

**PREA AUDIT REPORT    Interim   Final  
ADULT PRISONS & JAILS**

**Date of report:** 05/25/2016

<b>Auditor Information</b>			
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<b>Telephone number:</b> 417-425-0564			
<b>Date of facility visit:</b> May 2-5, 2016			
<b>Facility Information</b>			
<b>Facility name:</b> South Dakota State Penitentiary			
<b>Facility physical address:</b> 1600 North Drive, Sioux Falls, SD 57117			
<b>Facility mailing address:</b> <i>(if different from above)</i> <a href="#">Click here to enter text.</a>			
<b>Facility telephone number:</b> (605) 367-5566			
<b>The facility is:</b>	<input type="checkbox"/> Federal	<input checked="" type="checkbox"/> State	<input type="checkbox"/> County
	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private for profit
	<input type="checkbox"/> Private not for profit		
<b>Facility type:</b>	<input checked="" type="checkbox"/> Prison	<input type="checkbox"/> Jail	
<b>Name of facility's Chief Executive Officer:</b> Darin Young			
<b>Number of staff assigned to the facility in the last 12 months:</b> 418			
<b>Designed facility capacity:</b> 2045			
<b>Current population of facility:</b> 1467			
<b>Facility security levels/offender custody levels:</b> SDSP-High Medium, JPA-Maximum, SFCWC-Minimum			
<b>Age range of the population:</b> 18-80			
<b>Name of PREA Compliance Manager:</b> Keith Ditmanson		<b>Title:</b> PREA Compliance Manger/Unit Manager	
<b>Email address:</b> Keith.Ditmanson@state.sd.us		<b>Telephone number:</b> (605) 367-5178	
<b>Agency Information</b>			
<b>Name of agency:</b> South Dakota Department of Corrections			
<b>Governing authority or parent agency:</b> <i>(if applicable)</i> <a href="#">Click here to enter text.</a>			
<b>Physical address:</b> 3200 East highway 34, Pierre, SD 57501			
<b>Mailing address:</b> <i>(if different from above)</i> <a href="#">Click here to enter text.</a>			
<b>Telephone number:</b> (605) 773-3478			
<b>Agency Chief Executive Officer</b>			
<b>Name:</b> Denny Kaemingk		<b>Title:</b> Secretary of Corrections	
<b>Email address:</b> Denny.Kaemingk@state.sd.us		<b>Telephone number:</b> (605) 367-6136	
<b>Agency-Wide PREA Coordinator</b>			
<b>Name:</b> Ken VanMeveren		<b>Title:</b> PREA Coordinator	
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## AUDIT FINDINGS

### NARRATIVE

The on-site visit to conduct a Prison Rape Elimination Act compliance audit of the South Dakota State Penitentiary, South Dakota Department of Corrections was conducted May 2-5, 2016. The standards used for this audit became effective August 20, 2012. Prior to the onsite audit, the facility submitted the Pre-Audit Questionnaire and provided supporting documentation for the responses in the questionnaire. When the auditor first arrived at the facility, an in-briefing meeting was held with the Associate Wardens, Agency PREA Coordinator and the facility PREA Compliance Manager to explain the audit process. Subsequent to the in briefing, the auditor conducted an extensive tour of the facility. The facility has 516 cameras located throughout the facility. It should be noted that the South Dakota State Penitentiary is staffed sufficiently to ensure the safety of both inmates and staff on each shift.

As part of the audit, a review of all agency and local facility PREA policies was conducted as well as staff and offender interviews. Thirty-one inmates were interviewed. Three inmates refused to be interviewed. Of the inmates interviewed, two reported to have been sexually abused, three reported to have disclosed victimization during risk screening, three identified with being transgender and one was a Limited English Proficient inmate. The inmates interviewed were of various ages and ethnic backgrounds. Informal conversations with employees and inmates regarding the PREA standards were conducted during the tour. Postings regarding PREA reporting and the agency zero tolerance policy for sexual abuse and sexual harassment were observed displayed in the housing units, common areas and throughout the facility. PREA audit notices were prominently displayed throughout the facility.

Twenty-five randomly selected employees (from all shifts-male and female) were interviewed. In addition, specialized staff interviews included the Warden, Assistant Wardens, PREA Coordinator and PREA Compliance Manager; intermediate and higher level staff; medical and mental health staff; human resource and training staff; volunteers and contractors; investigative staff; staff that perform screening for risk of victimization and abusiveness; segregation staff; incident review team members; the retaliation monitor and first responders. Written answers to the interview questions were received from the Director and Contract Administrator.

During the auditing period, there were thirty-four sexual abuse allegations reported. There were no substantiated allegations of sexual abuse committed by staff against an offender. Two substantiated inmate on inmate sexual abuse allegations were reported. The auditor reviewed all of the sexual abuse allegations and all pertinent documentation related to the allegations. All allegations were found to be appropriately investigated and adjudicated in accordance with the PREA standards.

The auditor concluded, through interviews and the examination of policy and documentation and interviews with staff, contractors and volunteers, that all were knowledgeable concerning their responsibilities involving the PREA.

## DESCRIPTION OF FACILITY CHARACTERISTICS

The mission of the Department of Corrections is to protect the citizens of South Dakota by providing safe and secure facilities for juvenile and adult inmates committed to our custody by the courts, to provide effective community supervision to inmates upon their release and to utilize evidence-based practices to maximize opportunities for rehabilitation. South Dakota State Penitentiary is designed to provide for the custody, care and safety of the adult males who have been placed under its jurisdiction.

The South Dakota State Penitentiary (SDSP) is a prison complex consisting of three housing units, all under the leadership of one administration. The complex consists of a medium high to high security penitentiary, a maximum-security unit, Jamison Prison Annex (JPA) and a minimum-security work camp (SFCWC) that functions as a community work center for inmates on work release and community service status and parolees in the Community Transition Program, which is located outside the perimeter fence. The prison complex is located in northern Sioux Falls, occupying approximately thirty acres. First constructed as a territorial prison in 1881, it became the South Dakota State Penitentiary when South Dakota was granted statehood in 1889. Though a large portion of the original buildings remain, numerous structural changes have occurred over the years.

Inmate employment within the penitentiary falls into two basic categories; institutional support and prison industries. Institutional support includes those employed in food service, as clerks for various departments, as cell orderlies and those working in maintenance. Prison Industries consists of upholstery, printing, sign, decal, license plates, carpentry, bookbinding, machine shop, Braille unit, garments and data entry. All but the garment and data entry work is done at the penitentiary. Most of the work is done for other South Dakota state agencies.

An offender's average length of stay at South Dakota State Penitentiary (SDSP) is 20.1 years, while those incarcerated in the maximum unit, (JPA) is 14.4 years and 6.1 years at SFCWC. The average age of offenders is 46 years old. The facility employs 328 staff, 85 contractors and uses the services of 30 volunteers to assist in facility programs. The population during the audit was 1467 with an operational population capacity of 2045. The facility does not house females or youthful inmates. The facility has undergone no significant expansions, modifications, or upgrades since 2012.

The Correctional Health Program delivers quality, cost-effective health care services to adult offenders at SDSP. The program works to meet the basic health care needs of offenders by providing general primary care, acute inpatient hospital care, dental services and optometric care. Physical, mental and dental screenings and exams are completed in the required periods following admission for adult males. Jameson Annex is a high security area as well as the admitting unit for all adult males who are incarcerated in SDDOC. This is where the medical record is generated, physicals, mental health evaluations and dental evaluations are completed. This facility has a specialized mental health section as well as disciplinary sections. All new inmates live in this unit until their orientation to prison has been completed. The facility is accredited by the National Commission on Correctional Health Care (NCCHC) and complies with the commission's health standards for care delivered in the correctional setting.

Correctional Health operates much like an ambulatory clinic. This facility has nursing care available around the clock. Staff nurses are responsible for noting orders, sick call, medical treatments, drawing lab, IV therapy, emergency care, and passing out medications. Comfort care rooms are located at the Jameson Annex to care for inmates who are terminally ill. A multi-disciplinary team with staff from the SDDOC, nursing, mental health and clergy participate in the patient's care. The Department of Corrections also allows immediate family members in the comfort care section. The clinical supervisor is responsible for the day-to-day operations of the clinic. A clinical coordinator and charge nurses direct daily work assignments in the clinics and on the units.

Outside medical and emergency care is available at Avera McKennan Hospital. The State Department of Social Services provides mental health and chemical dependency services. The program contracts with licensed psychiatrists to provide psychiatric consultations, diagnosis and treatment plan services. Food service operations are provided through a contract with CBM Correctional Food Service. Inmates can take classes for literacy, Adult Basic Education and GED. Inmates are also provided the opportunity to participate in the practice of their faith, access to leisure and law libraries as well as a wide variety of recreational programs.

The auditor concluded, through interviews and the examination of policy and documentation, that staff were knowledgeable regarding their responsibilities involving the PREA. Staff were able to describe in detail their specific duties and responsibilities, including being a "first responder", if an allegation of sexual abuse or sexual harassment were made. During the interviews, inmates stated that facility employees were respectful and that they felt safe at the facility. Staff were observed to be interacting with inmates in a positive manner.

## **SUMMARY OF AUDIT FINDINGS**

When the on-site audit was completed, another meeting was held with executive/administrative staff, to discuss audit findings. The facility was found to be fully compliant with the PREA. The auditor had been provided with extensive and lengthy files prior to and during the audit for review to support a conclusion of compliance to the PREA. All staff interviews also supported compliance. Staff were courteous, cooperative and professional. Staff morale appeared to be good, and the staff/offender relationships were observed to be appropriate. All interviewed inmates stated that they felt safe at the facility. All areas of the prison were observed to be clean and well maintained. At the conclusion of the audit, the auditor thanked the South Dakota State Penitentiary staff for their hard work and dedication to the PREA compliance process.

Number of standards exceeded: 1

Number of standards met: 41

Number of standards not met: 0

Number of standards not applicable: 1

### Standard 115.11 Zero tolerance of sexual abuse and sexual harassment; PREA Coordinator

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

The South Dakota State Penitentiary's (SDSP) policies 1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards and 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment mandate zero tolerance towards all forms of sexual abuse and sexual harassment. The policies outline the facility's approach to preventing, detecting, and responding to such conduct, and include such definitions. SDDOC's zero tolerance against sexual abuse and sexual harassment is clearly established, and policies outline the agency's approach to preventing, detecting and responding to sexual abuse and sexual harassment allegations. Zero Tolerance posters are displayed throughout every area of the institution. Both institution staff and inmates are provided with a variety of opportunities to become aware of the PREA. Staff receive initial in-service training and annual training, thereafter. All staff are provided individual cards as well as pocket notebooks explaining the PREA process. Inmates receive PREA information during the classification and orientation process upon intake to the system. Inmate's identification cards also have printed PREA information on the back of the card.

The South Dakota Department of Corrections (SDDOC) has a designated agency-wide PREA Coordinator. The Unit Manager at SDSP serves as the PREA Compliance Manager (PCM) for the facility. Interviews with the PREA Coordinator and PCM indicated they have sufficient time and authority to develop and oversee compliance. The PREA Coordinator reports directly to the Director of Grants and Research under the Secretary of Corrections and the Unit Manager/PREA Compliance Manager reports directly to the Warden, which indicates proper authority. A review of policy and documentation as well as interviews with staff and inmates indicated the facility has zero tolerance for all forms of sexual abuse and harassment and is compliant with the standard.

### Standard 115.12 Contracting with other entities for the confinement of inmates

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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SDSP has established policy and compliance requirements when contracting with other entities for the supervision of, and confinement of inmates. SDSP Policy 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment and the PREA Compliance Survey for Agencies housing SDDOC Offenders addresses this standard. A review of contracts with Community Education Centers, Minnehaha County Jail and North Dakota Department of Corrections confirmed that these documents include the required PREA language. The contracts require that the agency monitor the contractor's compliance with PREA standards.

### Standard 115.13 Supervision and monitoring

- Exceeds Standard (substantially exceeds requirement of standard)

- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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SDSP Policy 1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards addresses this standard. Interviews with the Warden, PCM and the Bureau of Human Resources designee, indicated that reviews of the staffing plan, recruitment policy and institutional needs are conducted routinely to assure the safety of staff and inmates. Intermediate and higher-level staff conduct unannounced rounds to identify any deviation from policy or procedure. Staff compliance is monitored through these unannounced rounds. Electronic logs as well as manual logs, incident reviews and reports are maintained in accordance to the standard. SDSP has also implemented a Staffing Plan Deviation form to document deviations from the staffing plan and the reason for such deviations. Sufficient staff are currently assigned to each shift to ensure the safety of both inmates and staff. The facility reviews the staffing plan at least annually and the staff complement is adequate. There have been no instances where the staffing plan was not complied with. Documentation of unannounced rounds covering all shifts by administrative staff was reviewed. Interviews with higher-level facility staff confirmed unannounced rounds to all areas of the institution are conducted on a weekly basis, with no warning to staff. It was the auditor’s impression, from interviews with higher level and intermediate staff as well as interviews of random staff and inmates, that supervision was appropriate, that staff and inmates both felt safe, and that the facility was compliant with the standard.

**Standard 115.14 Youthful inmates**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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Not Applicable. The South Dakota State Penitentiary does not house youthful inmates.

**Standard 115.15 Limits to cross-gender viewing and searches**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

searches were reviewed during the audit visit. Policy prohibits cross-gender strip searches and cross-gender body cavity searches except in exigent circumstances or when performed by licensed medical practitioners. While cross-gender pat searches of females are not permitted except in exigent circumstances, policy requires these searches to be documented. Staff training includes conducting cross-gender searches in a manner that is consistent with security needs. Policy and procedures, as well as the layout of the facility, allow inmates to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing inmate bodies. Policy, procedure and interviews confirm the announcement of opposite gender staff entering housing areas. Policy prohibits searches of transgender and intersex inmates for the sole purpose of determining genital status. A review of policy and documentation indicated that the facility is compliant with this standard.

#### **Standard 115.16 Inmates with disabilities and inmates who are limited English proficient**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP Policy 1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards and the Offender Handbook address the requirements of this standard. Interviews conducted with inmates, both informal and formal, indicated that the facility takes appropriate steps to ensure inmates with disabilities and those with limited English proficiency have an opportunity to participate in and benefit from the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. PREA handouts, postings and inmate handbooks (all reviewed by auditor) are in English and Spanish. The facility uses Language Line Solutions for interpretive services when necessary. Staff interviewed were well aware of the policy that under no circumstance are offender interpreters to be used when dealing with PREA issues. Interviews with staff, inmates and a review of documentation, support compliance with the standard.

#### **Standard 115.17 Hiring and promotion decisions**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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SDSP Policy 1.1.C.13, Screening of Staff, Volunteers and Contractors for Prior Sexual Abuse address the mandates of this standard. All employees, contractors and volunteers who have regular contact with inmates have criminal background checks completed by the SDSP prior to having contact with inmates. In an interview with the Human Resources Manager and review of random personnel files of employees, the agency performs criminal background records checks before hiring new employees. A tracking system is in place to ensure that updated background checks are conducted every five years. The agency will not hire or promote a staff member, or enlist the services of any contractor or volunteer who may have contact with inmates, who has engaged in sexual abuse in institutions or the community, or has been civilly or administratively adjudicated to engage in sexual abuse in institutions or the community. All incidents of sexual harassment are considered in the hiring or promoting of staff. Contact with prior institutional employers is attempted. All applicants are asked about prior misconduct during the pre-employment interview. Material omissions regarding misconduct are grounds for termination. The law and agency policy allow for information sharing with other institutions upon employment. Interviews with human resource staff and a review of

policy and documentation indicated compliance with this standard.

#### **Standard 115.18 Upgrades to facilities and technologies**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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There has been no substantial expansion or modifications to the facility since August 20, 2012. SDSP Policy 1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards requires that when installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the agency considers how such technology will enhance the agency's ability to protect inmates from sexual abuse. There are 516 cameras installed in the facility.

#### **Standard 115.21 Evidence protocol and forensic medical examinations**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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SDSP Policy 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment addresses the requirements of this standard. The Special Investigations Unit (SIU) conducts administrative investigations, and collaborates with the South Dakota Division of Criminal Investigation (DCI) for criminal investigations. This policy outlines the mandatory use of the Corrections Protocol for Response to Sexual Abuse for facility staff. All investigators have been trained to conduct PREA investigations. Correctional and Health Service staff was interviewed concerning this standard and all were knowledgeable of the procedures required to secure and obtain usable physical evidence, when sexual abuse is alleged. Staff were aware the SIU and DCI investigators conduct investigations relative to sexual abuse allegations. Specific actions and clinical decisions are required to determine if an inmate is to be transported to the local hospital to receive a SAFE examination.

The facility has contracted with a local hospital to provide these services (the inmate will not be charged for any services related to PREA compliance). The facility has a MOU with the local rape crisis center to provide treatment services when needed. There were two forensic medical examinations (SAFE) conducted during the past twelve months. The examinations were conducted by qualified and trained medical practitioners at Avera McKennan Hospital in Sioux Falls, SD. The victim advocate from the rape crisis center was notified and accompanied the victims at the emergency room. Interviews with staff and a review of documentation, support compliance with the standard.

#### **Standard 115.22 Policies to ensure referrals of allegations for investigations**

- Exceeds Standard (substantially exceeds requirement of standard)



- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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SDSP Policy 1.3.E. 6, PREA Response & Investigation of Sexual Abuse/Harassment addresses the requirements of this standard. Administrative or criminal investigations are completed on all allegations of sexual abuse and sexual harassment. The facility's SIU completes all administrative investigations. If, during the course of an investigation, evidence surfaces indicating criminal misconduct, the investigation would be referred to the agency's Division of Criminal Investigation. Interviews with SIU and DCI investigators indicated a comprehensive understanding of their responsibilities under the PREA. There were thirty-four allegations of sexual abuse during the last twelve months. All resulted in administrative investigations, with two being referred for criminal investigation. A review of documentation and interviews with staff and inmates indicate the facility is compliant with this standard.

### **Standard 115.31 Employee training**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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SDSP Policy 1.1.D, Staff Training Requirements addresses all training required by this standard. All employees of the SDSP receive training on the agency's zero tolerance policy 1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards for sexual abuse and sexual harassment at pre-service and annual refresher training sessions. Employees are required to sign an acknowledgement form indicating they understand the training they have received. All staff carry an embossed reference card detailing their duties and responsibilities related to the PREA. All staff interviewed indicated that they received the required PREA training. Staff training files were reviewed and contained documentation supporting compliance to this standard. Informational bulletins are provided daily to staff by the warden and include any revisions to policy and/or procedures.

In addition to reviewing the training curriculum, training sign-in sheets and other related documentation, department staff and contractual staff interviewed indicated they were required to acknowledge, in writing, not only that they received PREA training, but that they understood it as well. A review of documentation and interviews with staff indicate the facility is compliant with this standard

### **Standard 115.32 Volunteer and contractor training**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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**must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP Policy 1.1.D.1 Staff Training Requirements addresses the requirements of this standard. The training provided ensures that all volunteers and contractors who have contact with inmates have been trained on their responsibilities as outlined in policy. All contractors and volunteers have received training related to their responsibilities concerning the PREA (zero-tolerance, detection, prevention, response, and reporting requirements). All training is documented. Interviews with contractors and volunteers, and an examination of training files, confirm compliance to this standard.

### **Standard 115.33 Offender education**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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SDSP Policies 1.3.C.1 Offender Living Guide, 1.4.B.16 PREA Institutional Risk Screens and 1.4.A.2 Inmate Admission address the requirements of this standard. Inmates receive information at the time of intake processing verbally, via a video presentation and a PREA pamphlet. Additional information is also provided in the inmate handbook (provided at the time of intake in English/Spanish and Braille). Inmates are required to sign a form acknowledging receipt of the handbook. The form acknowledging receipt is documented in the Comprehensive Offender Management System (COMS) and the inmate's institutional file. Provisions are in place to meet the needs of all disabled inmates. The facility also provides brochures in Braille as well as interpretive services such as Language Line Solutions. Housing unit meetings between inmates and staff are conducted which allows many opportunities for inmates to ask questions to discuss the PREA. There are posters throughout the facilities, and the "hotline" phone number to call to report abuse or harassment is in each housing unit. During the past twelve months, 904 inmates were given PREA information during the intake process. All orientation was provided within 30 days of intake. A review of a random sampling of intake checklists and screening documentation verified that inmates have received sexual assault/assault prevention & intervention education and other relevant written materials. All inmates were required to acknowledge in writing they completed the PREA education.

### **Standard 115.34 Specialized training: Investigations**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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SDSP Policy 1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards addresses the requirements of this standard. The SIU and DCI investigators have received training relevant to PREA. The investigators were interviewed and able to explain in detail the process and procedures required during a PREA-related investigation. A review of the training records confirmed completion of the required PREA training. A review of documentation and staff interviews confirmed compliance to this standard.

### Standard 115.35 Specialized training: Medical and mental health care

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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SDSP Policy 1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards addresses this standard. Specialized training for medical and mental health staff is provided and documented. A review of training records indicated 100% of the 58 medical and mental care practitioners have received the training required by agency policy and PREA standards. Medical staff employed by the agency do not conduct forensic examinations. All SAFE/SANE examinations occur at a local hospital. A review of documentation and staff interviews confirmed compliance to this standard.

### Standard 115.41 Screening for risk of victimization and abusiveness

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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SDSP Policy 1.4.B.16, PREA Institutional Risk Screens addresses this standard. The facility uses the PREA Inmate Admission Screen and the PREA Admission Review Screen to determine an inmate's potential vulnerability to a sexual assault or risk of sexually abusive behavior. All inmates admitted to SDSP have an Initial PREA Risk Screen Assessment completed by unit staff trained to administer the screen within 72 hours of arrival at the facility. The admission screen includes the inmate's demographics, results of a NCIC background check, sentencing and PSI information (if available), classification and assessment information, any documented/known institutional behavior or other relevant information. Inmates identified as high risk for sexual victimization or at risk of sexually abusing other inmates would be referred to a mental health professional for further assessment. Within 30 days of arrival, the facility reassesses the inmate's risk of victimization or abusiveness based upon any additional relevant information received by the facility since the intake screening. Inmates are not disciplined for refusing to answer any questions or for not disclosing complete information. Copies of all intake-screening forms are forwarded to the appropriate medical/mental health practitioner and the original forms are secured in inmate records with only designated staff allowed access to the files. A review of the screening form used and interviews with staff performing the screening indicate the facility is compliant with the standard.

### Standard 115.42 Use of screening information

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the

relevant review period)

- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP Policies 1.4.B.16 PREA Institutional Risk Screens and 1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards address the requirements of this standard. Policy requires the use of a screening instrument (reviewed by auditor) to determine proper housing, bed assignment, work assignment, education and other program assignments, with the goal of keeping inmates at high risk of being sexually abused/sexually harassed separate from those inmates who are at a high risk of being sexually abusive. Housing and program assignments are made on a case-by-case basis and inmates are not placed in housing units based solely on their sexual identification or status. Interviews with intake unit staff also support the finding that the facility complies with this standard. When determining whether to assign a transgender or intersex offender to a facility for male inmates, and in making other housing and programming assignments, the agency considers whether a placement would ensure the offender's health and safety, and whether the placement would present management or security problems. All reviews are done on a case-by-case basis. Placement and programming assignments for each transgender or intersex offender are reassessed at least twice each year. Transgender and intersex offender's own views with respect to their safety are given serious consideration. By policy, transgender and intersex inmates are given the opportunity to shower separately from other inmates. Interviews with staff and three inmates identifying with being transgender confirmed compliance to this standard.

#### **Standard 115.43 Protective custody**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP Policy 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment requires that inmates at high risk for sexual victimization or who are alleged to suffer from sexual abuse, will not be placed in involuntary administrative segregation/protective custody unless an assessment of all available alternatives has been made and a determination made that there are no available alternatives for separation from likely abusers. If an assessment cannot be done immediately, the facility may hold the inmate in involuntary segregation for less than 24 hours while completing the assessment. Policy requires inmates placed in segregation for this purpose will have access to programs, privileges, and education and work opportunities. If it is necessary to restrict such activities, the reasons for restrictions and duration will be documented. If an involuntary segregated housing assignment is made, the inmate is reassessed at least once every 30 days to determine if there is a continuing need for separation from the general population. Interviews with staff indicated there have been no inmates placed in this status within the previous year.

#### **Standard 115.51 Offender reporting**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP Policies, 1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards and 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment as well as PREA pamphlets, and the Offender Handbook addresses this standard. A review of documentation indicated that there are multiple ways (including verbally, in writing, from a third party, and anonymously) for inmates to report sexual abuse or sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment and staff neglect or violation of responsibilities that may contribute to such incidents. Inmates interviewed also were aware of multiple reporting methods. Staff are trained to immediately report and document any sexual abuse or sexual harassment allegation. Posters and other documents explaining the reporting methods were observed on display throughout the facility. All inmates interviewed indicated they had been advised of the multiple ways to report sexual abuse and sexual harassment and had access to a variety of reading materials that contained the PREA information. Inmates at the South Dakota State Penitentiary are not detained solely for civil immigration purposes. Staff and offender interviews and an examination of policy, brochures and postings confirmed compliance to this standard.

**Standard 115.52 Exhaustion of administrative remedies**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP Policies 1.3.E.2 Administrative Remedy for Inmates and 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment addresses this standard. The agency has an administrative procedure for dealing with inmate grievances regarding sexual abuse. Inmates are not required to use an informal grievance process or otherwise attempt to resolve an alleged incident of sexual abuse with staff. All claims alleging an inmate is at substantial risk of imminent sexual abuse will be forwarded to the shift commander for immediate response. Such claims will be addressed through the sexual abuse and/or sexual harassment investigative process and not the administrative remedy process. There are no time limits when sexual abuse allegations can be made. Inmates are able to submit grievances without giving it to the staff person involved. The standard requires a decision be made on the merits of any grievance alleging sexual abuse within 90 days. This agency’s policy requires a response time of 30 days. Policy and procedures permits third parties to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse and are permitted to file such requests on behalf of an inmate.

The facility may discipline an offender for filing a grievance related to alleged sexual abuse only where the facility demonstrates that the offender filed the grievance in bad faith. Inmates may file a regular or emergency grievance at any time, and may seek assistance from others to file a grievance. All response/reporting time limits concerning grievance processing are required by policy. There was one grievances filed involving a PREA related issue during the past twelve months. Policy and procedures are in place that allows an inmate to file an emergency grievances alleging that there is substantial risk of imminent sexual abuse. Any grievance received by staff alleging an inmate is subject to a substantial risk of imminent sexual abuse will be reported to the OIC at which point immediate corrective action may be taken. The initial response is completed before the end of the shift of when the incident was reported and the final agency decision within five days. There have been no emergency grievances alleging substantiated risk of imminent sexual abuse filed in the last twelve months. A review of documentation and staff and inmates interviews confirmed compliance to the standard.

**Standard 115.53 Offender access to outside confidential support services**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the

relevant review period)

- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP Policy 1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards addresses the requirements of this standard. Inmates have access to victim advocate/rape crisis centers for emotional support services related to sexual abuse. The facility has entered into an MOU agreement with The Compass Center, a local rape crisis center, to provide services relevant to this standard including confidential emotional support services related to sexual abuse. The facility has placards by the telephones that provide instructions for the toll free, speed dial telephone number to the crisis centers and crime-stopper hot lines, in addition to mailing addresses for these organizations. Information regarding the level of confidentiality is given to all inmates during their orientation to the SDSP. The facility provides training to the victim advocates regarding responsibilities under the agency's sexual abuse and sexual harassment prevention, detection and response. The Offender Handbook outlines the steps of how to report and who to report to, and where to report, along with the PREA Report Line telephone number. Staff and offender interviews as well as document review, confirmed compliance to this standard.

#### **Standard 115.54 Third-party reporting**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP provides a method to receive third-party reports of inmate sexual abuse or harassment. The pamphlet entitled "Sexual Abuse & Sexual Harassment Awareness" addresses the requirements of this standard. Third-parties are informed of reporting procedures on the agency website, in pamphlets and on posters. Interviews with both staff and inmates revealed they were aware of the procedures for third party reporting.

#### **Standard 115.61 Staff and agency reporting duties**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP Policies 1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards and 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment outline staff and agency reporting steps. All staff are required to report immediately and in accordance with PREA Audit Report

policy, any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred at a facility whether or not it is part of the agency. Interviews with staff revealed an awareness of procedures to take concerning reporting incidences of sexual harassment and sexual abuse. A review of training documentation indicates that staff received the required training regarding this subject.

#### **Standard 115.62 Agency protection duties**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP Policy 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment states under the zero tolerance section, that when the agency learns an inmate is subject to substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate. Interviews with staff indicated a comprehensive understanding of their duties and responsibilities if they became aware of an inmate being in imminent risk for abuse (first-responder or otherwise), and that certain immediate, mandatory actions to protect the inmate would take effect. All staff are issued a PREA card outlining all actions to be taken by staff that became aware of sexual abuse or harassment. A review of documentation indicated there have been thirty-four reported incidents of an inmate being subject to substantial risk of imminent sexual abuse during the past twelve months. Interviews with staff indicated appropriate immediate action was taken in all cases and confirmed compliance to this standard.

#### **Standard 115.63 Reporting to other confinement facilities**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP Policy 1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards requires that upon receiving an allegation that an inmate was sexually abused while confined at another facility, the Warden will notify the head of the facility or appropriate office of the agency or facility where the sexual abuse allegedly occurred. Policy requires such notification will occur as soon as possible and no later than 72 hours after receiving the allegation. Documentation is required of any such notification. There has been one allegation of an inmate being sexually abused while confined at another facility during the past twelve months. Policy 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment requires that an allegation of sexual abuse received from other facilities is investigated in accordance with the PREA standard. There has been one allegation of sexual abuse that was claimed to have occurred at SDSP from an inmate housed at another facility in the last twelve months. A review of documentation and staff interviews confirmed compliance to this standard.

#### **Standard 115.64 Staff first responder duties**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP Policy 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment details duties, procedures and action for first responders to an allegation of sexual abuse. The PREA training lesson plan outlines the duties and responsibilities for first responders and medical staff in the event an inmate is sexually abused. Inmates may report acts of sexual assault, abuse, or harassment to any employee, contract employee, or volunteer. Upon learning of an allegation that an inmate was sexually abused, if the responder is a correctional officer: 1) separate; 2) preserve and protect the crime scene; 3) if the time allows for the collection of physical evidence, make appropriate request for it; 4) if the abuse occurred within a time period that allows for physical evidence, ensure the alleged abuser does not destroy evidence. All staff interviewed were knowledgeable concerning their first responder duties and responsibilities, upon learning of an allegation of sexual abuse or sexual harassment. Non-security staff indicated they would separate the inmates, secure the scene, would not allow inmates to destroy any evidence, contact the shift supervisor and refer the offender to medical and psychology staff.

First responders interviewed were knowledgeable about their duties and responsibilities. All staff were carrying an embossed card as reference to direct them as to their responsibilities as a first responder to an allegation of a PREA incident. There have been thirty-four allegations of sexual abuse within the past twelve months. Of these allegations, the first security staff member to respond to the report separated the alleged victim and alleged abuser twenty-five times, two of which were done within a period that still allowed for the collection of physical evidence. A review of policy and staff interviews confirmed compliance to this standard.

#### **Standard 115.65 Coordinated response**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP’s Corrections Protocol for Responses to Sexual Abuse and policy 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment addresses the duties of the first responder, medical and mental health staff and facility leadership in coordinating actions taken in response to an incident of sexual abuse. Policy provides detailed guidance to employees regarding the expected coordinated actions to take place in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership. Interviews with staff confirmed that they were knowledgeable regarding their required duties in the coordinated response process.

#### **Standard 115.66 Preservation of ability to protect inmates from contact with abusers**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)



- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Interviews with the agency PREA Coordinator indicated that there have been no collective bargaining agreements entered into or renewed since August 2012. South Dakota Department of Corrections is non-union. Interviews confirmed any agreements that may be entered into would not hamper the agency's commitment to protect inmates through any disciplinary action of a staff member, including reprimand, suspension, demotion, discharge or otherwise discipline employees with proper cause.

### **Standard 115.67 Agency protection against retaliation**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP Policies 1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards and 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment specifically prohibits any type of retaliation to any inmate or staff member who has reported sexual abuse, sexual harassment or has cooperated with such investigations. The PREA Compliance Manager is the designated staff member that monitors the conduct or treatment of inmates and/or staff members who have reported sexual abuse to insure any type of retaliation does not occur. The monitoring of any type of retaliation will be done for at least 90 days. Policy outlines the protection measures available and requires the prompt remediation of any type of retaliation. This follow-up may also extend without limit if necessary. There have been no incidents of retaliation occurring within the previous twelve months. Staff interviews and an examination of policy and retaliation monitoring documents confirmed compliance to this standard.

### **Standard 115.68 Post-allegation protective custody**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP Policy 1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards prohibits the placement of inmates, who allege to have suffered sexual abuse, in involuntary segregation housing unless an assessment of all available alternatives has been made and none are available. The use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse shall be subject to the requirements of §115.43. There have been no inmates who allege to have suffered sexual abuse held in involuntary segregation during the past twelve months. Staff interviews and an examination of policy confirmed compliance to this standard.

### Standard 115.71 Criminal and administrative agency investigations

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP Policies 1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards and 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment outline the procedures for administrative and criminal investigations. All allegations of sexual abuse and sexual harassment, including third party and anonymous reports, are promptly, thoroughly and objectively investigated. Substantiated allegations of conduct that appear to be criminal are referred for prosecution.

As confirmed by the review of investigation documents, the facility promptly, thoroughly and objectively conducts its own investigations into allegations of sexual abuse and sexual harassment, including third party and anonymous reports. Facility investigators have received the necessary special training in sexual abuse investigations. Investigators gather and preserve direct and circumstantial evidence, including any available physical or DNA evidence, and any available electronic monitoring data. Interviews are conducted with the alleged victim, suspected perpetrator and potential witnesses. The trained investigators also review prior complaints and reports of sexual abuse involving the suspected perpetrator. When the quality of evidence appears to support criminal prosecution, the investigators refer the investigations to the DCI to complete the investigation. The credibility of an alleged victim, suspect, or witness is assessed on an individual basis and is not determined by the person’s status as offender or staff. The facility does not require an offender who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation. The agency retains all written reports for as long as the alleged abuser is incarcerated or staff employed by the agency, plus five years. If the staff member alleged to have committed sexual abuse terminates employment prior to the investigation being completed or victim/alleged abuser leaves the facility prior to the completion of the investigation, the investigation is not terminated, but pursued until a finding is obtained. A review of the sexual abuse allegations indicated that two incidents were referred for possible criminal prosecution. There have been two allegations of sexual abuse involving inmate on inmate that were referred to DCI for further investigation. Neither allegation was determined to be of criminal nature.

### Standard 115.72 Evidentiary standard for administrative investigations

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP Policy 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment addresses this standard and states, “there shall not be any standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated”. Interviews with the SIU lieutenant confirmed this standard of evidence is followed. A review of training documents indicated that the investigators have received the special training in sexual abuse investigations and that the facility is compliant with the standard.

### Standard 115.73 Reporting to inmates

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP Policy 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment requires that following an investigation into an inmate's allegation that they suffered sexual abuse in an SDDOC facility, the agency will inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. If it is a staff member, the facility head or designee will inform the inmate victim whenever a staff member is no longer posted, employed, or has been indicted or has been convicted, unless the investigation determines the allegation is unfounded. All notifications are documented in the incident file. In review of the investigative packets for allegations of sexual abuse, notification was made to all inmates informing them of the outcome of the allegation. There have been no substantiated complaints of sexual abuse committed by a staff member against an inmate in the past twelve months.

### Standard 115.76 Disciplinary sanctions for staff

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Disciplinary sanctions for violations of the agency's policy relating to sexual abuse or sexual harassment are commensurate with the nature and circumstances of acts committed per SDSP policies 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment and 1.1.C.2, Staff Supervision of Offenders. Disciplinary sanctions for violations of South Dakota State Penitentiary policies relating to sexual abuse or sexual harassment are commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. Staff are subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment. All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation are reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies. Policy requires reporting to relevant licensing bodies if applicable. There have been no substantiated complaints of sexual abuse committed by a staff member against an inmate in the past twelve months. In the past twelve months, there have been three sexual harassment allegations involving staff on offender. All three cases were investigated and found to be substantiated. All staff involved received written reprimands. A review of policy, documentation as well as staff interviews, support the finding that the facility complies with this standard.

### Standard 115.77 Corrective action for contractors and volunteers

- Exceeds Standard (substantially exceeds requirement of standard)

- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP Policy 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment addresses the mandates of this standard. Policy requires that any contractor or volunteer who engages in sexual abuse of an inmate will be reported to law enforcement agencies (unless the activity was clearly not criminal) and to relevant licensing bodies. Policy requires that appropriate remedial measures are taken and consideration as to whether to prohibit contractors/volunteers from further contact with inmates in the case of any other violation of agency sexual abuse or sexual harassment. Volunteers and contractors have all been trained and are aware of these policies. In the past twelve months, there were no contractors or volunteers reported to have engaged in an act of sexual abuse or sexual harassment with an offender.

#### **Standard 115.78 Disciplinary sanctions for inmates**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP Policy 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment address the mandates of this standard. Inmates found guilty of an administrative finding or criminal finding offender on offender sexual abuse are subject to disciplinary sanctions pursuant to a formal disciplinary process. Disciplinary sanctions are commensurate with the nature and circumstances of the abuse committed, the offender’s disciplinary history and the sanctions imposed for comparable offenses by other inmates with similar histories. The disciplinary process considers whether an offender’s mental disabilities or mental illness contributed to the offender’s behavior when determining what type of sanction, if any, should be imposed. If mental disabilities or mental illness is a factor, the facility considers the offer of therapy, counseling or other interventions designed to address and correct underlying reasons or motivations for the abuse. The agency may discipline an offender for sexual contact with staff only upon a finding that the staff member did not consent to such contact. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred does not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation. The agency prohibits all sexual activity between inmates and disciplines inmates for such activity. The agency does not find consensual sex between inmates to constitute sexual abuse.

#### **Standard 115.81 Medical and mental health screenings; history of sexual abuse**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion**

**must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP Polices 1.4.B.1 and 1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards addresses the mandates of this standard. Observation and a review of intake screening documents supports the finding that screening for prior sexual victimization in any setting is conducted by mental health professionals during in-processing procedures. If the screening indicates the offender experienced prior sexual victimization, staff ensure that the offender is offered a follow-up meeting with a medical or mental health practitioner within 14 days. Follow-up meetings with mental health providers routinely occur within 72 hours of the initial screening. In-processing procedures also screen for previous sexual assaultive behavior in an institutional setting or in the community. Staff ensure that the offender is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening. Information related to sexual victimization or abusiveness is limited to medical and mental health practitioners and other staff on a need-to-know-basis for treatment plans, security, housing, work, program assignments and management decisions. Medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting. The facility does not house inmates under the age of 18. All information is handled confidentially and interviews with staff support a finding that the facility complies with this standard.

### **Standard 115.82 Access to emergency medical and mental health services**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP policy 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment mandates that inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services within the facility or are transported to a medical facility in the community when health care needs exceed the level of care available at SDSP. There is no financial cost to the offender for any sexual abuse/harassment incident related medical or mental health care, regardless of whether the victim names the abuser or cooperates with the incident investigation. Offender victims of sexual abuse, while incarcerated, are offered timely information about sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. Policy requires medical and mental health departments to maintain secondary information documenting time of service, emergency medical treatment and crisis intervention services that were provided. Interviews with the medical and mental health practitioners confirmed the requirements of this standard are in place. SDSP has a memorandum of understanding with a local hospital and rape crisis center to provide emergency care and crisis intervention services. There are no female inmates housed at this facility.

### **Standard 115.83 Ongoing medical and mental health care for sexual abuse victims and abusers**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP policy 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment addresses the mandates of this standard. The facility offers medical and mental health evaluation and as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility. The evaluation and treatment of such victims includes appropriate evaluation, treatment and follow-up services. The facility would arrange for referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. The facility has fully staffed medical and mental health departments and offers sexual abuse/harassment victims with medical and mental health services consistent with the community standard of care. Offender victims of sexual abuse while incarcerated are offered testing for sexually transmitted infections as medically appropriate. Treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. Mental health evaluations are conducted on all known offender on offender abusers within 30 days of learning of such abuse history. Treatment is offered for abusers when deemed appropriate by mental health practitioners. The facility does not house youthful or female inmates. A review of documentation and interviews with medical/mental health staff support the finding that the facility complies with this standard.

### Standard 115.86 Sexual abuse incident reviews

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP policy 1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards addresses the mandates of this standard. The Warden has designated the facility PREA Compliance Manager/Unit Manager, Associate Warden, Shift Supervisor, Clinical Services Representative and the Investigative Lieutenant to be members of the Incident Review Team. The facility conducts a sexual abuse incident review at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded. The incident review occurs within thirty days of the conclusion of the investigation. The review team addresses all items identified in the standard and a report is prepared by the PREA Compliance Manager for the Warden. The facility implements the recommendations for improvement, or documents its reasons for not doing so. Documentation for any recommendation not implemented is maintained. A review of incident review meeting minutes and interviews with staff support the finding that the facility complies with this standard.

### Standard 115.87 Data collection

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP Policies 1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards and 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment addresses the mandates of this standard. The incident-based data collected includes data required to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice. Interviews with the PREA Coordinator, a review of documentation and information on allegations of sexual abuse are electronically recorded by each facility on the Sexual Incident Review Form. The PREA Coordinator obtains and reviews information on all incidents from each facility, including

facilities with which it contracts for the confinement of its inmates and aggregates that data annually. Upon request or no later than June 30th, the agency provides this information for the previous calendar year to the Department of Justice (DOJ). The report includes the aggregated data necessary to answer all of the questions on the Survey of Sexual Violence conducted by the DOJ. A review of documentation supports the finding the SDDOC has collected accurate, uniform data for every allegation of sexual abuse at facilities under its direct control, using a standardized instrument and set of definitions.

#### **Standard 115.88 Data review for corrective action**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

SDSP Policies 1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards and 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment addresses the mandates of this standard. The PREA Coordinator is responsible for reviewing all of the data collected from the agency’s facilities and aggregates that data annually to assess and improve the effectiveness of its sexual abuse program and practices. The PREA Coordinator prepares an annual report that provides general comments with plans to enhance this information in future reports. Information that needs to be redacted is not included in the annual report that is forwarded to the state’s Secretary of Corrections for approval. This information is available to the public on the South Dakota Department of Corrections website and can be accessed at <http://doc.sd.gov/about/PrisonRapeEliminationAct.aspx>. A review of documentation and interviews with the PREA Coordinator indicated the facility complies with the standard.

#### **Standard 115.89 Data storage, publication, and destruction**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

The agency, through its policy 1.3.E.6 PREA Response & Investigation of Sexual Abuse/Harassment ensures that all aggregated sexual abuse data from facilities under its direct control is available to the public and securely retained. The agency maintains a sexual abuse data collection pursuant standard §115.87 for at least 10 years after the initial date of collection, unless federal, state or local law requires otherwise. The SDDOC Office of Grants and Research, PREA section, is responsible for gathering and maintaining this information. Public access to data is available on the SDDOC website. The reports cover all data required in the elements of this standard.

**AUDITOR CERTIFICATION**

I certify that:

- The contents of this report are accurate to the best of my knowledge.
- No conflict of interest exists with respect to my ability to conduct an audit of the agency under review, and
- I have not included in the final report any personally identifiable information (PII) about any offender or staff member, except where the names of administrative personnel are specifically requested in the report template.



May 25, 2016

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Auditor Signature

Date