

SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		POLICY NUMBER 100-12	PAGE NUMBER 1 OF 4
		DISTRIBUTION: Public	
		SUBJECT: Screening of Staff, Volunteers, and Contractors for Prior Sexual Abuse	
RELATED STANDARDS:	PREA 115.17	EFFECTIVE DATE:	August 15, 2024
		SUPERSESION:	07/15/2024
DESCRIPTION: General Administration	REVIEW MONTH: June	 KELLIE WASKO SECRETARY OF CORRECTIONS	

I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) to conduct a pre-employment screening to identify if an individual has engaged in institutional or community sexual abuse, or whose criminal history reveals a history of sexual abuse prior to hiring an individual or enlisting the services of any volunteer or contractor to work within a DOC facility. The DOC will screen all individuals identified for possible assignment to a DOC institution, facility, or office 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.

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.

IV. PROCEDURES

1. Criminal Records Checks:

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- A. A criminal records background check shall be conducted utilizing the National Crime Information Center (NCIC) III for all potential new hires and existing staff, volunteers, and contractors with contact with offenders who are assigned to a DOC facility or considered for providing services within a DOC facility. The background will be completed for each person at regular intervals, not to exceed five (5) years.
- B. Supervisors 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. Prior to an offer of employment, employers and supervisors listed by the applicant will be contacted by the DOC supervisor and/or BHRA 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.
- B. A criminal records background check will be conducted by designated DOC and/or BHRA staff who are NCIC certified after a conditional offer of employment is extended. Information contained within will be reviewed by designated DOC staff and/or BHRA staff.
- C. The supervisor 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.
- D. The supervisor must take into consideration the results of sections A., B., and C. 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.

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. DOC staff will inquire with BHRA as to any relevant information contained within 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 agency coordinator regarding any allegations of sexual abuse and shall completely investigate any reports or investigations of sexual abuse involving the individual.
- 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. Designated DOC staff 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)].

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- 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 BHRA 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 100-05 - *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 BHRA.
- 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 [Sex Offenses](#).
- B. SDCL § [22-24B-1](#) Sex crimes determined.

VII. HISTORY

August 2024
 July 2024
 June 2023
 November 2019
 November 2018
 November 2017
 November 2016
 November 2015
 November 2014

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November 2013
April 2013
October 2012 – New policy

ATTACHMENTS

1. DOC Policy Implementation / Adjustments