

1.3.E.4 Prevention of Offender Sexual Assault/Rape

I Policy Index:



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II Policy:

The South Dakota Department of Corrections (DOC) has a zero-tolerance policy relating to sexual assault/rape of an offender. The DOC will cooperate in the investigation and prosecution of anyone involved in a sexual assault/rape of an offender in a DOC facility or placement. This policy shall be followed in conjunction with DOC policy 1.1.C.3 *Reporting an Abused or Neglected Child* and mandatory reporting requirements. This policy is not intended to govern incidents of sexual assault/rape by an offender against an employee, visitor, volunteer or any other individual who has business with the DOC.

III Definitions:

Sexual Assault/Rape:

Sexual Assault/Rape includes any of the following:

- The carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of an offender, forcibly or against the offender's will.
- The carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of an offender not forcibly or against the offender's will, but where the offender is incapable of giving consent because of his/her youth or his/her temporary or permanent mental or physical incapacity.
- The carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of an offender achieved through the exploitation or the fear or threat of physical violence or bodily injury.
- Sexual penetration by any person employed by the State of South Dakota or employed within any DOC facility with an offender who is housed at a DOC facility (See SDCL § 24-1-26.1 and SDCL § 22-22-7.6)

Carnal Knowledge:

Contact between the penis and the vulva or the penis and the anus, including penetration of any sort, however slight.

Oral Sodomy:

Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus.

Sexual Assault with an Object:

The use of any hand, finger, object, or other instrument to penetrate, however slightly, the genital or anal opening of the body of another person.

Sexual Fondling:

The touching of the private body parts of another person (including the genitalia, anus, groin, breast, inner thigh or buttocks) for the purpose of sexual gratification.

Sexual Penetration:

An act, however slight, of sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of the body or of any object into the genital or anal openings of another person's body. All of the foregoing acts of sexual penetration, except sexual intercourse, are also defined as sodomy (See SDCL § 22-22-2).

Note:

The terms "Rape", "Sexual Assault with an Object" and "Sexual Penetration" do not include:

- Custodial or medical personnel gathering physical evidence, or engaging in other legitimate medical treatment, in the course of investigating a sexual assault/rape.
- The use of a health care provider's hands or fingers, or the use of medical devices in the course of appropriate medical treatment unrelated to a sexual assault/rape.
- The use of a health care provider's hands or fingers and the use of instruments to perform body cavity searches in order to maintain security and safety within a facility. This exemption is contingent upon the search being conducted in a manner consistent with constitutional requirements and DOC policies 1.3.A.5 [Searches – Adult Institutions](#) and 1.3.A.6 [Searches – Juvenile Institutions](#).
- Consensual sexual contact/activity between offenders. Although this type of behavior is prohibited (See Prohibited Act 4-3 in the *South Dakota Department of Corrections Inmate Living Guide* and Prohibited Act 5 in the *South Dakota Department of Corrections Juvenile Offender Living Guide*).

Offender:

For the purposes of this policy, an offender is an inmate (in the custody of the DOC institutional system) or a juvenile housed at the STAR Academy or in a DOC residential placement.

Staff Member:

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

PREA:

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

IV Procedures:**1. Providing Sexual Assault/Rape Prevention Information to Offenders:**

- A. During the admission and orientation (A&O) process, offenders will receive a presentation that includes the DOC's policy and procedures relating to sexual assault/rape (See the *South Dakota Department of Corrections Juvenile Offender Living Guide* and the *South Dakota Department of Corrections Inmate Living Guide*).
1. The information will be provided verbally and in written form.
 2. Information provided will include, but is not limited to:

- a. The DOC zero-tolerance policy;
 - b. Self-protection;
 - c. Prevention/intervention;
 - d. Reporting procedures;
 - e. Treatment and counseling;
 - f. Protection against retaliation; and
 - g. Disciplinary action(s) for making false allegations.
3. Each newly received offender will sign the [Acknowledgement of Sexual Assault-Rape Information](#) form acknowledging he/she received the information pertaining to sexual assault/rape elimination (See [Attachment 1](#)). The signed form will be maintained in the offender's institutional file.

2. Assessment and Classification of Newly Admitted Offenders:

- A. The new admission offender's behavior history will be reviewed during A&O by the A&O case manager to determine his/her potential risk of sexual vulnerability or sexually assaultive behavior.
1. An adult offender with a history of sexually assaultive behavior may be referred for an Administrative Segregation hearing (See DOC policy 1.3.D.4 [Administrative Segregation](#)).
 2. A juvenile offender with a history of sexually assaultive behavior may be referred to a program outside of the STAR Academy.
 3. All new adult admissions who have not previously been assessed will have a PREA assessment completed by a trained A&O case manager. Offenders will be assigned a cell/housing unit based in part on their assigned PREA code (See DOC policies 1.4.B.3 [Adult Internal Management System \(AIMS\)](#) and 1.4.B.12 [PREA Institutional Male Assessment](#), 1.4.B.15 [PREA Institutional Female Assessment](#) and 1.4.A.2 [Inmate Admission](#)).
 4. Male offenders newly admitted to the DOC who have not previously been assigned an AIMS score will be assessed by trained A&O unit staff.
 - a. All male offenders will receive an AIMS code after being observed for a minimum of ten (10) days (See DOC policy 1.4.B.3 [Adult Internal Management System \(AIMS\)](#)).

3. Staff Training on Offender Sexual Assault/Rape Prevention and Reporting:

- A. A minimum of a one (1) hour time block will be set aside in pre-service and in-service training for offender sexual assault/rape prevention and reporting training.
- B. Staff members are required to read this policy at least annually and sign the Receipt and Acknowledgement of DOC Policies form acknowledging they have read and understand this policy (See DOC policy 1.1.D.1 [Staff Training Requirements](#)).

4. Offender Response to a Sexual Assault/Rape:

- A. An offender who believes he/she was the victim of a sexual assault/rape or attempted sexual assault/rape while in a DOC facility or placement should report this information directly to any staff member as soon as possible.
1. An offender may also report a sexual assault/rape using the institutional "hotline" or a similar telephonic system set up by the DOC for offenders to report such activities.
 2. An offender housed at STAR should contact the Juvenile Corrections Monitor (See OM 5.3.E.2 [Access To Juvenile Corrections Monitor](#)).
- B. The staff member receiving information (includes direct reporting or anonymous/third party reporting) of an offender sexual assault/rape will report this information through their chain of command to ensure a senior-level staff person at the facility where the incident took place is advised of the incident.
1. Anonymous or third party reporting includes staff's receipt of an anonymous kite or hearing/learning a sexual assault/rape involving an offender in the custody of the DOC has occurred, (including information received/reported by an offender's family or others).
 2. If a staff member is contacted by an offender regarding a sexual assault/rape involving another offender, the staff member will request the reporting offender provide details of the alleged incident in writing.
 3. The staff member will supplement the written information provided by the offender with his/her own written report detailing any pertinent information the staff member deems important.
 4. If the reporting offender refuses to provide details of the sexual assault/rape in writing, the staff member's written report will include any known details of the alleged offense.
- C. Refer to the section on Alternate Housing Placement of Victims and Perpetrators for specific information on where to place the alleged victim and perpetrator(s) if they are currently housed within a DOC facility.

5. Staff Member Response to a Sexual Assault/Rape:

- A. A staff member who receives a report from an offender involving a sexual assault/rape or attempted sexual assault/rape that occurred at a DOC facility or placement, or who becomes aware of sexual activity between offenders or between an offender and staff member will immediately report this directly through their chain of command. (Reported directly means the reporting person must speak directly to the designated staff at the facility by telephone or in person).
1. Staff who receive a report or information regarding an alleged sexual assault/rape will document their knowledge of the alleged incident in a [Major Incident Report](#).
 2. Staff who collect evidence or handle evidence shall complete an [Informational Report](#) describing in detail their activity and involvement in the alleged incident.
 3. If the alleged sexual assault/rape occurred at a DOC facility, special security or staff familiar with the collection and preservation of evidence should be contacted immediately. The chain of custody of the evidence shall be recorded and preserved in accordance with all applicable DOC policies and institutional operational memorandums.

4. The notification will include all written reports related to the alleged sexual assault/rape.
- B. If staff believe a sexual assault/rape has occurred or staff have reason to believe the reported sexual activity was not consensual, the following staff will be notified immediately:
1. Health Services (or on-call provider) if the alleged victim and/or the alleged perpetrator are still housed at a DOC facility (See DOH policies P-B-05 *Procedure in the Event of Sexual Assault* and Y-G-09 *Procedure in the Event of Sexual Assault*).
 2. The Division of Criminal Investigation (DCI) and issue a report consistent with DOC policy 1.1.C.3 *Reporting an Abused or Neglected Child*.
- C. If it is believed a sexual assault/rape occurred or there is reason/evidence to suggest the alleged sexual activity was not consensual, Health Service staff will make arrangements to immediately transport the offender/victim to the nearest hospital or emergency room for a sexual assault forensic exam (rape kit) if the incident occurred forty-eight (48) hours or less from the time it was reported to Health Services and if the victim is still housed at a DOC facility.
1. If the alleged sexual assault rape occurred more than forty-eight (48) hours before Health Services was notified, Health Service staff will determine if it is necessary to transport the offender/victim to a hospital or emergency room for a sexual assault forensic exam.
 2. Each facility housing offenders will keep a rape kit on hand if the facility is located in a remote area and travel to the nearest hospital or emergency room could be prohibitive, i.e., during inclement weather.
 3. With the victim's consent, every victim of a sexual assault/rape/non consensual sexual activity will be referred to Health Services or a community health facility for follow up care, treatment, examination for possible injuries and/or sexually transmitted infections and collection of biological specimens, etc. regardless of when the alleged sexual assault occurred.
 4. Health Services/staff will ensure a communicable disease test is completed on both the victim and the alleged perpetrator(s) (if known) (See DOH policy P-B-01B *Communicable Disease Testing*).
 - a. Health Service staff will educate the offender as well as inform them that he/she must be tested.
 - b. HIV tests administered by the DOH will be used for forensic purposes.
 - c. The results of a HIV test may be obtained by DOC staff and used for statistical purposes only if the offender/victim who was tested signs the Authorization for Release of Information (RIO) form authorizing the release of information with Health Services (See DOH policy P-16 *Release of Information from Medical Records*).
 - d. If the testing involves Hepatitis or HIV, Health Service staff will arrange for any necessary pre-test counseling and/or follow-up counseling.
 - e. See DOC policy 1.4.E.9 *HIV-AIDS Management* for additional testing information.
 5. The alleged offender/victim will be referred to Mental Health and be provided Mental Health counseling as deemed appropriate by Mental Health staff and/or as requested by the victim. Staff may contact the on-call mental health staff person if mental health staff is not on site.

6. The sharing of information pertaining to the alleged sexual assault/rape and identity of the victim(s) should be limited to those who must know. Sharing information regarding the victim and/or incident shall be conducted in a manner that is in accordance with all applicable policies, state statutes, and professional licensure and ethics standards.
- D. The DCI will take control of any evidence obtained from the rape kit/communicable disease test and any other evidence relevant to the incident that has been collected by Special Security or other staff.
 1. The chain of custody of the evidence shall be recorded and preserved in accordance with all applicable DOC policies and institutional operational memorandums.
 - E. If the offender/victim is/was housed at STAR at the time of the sexual assault, the Superintendent will be notified. (See DOC policy 1.1.C.3 [Reporting an Abused or Neglected Child](#)).
 1. The Superintendent or designee will immediately notify the DSS regional office where the program is located and the DOC Administration Office.
 2. If staff is unable to contact DSS the Superintendent or his/her designee will immediately report the incident to local law enforcement.
 3. The Superintendent or his/her designee will report the incident to the DOC Administration Office consistent with DOC policy 1.1.A.3 [Reporting Information to DOC Administration](#) and to the Juvenile Corrections Monitor (See STAR OM 5.3.E.2 [Access To Juvenile Corrections Monitor](#)).
 - F. If the offender/victim is/was housed at a DOC juvenile placement other than STAR at the time of the sexual assault, the program administrator of the facility and the DOC Director of Juvenile Community Corrections will be notified.
 1. The DOC Director of Juvenile Community Corrections will notify DSS consistent with DOC policy 1.1.C.3 [Reporting an Abused or Neglected Child](#) and the DOC Administration Office consistent with DOC policy 1.1.A.3 [Reporting Information to DOC Administration](#).
 2. If DSS staff is unavailable, the Director of Juvenile Community Corrections will immediately report the incident to local law enforcement.
 - G. The Special Security Office or designated staff will enter all sexual assault/rape or sexual activity information in the Citrix database (See section on [Tracking Sexual Assault/Rape Incidents on the Citrix Database](#)).

6. Alternate Housing Placement of Victims and Perpetrators:

- A. Immediate steps will be taken to separate the victim and alleged assailant to protect the victim from further sexual assault or rape by the alleged perpetrator..
 1. If the rape/sexual assault is reported within forty-eight (48) hours of when the incident occurred, all alleged perpetrators will be placed on Administrative Detention status or moved to an area where staff can monitor and observe the offender(s); i.e. the Special Housing Unit (SHU) or hard cells. The alleged perpetrator(s) and victim must be separated, preferably so that neither can see nor hear the other. The senior level staff person may initiate protective custody (PC) placement for the reported victim in accordance with the facility's operational memorandum.
 - a. Staff shall secure the crime scene, gather evidence and take photos as needed.

- b. Staff shall maintain direct observation of the victim to ensure they do not wash, shower, change clothes, remove bedding or otherwise compromise potential physical evidence.
 2. If the alleged rape/sexual assault is reported after forty-eight (48) hours of when the incident occurred, the designated senior level staff person has the discretion to either place any/all of the involved offenders on Administrative Detention status or move them to a more secure area (alternate housing arrangements). The alternate housing arrangement may include:
 - a. Referring the alleged victim for protective custody if he/she is housed at an adult facility.
 - b. Placing the alleged victim in a housing unit separate from the alleged perpetrator(s).
 - c. Referring the alleged perpetrator(s) for Administrative Segregation if the sexual assault/rape occurred at an adult facility (See DOC policy 1.3.D.4 [Administrative Segregation](#)).
- B. Once any potential evidence has been collected and those involved have been separated and placed in alternative housing, Special Security or designated staff will proceed with their investigation.

7. Investigation/Prosecution of a Sexual Assault/Rape:

- A. The Division of Criminal Investigation (DCI) will oversee the investigation of all sexual assault/rapes occurring at a DOC facility. The chain of custody of the evidence shall be recorded and preserved.
 1. The DCI, in conjunction with the respective Warden or Superintendent, will determine if criminal charges will be filed.
 2. If criminal charges are filed, DCI will coordinate the prosecution with the Attorney General's Office.
 3. Staff members will fully cooperate with the investigation.
- B. The Warden or Superintendent will request a report with disposition from DCI and will forward this to the Secretary of Corrections and Director of Prison Operations (if the incident involves adult offenders) as soon as this is made available by DCI.
- C. If a staff member is the alleged perpetrator of a sexual assault/rape against an offender, the respective Warden or Superintendent will be notified immediately.
 1. The respective Warden, Superintendent or designee will notify the Bureau of Human Resources.
 2. The respective Warden or Superintendent, at his/her discretion may take any or all of the following action(s) against a staff member accused of a sexual assault/rape against an offender:
 - a. Suspend the person or place him/her on paid/unpaid leave.
 - b. Ban the person from being on the premises of any DOC facility.
 - c. Ban the person from having any telephone contact or written correspondence with the reported victim.

- d. Ban the person from having any telephone contact or written correspondence with DOC personnel.
3. Any staff member who is found to have committed a sexual assault/rape is subject to criminal prosecution and/or additional disciplinary sanctions, including but not limited to termination of employment. (See DOC policy 1.1.C.1 [Code of Ethics](#) and SDCL § [24-1-26.1](#) and SDCL § [22-22-7.6](#)).
- D. In addition to, or in lieu of criminal prosecution, the DOC can impose disciplinary sanctions against an offender who perpetrates a sexual assault/rape (See DOC policies 1.3.C.2 [Inmate Discipline System](#) and 1.3.C.3 [Juvenile Discipline System](#) and SDCL §§ [24-15A-4](#) and [24-2-9](#)).
 - E. Any offender determined to have made a false allegation of sexual assault/rape is subject to disciplinary sanctions and/or criminal prosecution.

8. Reporting Sexual Assault/Rape to DOC Administration:

- A. Any incident of alleged sexual assault/rape (involving offenders, or offenders and staff) will be reported to the DOC Administration in accordance with DOC policy 1.1.A.3 [Reporting Information to DOC Administration](#).
- B. The Communications & Information Manager is responsible for completing the annual PREA reporting requirements of the Department of Justice.
- C. Any media inquiries regarding an alleged or verified sexual assault/rape will be forwarded to the Communications & Information Manager.

9. Tracking Sexual Assault/Rape Incidents on the Citrix Database:

- A. All alleged incidents of sexual activity between offenders housed at a DOC facility or between a staff member and offender housed at a DOC facility will be entered into the Inmate Records database by going to the miscellaneous functions drop down box and selecting Prison Rape Elimination Act (PREA).
 1. Staff entering the information into the PREA database will indicate the category of incident they believe is involved.
 2. The PREA database must be updated as the investigation unfolds to more accurately reflect what category of incident is involved.
 - a. The CEO of each facility will assign a staff member who is responsible for the following:
 - 1) All investigations are completed thoroughly and in a timely manner.
 - 2) All information relating to the investigation is accurately entered into the PREA database.
 - b. The CEO is responsible to ensure:
 - 1) That investigations are completed appropriately and in a timely manner.
 - 2) All tracking and logging of investigations is entered appropriately.
- B. The PREA database is set up to filter out PREA reportable incidents and non-PREA reportable incidents.

V Related Directives:

Prison Rape Elimination Act of 2003.

SDCL §§ [22-22-2](#), [22-22-7.6](#), [24-1-26.1](#), [24-15A-4](#) and [24-2-9](#)

DOC policy 1.1.A.3 – [Reporting Information to DOC Administration](#)

DOC policy 1.1.C.1 -- [Code of Ethics](#)

DOC policy 1.1.C.3 – [Reporting an Abused or Neglected Child](#)

DOC policy 1.1.D.1 – [Staff Training Requirements](#)

DOC policy 1.3.A.5 – [Searches – Adult Institutions](#)

DOC policy 1.3.A.6 – [Searches – Juvenile Institutions](#)

DOC policy 1.3.C.2 – [Inmate Discipline System](#)

DOC policy 1.3.C.3 – [Juvenile Discipline System](#)

DOC policy 1.3.D.4 – [Administrative Segregation](#)

DOC policy 1.4.D.2 -- [Inmate Admission](#)

DOC policy 1.4.E.3 – [Medical Assessment of Adult Offenders](#)

DOC policy 1.4.E.4 – [Health Screening and Assessment of Juvenile Offenders](#)

DOC policy 1.4.E.9 – [HIV-AIDS Management](#)

STAR Academy OM 5.3.E.2 – [Access to Juvenile Corrections Monitor](#)

South Dakota Department of Corrections [Juvenile Offender Living Guide](#)

South Dakota Department of Corrections [Inmate Living Guide](#)

DOH policy P-B-05 – [Procedure in the Event of Sexual Assault](#)

DOH policy Y-G-09 – [Procedure in the Event of Sexual Assault](#)

DOH policy P- 16-- [Release of Information from Medical Records](#)

DOH policy P-B-01B-- [Communicable Disease Testing](#)

VI Revision Log:

May 2006: New policy.

January 2007: **Deleted** references to the sexual assault report form (attachment 3). **Added** a definition for staff member. **Combined** information on sexual assaults/rapes reported within forty-eight hours and after forty-eight hours. **Added** information regarding tracking sexual activity incidents on the citrix database. **Changed** the policy applicability to all units. **Clarified** other reporting issues throughout the policy. **Deleted** the reference to SDCL § 26-11A-26 and **added** a reference to OM 5.3.E.2. **Added** reference to DOC policy 1.1.A.4. **Clarified** Health Services and Mental Health role. **Clarified** who staff training applies to.

May 2008: **Revised** formatting of policy and attachments in accordance with DOC policy 1.1.A.2.

Added reference of cooperation with an investigation of an assault/rape of an offender in a DOC facility or placement and **added** reference to DOC policy 1.1.C.3. within Policy section. **Added** “or in a DOC residential placement” to the definition of Offender. **Changed** the policy titles to properly reflect the actual titles in ss (Note within Definitions section) to read “DOC policies 1.3.A.5 *Searches – Adult Institutions* and 1.3.A.6 *Searches – Juvenile Institutions*”. **Added** “while in a DOC facility or placement” in ss (A of Offender Response to a Sexual Assault/Rape section), **replaced** juvenile facility with STAR in ss (A2 of the same section), **replaced** “contact an Officer in Charge (OIC) or a” with “report through their own chain of command who will ensure that a”, **deleted** “security” when referring to senior staff in same section and **deleted** “and advise him/her” to read “is advised” when referring to allegations made by an offender. **Added** “occurring at a DOC facility or placement”, **added** “report this through their chain of command who will ensure that a senior level staff person is” and **deleted** “special security officer” in ss (A of Staff Members Response to a Sexual Assault/Rape section). **Deleted** former # 1, which read: “The Warden or Superintendent may also designate other security staff to investigate the sexual assault/rape allegations” and **deleted** “to the Special Security Officer or other security officer” in bullet #1. **Deleted** “Special Security Officer or” and “security” in ss (B of Staff Members Response to a Sexual Assault/Rape section) and **added** “and report consistent with DOC policy 1.1.C.3 “Reporting Abused Neglected Child”” in ss (B2 of the same section mentioned immediately above). **Replaced** “a juvenile

facility” with “STAR” in ss E of Staff Members Response to a Sexual Assault/Rape section) and **replaced** “a designated security staff will notify the Superintendent” with “Superintendent will be notified”. **Deleted** “if the alleged abuse is reported to have happened within a juvenile correctional program” in ss (E3 of Staff Members Response to a Sexual Assault/Rape section). **Added** ss (F, 1 and 2 of Staff Members Response to a Sexual Assault/Rape section) and **revised** the structure of the order of bullets to include G and **deleted** “security” in ss (G of this same section). **Deleted** “the OIC or senior level security staff person will take” and **added** “will be taken” in ss (A of Alternate Housing Placement of Victims and Perpetrators section). **Deleted** “OIC” or “security” in ss (A1 of the same section mentioned immediately above) and **deleted** “Special Security Office or” and “security” in ss (A2) and **added** “senior level” and “person has” in ss (A2 of the same section) and **deleted** “security” in ss (B of the same section). **Deleted** offender in ss (A, and A2a) and **replaced** “alleged” with “reported” in ss (A1 and B) of Alternate Housing Placement of Victims and Perpetrators **Added** “occurring at a DOC facility” in ss (A of Investigation/Prosecution of a Sexual Assault/Rape section), **deleted** “by a Special Security or the designated security staff” in ss (B), **deleted** “Special Security or the designated security staff, at the discretion of the Warden or Superintendent, will notify” in ss (B1), **added** reference that BOP will be notified in ss (B1), **replaced** “alleged” with “reported” and **deleted** offender in ss (B2c). **Added** the following statement “Ban that person from having any telephone contact or written correspondence with DOC personnel.” in ss (B2d of the Investigation/Prosecution of a Sexual Assault/Rape section). **Revised** titles of DOC policies 1.3.A.5 and 1.3.A.6 to be consistent with titles on the attachment and titles on the WAN. **Replaced** “can” with “must” in ss (2) when referencing the database being updated as the investigation unfolds and **added** sss (a1, a2, b1 and b2 of Tracking Sexual Assault/Rape Incidents on the Citrix Database section). **Added** “DOC policy” and “STAR Academy OM” in section V. **Replaced** “Inmate” with “Offender” in Attachment 1. **Revised** signature date of DOC policy 1.1.C.3 Attachment 2. **Made** other minor grammar, wording and bullet revisions throughout policy.

March 2009: **Replaced** acronym of “SDDOC” to “DOC” within policy statement. **Deleted** reference to “intake” as it relates to A&O throughout policy. **Added** reference to the “Acknowledgement of Sexual Assault-Rape Information” form in ss (A3 of Providing Sexual Assault/Rape Prevention Information to Offenders). **Added** reference to the Receipt and Acknowledgement – DOC Policies form and **added** reference to DOC policy 1.1.D.1 in ss (B of Staff Training on Offender Sexual Assault/Rape Prevention and Reporting). **Clarified** title of DOC policy 1.1.C.3 in ss (B2), **added** reference to the Authorization for Release of Information form in ss (C4b) and **added** reference to DOC policies 1.1.C.3 and 1.1.A.3 in ss (F1) all within Staff Member Response to a Sexual Assault/Rape. **Revised** ss ((B1 of Investigation/Prosecution of a Sexual Assault/Rape) to include the “respective Warden, Superintendent or designee” will notify BOP. **Added** DOC policy 1.1.D.1 to Section V. **Revised** other minor grammatical changes throughout policy. **Revised** Attachment 1. **Deleted** former Attachment 2 Receipt and Acknowledgement form.

March 2010: **Added** SDCL 22-22-2 to definition of Sexual Penetration. **Revised** titles of DOC policy 1.4.E.4, STAR OM 5.3.E.2 and DOH policy P-B-09 to P-B-05 to reflect current policy titles. **Replaced** PREA Manager with CEO in ss (A2b of Tracking Sexual Assault/Rape Incidents on the Citrix Database). **Added** reference to DOC policy 1.1.C.3 and SDCL 22-22-2 in Section V. **Revised** minor grammar and wording throughout policy.

March 2012: **Added** “This policy is not intended to govern incidents of sexual assault/abuse by an offender against an employee, visitor, volunteer or any other individual who has business with the DOC” in Section II Policy. **Added** definition of PREA. **Added** SDCL § 22-22-7.6 to the “Definitions” within the Sexual Assault/Rape. **Added** “by the admission and orientation case manager” in Section 2 A. **Added** 3. and 4. and 4.a. to Section 2 A. **Added** “(includes direct reporting, anonymous/third party reporting)” to Section 3 B. **Added** new 1. and **Renumbered** subsections in Section 3. B. **Added** “immediately” and “directly” and (“Reported directly” means that the reporting person must speak directly to the designated staff person by telephone or in person”) to Section 4 A. **Added** staff member “who receives” a report “from an offender” and **Added** “via a Major Incident Report, which will” to Section 4. A. **Added** 1, 2, 3, 4 to Section 4 B. **Added** “immediately” and “hospital or” and “sexual assault forensic exam” and **Deleted** “rape kit” and **Replaced** with “sexual assault forensic exam” to Section 4 C. **Added** “with the victim’s consent” and **Added** “or a community health facility” and **Added** “follow up care/treatment and” and “sexually transmitted infections and collection of biological

specimens" to Section 4 C. 3. **Deleted** "HIV" and **Replaced** with "communicable disease" and **Deleted** "if they are housed in a DOC facility" in Section 4 C. 4. **Added** a. " Health Service staff will educate the offender and well as inform them about the testing" **Added** d. "If the testing involved Hepatitis or HIV, Health Service staff will arrange for any necessary pre-counseling testing and/or follow up" to Section 4 C. 4. **Deleted** "seen by" and **Replaced** with "referred to" and **Added** "and/or as requested by the victim. Staff may contact the on-call mental health staff person if mental health staff are not on site" to Section 4 C. 5. **Added** 6. to Section 4 C. **Added** "and any evidence collected by Special Security of other DOC staff" and **Added** 1. "The chain of custody of the evidence collected by DOC staff shall be recorded and preserved." to Section 5 D. 1. **Added** "DOC Admin. Office consistent with DOC policy" to Section 5 E. 3. **Added** "separate the victim and alleged assailant to protect the victim" and **Deleted** "if the victim is house in a DOC facility" and **Replaced** with "by the alleged perpetrator" in Section 6 A. **Added** "The alleged perpetrator(s) and victim must be seperated, preferably so that neither can see or hear the other" in Section 6 A. 1. **Added** b. to Section 6 A. 1. **Deleted** "the reported victim has" and "for his/her protection" in Section 6 B. **Deleted** "upon the notification of a possible" and "and attempt to identify all involved in the sexual assault/rape" in Section 7 A. **Deleted** any prosecution" and **Replaced** with "the investigation" in Section 7 A. 3. **Added** "if the incident involves adult offenders" in Section 7 B. **Added** "and attempt to identify all involved in the sexual assault/rape" and **Added** "The chain of custody of the evidence shall be recorded and preserved" in Section 7 A. **Added** in Section 7. B. 3 "criminal prosecution and/or" and **Added** to the same section, SDCL 24-1-26.1. **Added** B. and renumbered subsection that follow in Section 7. **Added** in Section 7, A. (involving offenders, or offenders and staff) **Added** the term "offender/victim" and "alleged" throughout the policy, where appropriate.

Denny Kaemingk

Denny Kaemingk, Secretary of Corrections

08/06/2012

Date

