



SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICIES AND PROCEDURES		POLICY NUMBER 1.1.C.13	PAGE NUMBER 1 OF 4
		DISTRIBUTION: Public	
		SUBJECT: Screening of Staff, Volunteers, and Contractors for Prior Sexual Abuse	
RELATED STANDARDS:	PREA 115.17 (c) (1) (2)	EFFECTIVE DATE: July 01, 2023	
		SUPERSESION: 10/29/2019	
DESCRIPTION: Personnel	REVIEW MONTH: June	 KELLIE WASKO SECRETARY OF CORRECTIONS	

I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) not to hire or promote an individual or enlist the services of any volunteer or contractor to work within a DOC facility, before completing a pre-employment screening to identify if the individual has engaged in institutional or community sexual abuse, or whose criminal history reveals a history of sexual abuse. The DOC will screen all individuals identified for possible assignment to a DOC facility and current staff members considered for promotion.

II. PURPOSE

The purpose of this policy is to provide guidelines for criminal history checks and authorization of all staff and non-staff entering or exiting a DOC property.

III. DEFINITIONS

Contractor:

Any non-staff person who provides a service within a DOC institution on a reoccurring basis, and who may have contact with offenders when not under the constant, direct supervision of a DOC staff member. Includes those providing vocational training, programming, medical or dental treatment, behavioral health services, information, and technology support, building maintenance, etc.

Facility:

An institution and its grounds, a building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or set of buildings) owned or leased by the Department of Corrections for the confinement of offenders.

National Crime Information Center (NCIC) III:

A computerized index of criminal justice information (i.e., criminal record history information, fugitives, and stolen properties, missing persons). The FBI, federal, state, local and foreign criminal justice agencies, and authorized courts all may contribute information to the index. Includes identifiable descriptions, notations or arrests, detentions, indictments, formal criminal charges, dispositions, sentences, correctional supervision, and releases.

Sexual Abuse in the Community:

A conviction or civil or administrative adjudication for engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse.

SECTION	SUBJECT	DOC POLICY	Page 2 of 4
Personnel	Screening of Staff, Volunteers, and Contractors for Prior Sexual Abuse	1.1.C.13	Effective: 07/01/2023

IV PROCEDURES

1. Criminal Records Checks:

- A. A criminal records background check shall be conducted by the DOC and Bureau of Human Resources (BHR) utilizing the NCIC III for all potential new hires and existing staff, volunteers, and contractors with unsupervised contact with offenders who is assigned to a DOC facility or considered for providing services within a DOC facility. The background will be completed for each person every five (5) years, beginning in the year 2012 and continuing every five (5) years thereafter.
- B. Supervisors or BHR representatives assigned to review the results of a criminal records check/background check, shall identify any convictions that exist within an individual's record for engaging or attempting to engage in sexual offenses facilitated by force, overt or implied threats of force, coercion, or if the victim did not consent or was unable to consent or refuse. The reviewer shall have proper training and authorization to possess, access, interpret and review such criminal records. All charges, arrests, or convictions involving any sexual abuse shall be noted and reported to the warden or designee.
 1. Sexual offenses shall include all offenses contained within SDCL § 22-24B-1 and chapter 22-22 Sex Offenses.

2. Staff Member New Hires:

- A. During the interview process, applicants will be asked about involvement in any sexual abuse.
- B. Prior to an offer of employment, employers and supervisors listed by the applicant will be contacted by the DOC supervisor and/or BHR representative for information, whenever there is evidence to support substantiated allegations of sexual abuse have occurred, or the individual resigned during a pending investigation of sexual abuse, or in lieu of termination.
- C. A criminal records background check will be conducted by BHR after a conditional offer of employment is extended.
- D. The supervisor and BHR representative will review all related information pertaining to the individual being considered for hire and may make inquiry regarding any allegations of sexual abuse and shall completely investigate any reports or investigations of sexual abuse involving the individual.
- E. The supervisor must take into consideration the results of sections A., B., C., and D. above when making an offer of employment to an individual and shall not make an offer of employment to an applicant with a demonstrated history of sexual abuse, unless so approved by the SOC or designee.

3. Promotions of Staff:

- A. During the promotion process, a staff member being considered for a promotion will be asked if they have had any personal involvement in institutional sexual abuse or sexual abuse in the community. The supervisor and BHR representative will review the personnel file of the staff member being considered for promotion for any reports or information supporting sexual abuse and may make inquiry to the DOC PREA Coordinator regarding any allegations of sexual abuse and shall completely investigate any reports or investigations of sexual abuse involving the individual.

SECTION	SUBJECT	DOC POLICY	Page 3 of 4
Personnel	Screening of Staff, Volunteers, and Contractors for Prior Sexual Abuse	1.1.C.13	Effective: 07/01/2023

- B. Employers or institutional supervisors will be contacted if there is new information supporting an incident of sexual abuse has occurred since the individual was initially hired and the pre-employment screening was completed.
- C. *Security supervisor and BHR will perform a criminal background records check that is consistent with Federal, State, and local laws, to make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignations during a pending investigation of an allegation of sexual abuse [PREA 115.17 (c) (1) (2)].*
- D. The supervisor must take into consideration the results of sections A, B, and C above in making a promotional offer to any staff member with a demonstrated history of sexual abuse. No promotional offer may be extended to any staff member with a history of sexual abuse since initially hired, unless so approved by the SOC or designee.

4. Volunteers and Contractors:

- A. Criminal record background checks will be conducted on all volunteers and contractors.
- B. A volunteer or contractor assigned to, or providing a service to, a DOC facility will not be admitted to the facility if the criminal records background checks reveal a prior history of sexual abuse unless approved by the SOC or designee.

5. Staff Members, Volunteers, and Contractors Required to Disclose Sexual Abuse:

- A. Staff, volunteers, and contractors assigned to or providing a service to a DOC facility are required to notify their supervisor or the facility BHR representative within one (1) business day if they become involved in any sexual abuse investigation; are indicted, charged, or convicted of any sexual offense; or disciplined for sexual abuse in an employment setting (see DOC policy *1.1.C.1 Staff Code of Ethics*).
- B. Material omissions or providing materially false information shall be grounds for disciplinary action, including and up to termination.

6. Responding to Requests for Information About Staff Abuse:

- A. Requests for information about a staff member, contractor, or volunteer's involvement in possible sexual abuse, pursuant to an application for employment/contract completed by the individual with an outside employer, including any possible involvement in sexual abuse or allegations of sexual abuse while employed or contracted by the DOC, shall be forwarded to BHR.
- B. Requests for such information/records must be in writing and should be accompanied by a signed authorization, a release/waiver from the applicant, and are subject to all state and federal laws regarding confidentiality and employment records.

V. RESPONSIBILITY

The director of Prisons is responsible for the annual review of this policy.

VI. AUTHORITY

- A. SDCL §§ Chapter 22-22, 22-24B-1

VII. HISTORY

SECTION	SUBJECT	DOC POLICY	Page 4 of 4
Personnel	Screening of Staff, Volunteers, and Contractors for Prior Sexual Abuse	1.1.C.13	Effective: 07/01/2023

June 2023
November 2019
November 2018
November 2017
November 2016
November 2015
November 2014
November 2013
April 2013
October 2012 – New policy

ATTACHMENTS

1. DOC Policy Implementation / Adjustments