abuse and sexual harassment
4. The right of inmates and staff members to be free from retaliation from reporting sexual abuse and sexual harassment
5. The dynamics of sexual abuse and sexual harassment in confinement/correctional settings
6. The common reactions of sexual abuse and sexual harassment victims
7. How to detect and respond to signs of threatened and actual sexual abuse.
8. How to avoid inappropriate relationships with inmates
9. How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates.
10. How to comply with relevant laws related to mandatory reporting of sexual abuse to law enforcement.

In-service PREA Training

Annual training for all staff that has regular contact with offenders. The in-service training for all facility staff for 2019 was PREA's Impact on Searches course. Topics discussed include the definitions, procedures and practices for the searches that are performed by staff. Adult and Juvenile Division specialized training to select groups to cover training, policy and procedures.

Specialty Training

Adult and Juvenile Division specialized training to select groups to cover training, policy and procedures. Juvenile Investigator Training was completed in Sioux Falls in the fall and winter. The adult PREA Compliance Manager training was held June 2019 covering the PREA Compliance Manager duties. The adult investigators training was held in August of 2019 and covered report writing.

SOUTH DAKOTA DEPARTMENT OF CORRECTIONS
2019 ANNUAL PRISON RAPE ELIMINATION ACT REPORT

Policies

In 2019 for the Adult SDDOC there were no new PREA impacted policies issued by the SDDOC. The following policies were reviewed: Screening of Staff; Volunteers and Contractors for Prior Sexual Abuse had minor language changes; Administrative Remedy for Inmates also had minor changes, but not relating to PREA, and Inmate Correspondence had minor changes, but not relating to PREA. There were no other PREA policies impacted by updates in 2019.

In 2019 for the Juvenile SDDOC there were no new or updated PREA impacted policies or operational memorandums.

Supportive Services

Pursuant to PREA Standard 115.21 Evidence Protocol and Forensic Examinations and 115.53 Access to Outside Confidential Support Services; the SDDOC has maintained Memorandums of Understanding (MOU) with the following local victim advocate groups to provide services to SDDOC offenders who were victims of sexual abuse.

Support Services MOU's

- The Compass Center in Sioux Falls covers the Sioux Falls campus of the South Dakota State Penitentiary, Jameson Annex, and Sioux Falls Community Work Center.
- Missouri Shores Domestic Violence center in Pierre covers the Pierre campus of the South Dakota Women's Prison and the Pierre Community Work Center.
- Working Against Violence Inc in Rapid City covers the Rapid City Community Work Center.
- River City Domestic Violence Center in Yankton covers the Mike Durfee State Prison and the Yankton Community Work Center.

Audits

The adult division contracted with a private PREA auditing company, The Nakamoto Group, to conduct the audit of the South Dakota State Penitentiary (SDSP) during April 2019. The SDSP facility consists of South Dakota State Penitentiary (high medium security inmates), Jameson Annex (maximum security inmates), and Sioux Falls Community Work Center (minimum and work release inmates) in Sioux Falls South Dakota.

The on-site PREA compliance audit of SDSP was conducted from April 23rd thru April 25th, 2019. The report found SDSP compliant with all 45 of the PREA Standards.

The next PREA audit is scheduled for the spring of 2021 due to COVID-19, as the scheduled 2020 PREA audit was postponed. During 2021, there will be two audits completed one for the South Dakota Women's prison which was scheduled for 2020 and the second will be the Mike Durfee State Prison facilities.

SOUTH DAKOTA DEPARTMENT OF CORRECTIONS
2019 ANNUAL PRISON RAPE ELIMINATION ACT REPORT

2019 Data Review for Corrective Action and Publication

The juvenile division contract facility audit for the Sequel Transition Academy will complete be completed in 2021. There was no juvenile audit completed in 2019 per pursuant to section 115.401 of the PREA Standards audits will only need to be completed once every three-years.

General definitions:

Incident Determinations

Substantiated allegation:	an allegation that was investigated and determined to have occurred.
Unfounded allegation:	an allegation that was investigated and determined not to have occurred.
Unsubstantiated allegation:	an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether the event occurred.
Informational incident:	a sexual incident that did not involve an allegation of sexual abuse or harassment, i.e. a consensual incident between inmates.

Sexual Abuse and Harassment The following definitions apply to adult division data:

Inmate sexual abuse: (of an inmate, detainee or resident by another inmate, detainee or resident)

Includes any of the following acts, if the victim does not consent, is coerced into such acts by overt or implied threats of violence or is unable to consent or refuse:

- 1) Contact between the penis and 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

Inmate sexual abuse – touching: (of an inmate, detainee or resident by another inmate, detainee or resident)

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 incidentally to a physical altercation.

Staff sexual abuse: (of an inmate, detainee or resident by a staff member, contractor or volunteer)

Includes any of the following acts, with or without consent of the inmate, detainee or resident:

- 1) – 3) Same first 3 points as inmate sexual abuse and
- 4) 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.
- 5) Any other intentional contact, either directly or through 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, 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, detainee or resident, and;
- 8) Voyeurism by a staff member, contractor or volunteer

Sexual relationships of a romantic nature between staff and inmates are included in this definition.

Inmate sexual harassment: (of an inmate, detainee or resident by another inmate, detainee or resident)

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

Staff sexual harassment: (of an inmate, detainee or resident by another inmate, detainee or resident)

Repeated verbal comments or gestures of a sexual nature to an inmate, detainee or resident by a staff member, contractor or volunteer, including demeaning reference to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

SOUTH DAKOTA DEPARTMENT OF CORRECTIONS
2019 ANNUAL PRISON RAPE ELIMINATION ACT REPORT

Adult Division – Reported Incidents and Administrative Responses:
Reporting Period: January 1st to December 31st, 2019

All SDDOC Adult 2019	Inmate Sexual Abuse-Penetration	Inmate Sexual Abuse – Touching	Inmate Sexual Harassment	Staff Sexual Abuse	Staff Sexual Harassment	Total Incident - Determinations
Substantiated	0	2	8	2	8	20
Unsubstantiated	6	16	43	6	17	88
Unfounded	9	6	11	4	10	40
Total Incident - Category	15	24	62	12	35	148

Mike Durfee State Prison 2019	Inmate Sexual Abuse – Penetration	Inmate Sexual Abuse-Touching	Inmate Sexual Harassment	Staff Sexual Abuse	Staff Sexual Harassment	Total Incidents-Determination
Substantiated	0	0	3	0	0	3
Unsubstantiated	1	5	9	1	0	16
Unfounded	0	3	7	0	0	10
Total Incidents-Category	1	8	19	1	0	29

***Administrative Response to substantiated staff involved incidents:** Not applicable – no staff substantiated cases.

South Dakota State Penitentiary 2019	Inmate Sexual Abuse – Penetration	Inmate Sexual Abuse-Touching	Inmate Sexual Harassment	Staff Sexual Abuse	Staff Sexual Harassment	Total Incidents-Determination
Substantiated	0	2	4	1	8	15
Unsubstantiated	5	5	28	4	13	55
Unfounded	9	3	4	4	8	28
Total Incidents-Category	14	10	36	9	29	98

***Administrative Response to substantiated staff involved incidents:** The one staff-involved substantiated sexual abuse case involved a DOC officer at SDSP. The incident was not referred to Division of Criminal Investigations (DCI) as it did not appear to be criminal. The officer was terminated and no longer allowed access to SDDOC. The eight substantiated staff sexual harassment cases for SDSP, involved 4 staff terminations for inappropriate contact/relationships between an inmate and staff and 3 staff received written/verbal reprimands for inappropriate verbal comments toward an inmate and one staff was terminated for staff sexual harassment due to delivering contraband to an inmate with charges being filed with DCI.

SOUTH DAKOTA DEPARTMENT OF CORRECTIONS
2019 ANNUAL PRISON RAPE ELIMINATION ACT REPORT

Adult Division – Reported Incidents and Administrative Responses:

Reporting Period: January 1st to December 31st, 2019 (continued)

South Dakota Women's Prison 2019	Inmate Sexual Abuse – Penetration	Inmate Sexual Abuse-Touching	Inmate Sexual Harassment	Staff Sexual Abuse	Staff Sexual Harassment	Total Incidents-Determination
Substantiated	0	0	1	1	0	2
Unsubstantiated	0	6	6	1	4	17
Unfounded	0	0	0	0	2	2
Total Incidents-Category	0	6	7	2	6	21

***Administrative Response to substantiated staff involved incidents:** The one staff substantiated sexual abuse case involved a DOC Officer at the Pierre Community Work Center. The case was referred to the Division of Criminal Investigations as it appeared to be criminal in nature. The officer was terminated from SDDOC and denied future access to any SDDOC facilities.

Adult Aggregated Data Review and Corrective Action

Trends over a five-year period:

The 2019 total number of incidents at 148 is a 5.2% decrease over 2018's reported 156 total incidents. 2019's total is only 4.1% above the five-year average of total incidents of 142. This year's decrease over the previous year was due to the number of unfounded determinations. This changed from 50 unfounded determinations in 2018 to 40 determinations in 2019, a moderate decrease. The reported substantiated cases remained the same in 2019 as the 2018 of 20 reported cases. The unsubstantiated determinations also remained the same in 2019 as 2018 with 86 cases. This re-established the trend of PREA related incidents being reported and investigated. This decrease was not in all facilities as MDSP showed a 45% increase in reported incidents; however, SDSP showed a 14% decrease and SDWP had a 36% decrease, resulting in a SDDOC-wide overall decrease.

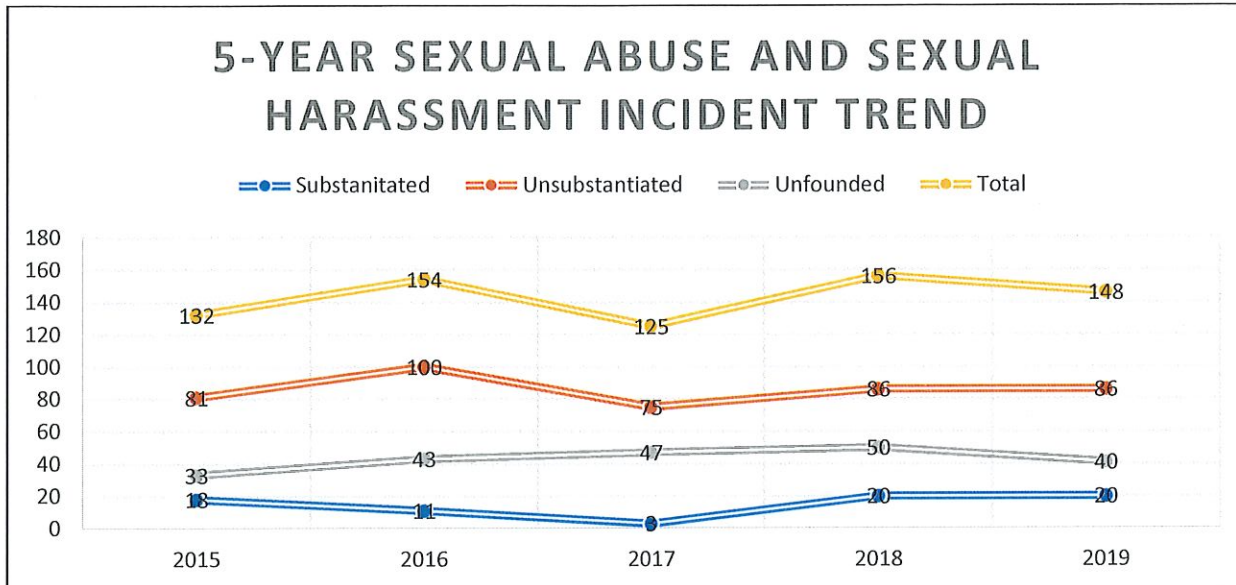
All facilities corrective action:

All staff participated in additional training on professional communications and inmate searches. Additional PREA investigator training in criteria was completed for bias in corrections and preponderance of evidence for the determinations of cases.

SOUTH DAKOTA DEPARTMENT OF CORRECTIONS
2019 ANNUAL PRISON RAPE ELIMINATION ACT REPORT

Adult Aggregated Data Review and Corrective Action Continued

The chart following indicates the trends over the last 5 years in each reporting category.



Mike Durfee State Prison (MDSP) Trends over five-year period

MDSP had an 18.8% increase in the year 2019 of total allegations investigated, from 24 to 29 incidents over the 2019 reporting year. The current year's total incidents at 29 is higher than the five-year total incident average of 25.8 incidents.

This increase is due to Inmate Sexual Harassment incidents increasing from 7 incidents in 2018 to 19 incidents in 2019, a 61% increase. The minor decreases in other categories did not significantly impact the inmate sexual harassment changes. There were three substantiated sexual harassment cases during 2019 at MDSP. Substantiated sexual abuse (penetration & touching) continued their five-year downward trend with no substantiated cases in 2019. The trend for reported allegations of sexual abuse (both types) have been maintaining over the last five years and have an average of 9.6 sexual abuse allegations per year.

There were no corrective actions for MDSP indicated at this time.

SOUTH DAKOTA DEPARTMENT OF CORRECTIONS
2019 ANNUAL PRISON RAPE ELIMINATION ACT REPORT

South Dakota State Penitentiary (SDSP) Trends over five-year period

SDSP had an 11.7% decrease in the year 2019 of total allegations investigated, from 108 to 98 incidents over the 2019 reporting year. The current year's total incidents at 98 is lower than the five-year total incident average of 101 incidents.

This decrease is due to the Inmate Sexual Abuse and Harassment cases decreasing from 92 in 2018 to 60 in 2019. There was an increase in Staff Sexual Abuse and Harassment cases from 16 in 2018 to 38 in 2019. Substantiated sexual abuse (penetration & touching) trend showed a slight decrease of one case in 2019. The trend for reported allegations of sexual abuse (both types) have been maintaining over the last five years and have an average of 101 sexual abuse (both types) allegations per year. There were 15 substantiated sexual harassment cases during 2019 at SDSP.

There were two corrective actions for SDSP indicated at this time both were reviewed by DOC staff. One was approved and the other will be addressed as funds become available.

South Dakota Women's Prison (SDWP) Trends over five-year period

SDWP had an 18.2% decrease in the year 2019 of total allegations investigated, from 24 to 20 incidents over the 2019 reporting year. The current year's total incidents at 20 is higher than the five-year total incident average of 16.2 incidents.

This decrease is due to the Inmate Sexual Harassment cases decreasing from 10 in 2018 to 7 in 2019, Staff Sexual Abuse cases decreasing from 6 cases in 2018 to 2 cases in 2019. There was an increase in Inmate Sexual Abuse touching in 2019 of 6 cases from 2018 of 2 cases. Substantiated sexual abuse (penetration & touching) maintained the trend with only a change in which type of abuse was substantiated from inmate on inmate to staff on inmate. The trend for reported allegations of sexual abuse (both types) have been maintaining over the last five years and have an average of 7.2 sexual abuse allegations per year. There were 2 substantiated sexual abuse/harassment cases during 2019 at SDWP.

There were no corrective actions for SDWP indicated at this time.

Juvenile Aggregated Data Review

The U.S. Department of Justice Survey of Sexual Victimization (SSV-IJ Juvenile) defines sexual incidents with different descriptive categories but uses the same definitions for these acts. Below is a chart indicating the equivalent descriptive titles between adult and juvenile reporting.

Adult descriptive categories	Equivalent (=)	Youth descriptive categories
Youth Sexual Abuse- Penetration	=	Youth Nonconsensual Sexual Acts
Youth Sexual Abuse- Touching	=	Youth Abusive Sexual Contact
Youth Sexual Harassment	=	Youth Sexual Harassment
Staff Sexual Abuse Penetration/Touching	=	Staff Sexual Misconduct
Staff Sexual Harassment	=	Staff Sexual Harassment

****To maintain consistency for this data review, the Adult descriptive categories will be used.****

SOUTH DAKOTA DEPARTMENT OF CORRECTIONS
2019 ANNUAL PRISON RAPE ELIMINATION ACT REPORT

Juvenile Division – Contracted Facilities

Reporting Period: January 1st to December 31st, 2019

Sequel Transition Academy is a single facility operating on behalf of the South Dakota Department of Corrections. In June 2013, the facility reopened as the Sequel Transition Academy, a 32-bed licensed group care home that provides transitional services to DOC youth returning to the Sioux Falls area. Sequel Youth and Family Services leases the property from the state.

Sequel Transitional Academy 2019	Inmate Sexual Abuse – Penetration	Inmate Sexual Abuse-Touching	Inmate Sexual Harassment	Staff Sexual Abuse	Staff Sexual Harassment	Total Incidents-Determination
Substantiated	0	0	0	0	0	0
Unsubstantiated	0	1	3	0	0	4
Unfounded	0	0	0	0	0	0
Total Incidents-Category	0	1	3	0	0	4

2020 Prospectus

The third PREA three -year audit cycle starts in 2020 with the audit of South Dakota Women's Prison for 2020, which was postponed due to COVID- 19. The following is the three-year audit order: SDWP spring of 2021 audit year 3 cycle 1, MDSP and Juvenile contract facility 2021 audit year 3 cycle 2, and SDSP 2022 audit year 3 cycle 3.

The SDDOC will continue its pursuit of compliance with the PREA standards and protecting inmates and youth from sexual assaults and harassments.

Reviewed and approved:



Signature

Mike Leidholt
Printed Name

Department Secretary
Title

11-13-20
Date