



SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICIES AND PROCEDURES		POLICY NUMBER 1.5.H.07	PAGE NUMBER 1 OF 3
		DISTRIBUTION:	Public
		SUBJECT:	Juvenile Division Staff PREA Reporting Guidelines
RELATED STANDARDS:	PREA 115.63	EFFECTIVE DATE:	June 01, 2023
		SUPERSESSION:	11/17/2021
DESCRIPTION: Response and Reporting for Compliance	REVIEW MONTH: May	 KELLIE WASKO SECRETARY OF CORRECTIONS	

I. POLICY

It is the policy of the South Dakota Department of Corrections' (DOC) Division of Juvenile Services to have a zero-tolerance policy relating to sexual abuse or sexual harassment of offenders. The DOC will cooperate in the investigation and prosecution of anyone involved in a sexual abuse of a juvenile offender, or negligence or violation of responsibilities, which may have contributed to the abuse or harassment of the juvenile.

II. PURPOSE

The purpose of this policy is to establish the procedural requirements for documenting alleged Prison Rape Elimination Act (PREA) incidents.

III. DEFINITIONS

Appropriate Investigative Authority:

The appropriate investigative authority could be the Department of Social Services – Child Protection Services (DSS – CPS), Law Enforcement, or the facility head where the alleged abuse occurred.

PREA Incident

This includes any incident of sexual abuse or sexual harassment.

Prison Rape Elimination Act (PREA) Juvenile Facility Standards

National Standards to Prevent, Detect, and Respond to Prison Rape Under the Prison Rape Elimination Act (PREA) 28 C.F.R. Part 115. PREA Juvenile Facility Standards.

IV. PROCEDURES

1. Reporting alleged PREA incidents

- A. Any staff member has a duty to report, in accordance with DOC policy, any knowledge, suspicion, or information they receive regarding:
 1. An incident of sexual abuse or sexual harassment (PREA Incident).
 2. Neglect or violation of responsibilities by staff that may have contributed to abuse or retaliation, and
 3. Retaliation against a youth or staff who reported an incident.

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- B. The requirements apply to incidents occurring in any residential facility, whether or not it is operated by the SD DOC.
- C. The reporting staff member shall notify a regional supervisor and complete the required reports in accordance with DOC policy.
 - 1. Staff shall be prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, to make treatment, investigation, and other security and management decisions.
- D. In addition to the above reporting requirements, staff must comply with mandatory child abuse reporting laws.
- E. ***All reports of alleged sexual abuse and sexual harassment***, including third-party and anonymous reports, ***will be sent to the Juvenile Division PREA compliance manager for review to ensure the appropriate investigative authority has been notified.***
 - 1. ***The PREA compliance manager must notify the facility director, CPS, or the appropriate investigative agency, as applicable, as soon as possible, but within seventy-two (72) hours after receiving the allegation. The PREA compliance manager shall document that notification has been provided (PREA Standard - 115.63).***
- F. Upon receipt of a report that alleges a youth is subject to a substantial risk or imminent sexual abuse, staff will take immediate action to protect the youth.
- G. Staff is not required to report the alleged PREA incident if the staff member knows and can verify another person has already reported the same incident to the appropriate investigative authority.

2. Responsibilities of Staff / First Responder Duties

- A. Upon learning of an allegation that a youth was sexually abused, the first staff member to respond to the scene must:
 - 1. Take steps to separate the alleged victim and alleged abuser, if applicable.
 - 2. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence, if applicable; and
 - 3. If the alleged abuse occurs within a time period that still allows for the collection of physical evidence:
 - a. Request that the alleged victim not take any actions that could destroy physical evidence, including as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
 - b. Ensure the alleged abuser does not take any actions that could destroy physical evidence.
- B. Staff members will fully cooperate with any investigation into an alleged PREA incident. Staff who witness the disclosure of evidence of the abuse or neglect of a child must be available to answer questions when the initial report is made (SDCL § 26-8A-8).
- C. All mandatory reporters with reasonable cause to suspect a child has been abused or neglected shall report the incident directly to the DSS, law enforcement, or the state's attorney where victims of the abuse resides or is present (See SDCL §§ 26-8A-8).

3. Offender Education

- A. Each juvenile will be provided PREA information during the intake process in accordance with the Juvenile Offender Living Guide.

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- B. The PREA education will include reporting protocols for the youth to address sexual abuse or sexual harassment (see attachment 1 - *Zero Tolerance Information Handout - PREA Brochure*).

4. Staff Training

- A. Staff will receive annual training regarding PREA standards, in accordance with DOC Policy. The PREA training shall include, but is not limited to, the following:
1. Zero-tolerance policy for sexual abuse and sexual harassment.
 2. How to fulfill staff responsibilities under PREA guidelines for sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures.
 3. The right of juveniles and staff members to be free from retaliation for reporting sexual abuse and sexual harassment.
 4. How to comply with relevant laws related to mandatory reporting of sexual abuse to law enforcement.

V. RESPONSIBILITY

The director of Juvenile Services is responsible for the annual review and maintenance of this policy.

VI. AUTHORITY

- A. SDCL §§ 26-8A-8

VII. HISTORY

May 2023

November 2021

November 2020

November 2019 – new policy.

ATTACHMENTS

1. Zero Tolerance Information Handout - PREA Brochure
2. DOC Policy Implementation / Adjustments

RIGHT TO REPORT

If you, or someone you know, is experiencing sexual abuse or sexual harassment, the Department of Corrections wants to know. We want you to report right away. Why?

- We want to keep you safe. It is your right to be free from sexual abuse and sexual harassment.
- We want to conduct an investigation of the reported incident.
- We want to hold the perpetrator accountable for his/her actions.
- We want to provide you with relevant information and support services.

How to Report

There are multiple ways to report sexual abuse and sexual harassment:

- Report to any staff, volunteer, or contractor.
- Facility Director/CEO.
- Report to medical or mental health staff.
- Submit a PREA grievance/reporting form.
- Report to the PREA Compliance Manager.
- Report to your JCA.

What to Do If You Have Been Sexually Abused

- Tell a staff member as soon as possible.
- Seek medical attention BEFORE you shower, eat, drink, change clothing, brush your teeth, or use the bathroom.
- Share as much information as possible when answering questions to assist with the investigation.

NOTICE FOR FALSE REPORTING

Any person who knowingly and willfully makes a false report or counsels another to make a false report may be subject to prosecution and if found guilty; is guilty of a false reporting to authorities under SDCL 22-11-9.

END THE SILENCE

Zero Tolerance for Sexual Abuse and Sexual Harassment: Prison Rape Elimination Act (PREA)



ZERO TOLERANCE

The South Dakota Department of Corrections has a zero-tolerance policy for sexual abuse and sexual harassment. What does this really mean? It means that YOU have the right to be free from sexual abuse and sexual harassment by anyone at the facility, including a resident, staff member, volunteer, or contractor. No one has the right to sexually abuse or sexually harass you.

What Is Sexual Harassment?

- Repeated and unwelcome comments or gestures of a sexual nature, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.
- Repeated and unwelcome sexual advances; requests for sexual favors; or verbal comments, gestures, or actions of a derogatory or offensive sexual nature.

What Is Sexual Abuse?

- Forced or coerced sexual misconduct or sexual contact when the victim does not consent or is unable to consent or refuse. This may include the use of fear or threat of physical violence, psychological intimidation, bullying, and physical force.
- Sexual abuse also can include incidents of staff voyeurism.

What is staff voyeurism?

An invasion of privacy of a resident by a staff member, contractor, or volunteer for reasons *unrelated to official duties*.

Tips for Avoiding Sexual Abuse and Sexual Harassment

A victim is never to blame for being attacked, but these tips may help you lower your risk of sexual abuse or sexual harassment.

- Pay attention to your surroundings.
- Carry yourself in a confident manner at all times.
- Do not accept gifts or favors from others. They usually come with “strings attached” or future paybacks, including sexual favors.
- Do not accept an offer from another resident to be your protector or “friend.”
- Find a staff member with whom you feel comfortable discussing your fears and concerns. Confide in him/her if you feel threatened.
- Be direct and firm when others ask you to do things that you do not want to do.
- Do not give mixed messages to others regarding your wishes for sexual activity.
- Choose your acquaintances wisely.



NO
MEANS
NO

The South Dakota Department of Corrections does not tolerate any form of sexual abuse or sexual harassment. The goal is the safety of the residents. The South Dakota Department of Corrections will hold accountable any persons found to have committed any form of sexual abuse or sexual harassment against another person.

If any of the information presented here is confusing, or you have questions about something that may be happening to you, ask a staff person you trust.

You can also contact the PREA Compliance Manager of the facility.