
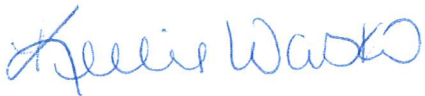


<p style="text-align: center;">South Dakota</p>  <p style="text-align: center;">DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE</p>		POLICY NUMBER	PAGE NUMBER
		1100-01	1 OF 24
		DISTRIBUTION:	Public
		SUBJECT:	Prison Rape Elimination Act (PREA)
RELATED STANDARDS:	<b>PREA Standards:</b> 115.11, 115.12, 115.15, 115.16, 115.22, 115.34, 115.5, 115.52, 115.54, 115.6, 115.61 - 115.65, 115.67, 115.68, 115.72, 115.73, 115.76-115.78, 115.88, 115.13-115.16, 115.18, 115.21, 115.31-115.33, 115.35, 115.41- 115.43, 115.51, 115.53, 115.61, 115.64, 115.71, 115.78, 115.81-115.83, 115.86,115.87, 115.89	EFFECTIVE DATE:	September 01, 2023
		SUPERSESSON:	09/21/2021
DESCRIPTION: Inspector General		REVIEW MONTH: August	  <b>KELLIE WASKO</b> <b>SECRETARY OF CORRECTIONS</b>

## I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) to have *zero-tolerance regarding sexual assault/rape, sexual misconduct, and sexual harassment of offenders [PREA 115.11]*. It is the policy of the DOC to provide a coordinated victim-centered response to reports of sexual assault. This includes providing medical and behavioral health counseling to victims of sexual assault/rape, sexual harassment and fully investigating and aggressively prosecuting those who are involved in such conduct. This policy will be followed in conjunction with DOC policy 100-06 – *Staff Reporting Abuse or Neglect* and other mandatory reporting requirements of the department.

The DOC trains all employees, contract workers, and volunteers to recognize sexual assault/rape, sexual misconduct, and sexual harassment and how to take appropriate actions. The DOC provides a mechanism for pursuing disciplinary and/or criminal prosecution, when warranted, for those who engage in sexual assault/rape, sexual misconduct, and sexual harassment. The DOC will utilize the PREA offender admission screen and the PREA admission review screen to determine an offender’s potential vulnerability or potential aggression to sexual abuse.

## II. PURPOSE

The purpose of this policy is to provide guidance to address sexual assault/rape, sexual misconduct, and sexual harassment, and procedures to identify, monitor, counsel, and track offenders who have a propensity for committing sexual assault/rape, sexual misconduct, and sexual harassment and also the offenders vulnerable to becoming a victim of sexual abuse, sexual assault/rape, or sexual harassment.

## III. DEFINITIONS

### Community Confinement:

*A community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correction facility, other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-trial release or post-release supervision, while participating in gainful employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during nonresidential hours [PREA 115.5].*

### Consensual Sexual Act:

All participants of the sexual act are offenders and consented to participate without being coerced, under any type of threat or force, or in fear of retaliation.

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### **Forensic Medical Exam:**

An examination provided to a sexual assault victim by medical personnel trained to gather evidence of sexual assault in a manner suitable for use in a court of law.

### **Gender Identity:**

A person's understanding and internal, deeply felt sense of being a man, a woman, both, or neither. Distinct from sex assigned at birth and sexual orientation.

### **Gender Nonconforming:**

*A person whose appearance or manner does not conform to traditional societal gender expectations (e.g., someone who identifies as a girl/woman, but wears clothing typically assigned to boys/men) [PREA 115.5].*

### **Intersex:**

*A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development [PREA 115.5].*

### **PREA:**

The Prison Rape Elimination Act of 2003. A federal act requiring all correctional institutions to assess all incarcerated offenders, whether adult or juvenile, for propensity to commit or to be a victimized by sexual behavior/activity and to prevent, detect, and respond to those crimes.

### **PREA Coordinator:**

An individual who develops, implements, and oversees DOC efforts to comply with the PREA standards in all facilities to include assisting PREA Compliance Manager's efforts to comply with the PREA standards and applicable policies and to assist the Special Investigations Unit Investigators with PREA investigations, assist the Department of Justice auditors, complete pre-audit, and internal audits. Review and maintain monthly matrix for PREA and active transgender and intersex list, statistics on sexual abuse and sexual harassment, assist with compiling the reports for the Correctional Offender Management System (COMS), complete the Department of Justice Survey of Sexual Victimization, annual public reports and aggregate PREA reports. Maintain documentation MOUs for victim advocacy groups, community confinement, and local hospitals, assist training manager with PREA training. *An individual with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities [PREA 115.11].*

### **PREA Facility Compliance Manager (PFCM):**

Each DOC facility will designate an individual to serve as a PREA compliance manager. *A PREA compliance manager must have sufficient time and authority to coordinate and manage the facility's compliance with required PREA Standards [PREA 115.11].*

### **PREA First Responder:**

A shift commander (lieutenant and above), an investigator, or licensed nurse who has completed the PREA first responder training and that may be present to collect and or assist with trace evidence collection.

### **PREA Risk Screen:**

An assessment (screen) based upon the Final Adult PREA National Standards. The goal of this screening is to aid in the determination of an offender's potential for sexually abusing others (aggressor) or being sexually abused by others (victim).

### **PREA Risk Screen Scores:**

**Aggressor Potential (AP):** Offenders designated by the PREA screen as having characteristics of an offender with a higher-than-normal likelihood to be sexually aggressive towards other offenders inside an institution.

**Mixed Potential (MX):** Offenders designated by the PREA screen as having both an aggressor potential (AP) and a victim potential (VP).

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**Not Scored Potential (NS):** Offenders that did not fit into the criteria in the PREA Screen Score to be designated as a VP, AP, or MX.

**Victim Potential (VP):** Offenders designated by the PREA screen as having characteristics of an offender with a higher-than-normal likelihood to be sexually assaulted inside an institution.

### **PREA Standard:**

The Department of Justice released the final rule to prevent, detect, and respond to sexual abuse in confinement facilities in accordance with the PREA act of 2003. There are four (4) distinct sets of standards, each apply to a different type of facility: Adult Prisons and Jails; Lockups; Community Confinement facilities; and Juvenile facilities. Specific PREA Standards are noted in policy by adding the corresponding number and new policy language. Adult Prisons and Jails standards are numbered 115.11 through 115.89.

### **Rape Crisis Center:**

A rape crisis center refers to an entity that provides intervention and related assistance, such as:

1. 24-hour hotline services providing crisis intervention services and referral.
2. Accompaniment and advocacy through medical, criminal justice, and institutional support systems, including medical facilities, investigative, and court proceedings.
3. Crisis intervention, short term individual and comprehensive service coordination, and supervision to assist sexual abuse victims.
4. Information and referral to assist the sexual abuse victim.
5. Development and distribution of materials on issues related to services available.

### **Sexual Abuse:**

Sexual abuse includes sexual assault, sexual harassment, and sexual misconduct.

### **Sexual Assault/Rape:**

The act of unwanted sexual intrusion, touching, or penetration however slight, by a hand, finger, object, other instrument or contact of the anal, oral, or genital opening of another person or touching of the breast or other body part however slight, by hand, finger, object, or other instrument. This also includes contact, by any person on another by force, overt or implied threat, coercion, intimidation, compulsion, inducement, or impairment of one's faculties (see SDCL §§ 22-22 and 24-1-26.1).

### **Sexual Conduct in a Correctional Institution:**

The act of any employee, contract worker, volunteer, or individual who performs work or volunteer functions for the DOC or private correctional facilities, including community confinement facilities, who engage in sexual contact or sexual abuse with an offender under the supervision of the DOC (see SDCL § 24-1-26.1).

### **Sexual Harassment:**

Includes any non-contact behavior or act that subjects another person to verbal or written statements or gestures of sexual or romantic nature; creating or encouraging an atmosphere of intimidations, hostility, or offensiveness as perceived by the individual who observes the sexually offensive behavior or act including but not limited to the following:

1. Any repeated and/or unwelcome sexual advances, requests for sexual favors, obscene or profane language or verbal comments or actions of a derogatory or offensive sexual nature, including demeaning reference to gender, inappropriate, sexually suggestive, or derogatory comments about body or clothing, or obscene language or sexually harassing gestures, or written statements of a sexual or romantic nature.
2. Indecent exposure or any intentional or unwanted displays of anus, genitals, breasts, or other body parts to sexually harass another person or masturbation in the presence or direct vision of another person.
3. Taking or soliciting photographs or images of a person's nude breast's, genitals, buttocks, or naked body while performing bodily functions.
4. Any repeated unwelcome sexual advances, requests for sexual favors, unequal treatment, or other unwelcome verbal and physical conduct based on sex when:
  - a. Submission to such conduct is made either explicit or implicit as a term or condition of an individual's employment; or

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- b. Submission to or rejections of such conduct is used as the basis for employment decisions about a person; or
- c. Such conduct has the purpose or effect of substantially and unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive or educational environment.

### **Sexual Incident:**

Investigative event involving alleged or potential sexual abuse of an offender.

Note: The term "Sexual Abuse" does not include:

1. Custodial or medical personnel gathering physical evidence, or engaging in other legitimate medical treatment, in the course of investigating a sexual assault/rape.
2. 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.
3. The use of a health care provider's hands or fingers and the use of instruments to perform body cavity searches 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 policy 300-07 – *Searches - Institutions*.
4. Consensual sexual contact/activity between offenders (offender on offender). Although, this type of behavior is prohibited (see Prohibited Act L-9 in the Offender Living Guide).

### **Sexual Misconduct:**

A person commits this offense when they have active or passive contact, which was not coerced or forced, between the genitals, hand(s), mouth, buttocks, anus, breast, or with an object and the genitals, hand(s), mouth, buttocks, anus, or breast of another person. Contact can be with or without clothing being worn by one or both parties.

### **Special Investigation Unit (SIU) Investigator:**

An individual that is trained to conduct administrative investigations within the DOC.

1. Specialized training may include but is not limited to:
  - a. Techniques for interviewing sexual abuse victims.
  - b. Directing sexual abuse evidence collection in correctional/confinement settings.
2. The criteria and evidence required to substantiate a case for administrative action or referral for criminal prosecution.
3. The training coordinator for each facility will maintain documentation supporting staff investigators have completed required specialized training.

### **Substantiated Allegation:**

*An allegation that was investigated and determined to have occurred [PREA 115.5].*

### **Transgender:**

Refers to the broad spectrum of individuals who identify with a gender different than their birth-assigned sex. A transgender individual may or may not have a clinical diagnosis of gender dysphoria, depending on the presence or absence of clinically significant distress or impairment caused by gender identity. *A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth [PREA 115.5].*

### **Unfounded Allegation:**

*An allegation that was investigated and determined not to have occurred [PREA 115.5].*

### **Unit Team:**

Correctional staff assigned to a particular housing unit of an adult institution, usually consisting of a unit manager, case manager, and unit coordinator.

### **Unsubstantiated Allegation:**

*An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred [PREA 115.5].*

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### **Youthful Offender:**

*Any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail [PREA 115.5].*

### **Zero Tolerance:**

The practice of not permitting undesirable behavior from offenders or staff to persist by applying immediate consequences for prohibited sexual conduct or incidents of retaliation related to the reporting of any prohibited act or prohibited sexual conduct.

## **IV. PROCEDURES**

### **1. General Information**

- A. Employees, contract workers, and volunteers may not knowingly maintain social, emotional, or sexual associations with current offenders, former offenders, or the family and of friends of offenders. Any person employed by the state, or any person employed with any state prison who knowingly engages in an act of sexual penetration with an offender who is under the custodial, supervisory, or disciplinary authority of the person may be guilty of a Class 6 felony and in violation of DOC policy 100-05 – *Staff Code of Ethics* and SDCL § 24-1-26.1.
1. It is noted that even non-coerced or non-forced sexual behavior between *offenders* is prohibited, and incidents of this nature are a violation of the offender living guide and *will be subject to disciplinary sanctions*. Written reports will be generated [PREA 115.78], DOC policy 300-17 – *Offender Discipline System*, and SDCL § 24-2-9).
  2. *Special Investigations unit at each facility housing offenders shall promptly, thoroughly, and objectively investigate all reported allegations of sexual abuse, including third party and anonymous reports [PREA 115.71]*. Appropriate services shall be offered to identified victims. Each situation involving an identified perpetrator is subject to response, including referral to law enforcement and/or outside investigators for potential prosecution
  3. There is no “consensual sex” in a custodial setting or supervisory relationship. All sexual behavior and romantic relationships between employees, contract workers, or volunteers, and offenders are inconsistent with the professional and ethical principles, and policies of the DOC. All allegations of sexual assault/rape, sexual misconduct, and sexual harassment will be investigated. If applicable, criminal charges will be filed and/or professional standards investigation will be conducted. Professional standards investigation may result in corrective and/or disciplinary action, up to and including termination. Failure of employees, contract workers, and volunteers to report incidents of sexual assault/rape, sexual misconduct, and sexual harassment may result in corrective and/or disciplinary action. *If any employee, contract worker or volunteer learns that an offender is subject to a substantial risk of imminent sexual abuse, that person will take immediate action to protect the offender [PREA 115.62]*.
  4. The DOC has zero tolerance for retaliation or acts of intimidation. Offenders, employees, contract workers, and volunteers have the right to be free from retaliation from reporting sexual assault/rape, sexual misconduct, and sexual harassment and for cooperating with investigations. The PREA facility compliance manager will initiate retaliation monitoring, when the allegation is reported, on offenders who report sexual abuse or cooperate with an investigation of sexual abuse. The PREA facility compliance manger will monitor for any disciplinary reports, housing changes, program changes, grievances filed, classification changes, and negative offender case notes. *Periodic in person status checks for offenders* will be completed by the PREA facility compliance manager. For employees, contractors, and volunteers who report sexual abuse, retaliation monitoring will be completed by the PREA facility compliance manager or PREA coordinator and will include monitoring for any negative performance reviews or reassignments. *Retaliation monitoring will last for at least ninety (90) days but may continue past ninety (90) days if the initial monitoring indicates a continuing need*. Any retaliation against individuals because of their involvement in the reporting or investigation will be reported to the inspector general (IG) and a copy sent to the PREA

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coordinator. ***If a case is determined to be unfounded the retaliation monitoring will be stopped [PREA 115.67]*** (see attachment #5 - *Retaliation Monitoring*).

5. All contracts with public, private, government, or other entities for confinement of offenders sentenced to the DOC ***will include an obligation that the facility adopt and comply with all applicable PREA standards and allow the DOC to monitor to ensure the contractor is complying with PREA standards.*** This may include a review of the facility's most recent PREA audit report. The PREA coordinator will provide input concerning contracts with vendors who have contact with offenders [PREA 115.12].
6. ***The DOC will not enter into any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with offenders pending the outcome of an investigation or a determination of whether and to what extent discipline is warranted [PREA 115.65].***
7. In order to allow offenders to ***shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breast, buttocks, or genitals, except in exigent circumstances or when such viewing is incidental to routine cell checks, staff of the opposite gender will announce their presence when entering a housing unit*** at the beginning of each shift. If the opposite gender status quo changes during the shift another announcement is required [PREA 115.15].
  - a. Example: if an identified female staff member is assigned to an identified male housing unit for the duration of a shift, only one (1) announcement at the beginning of the shift is required in regard to that gender's presence. If the opposite gender leaves the area and later reenters the area, an announcement of their presence in the housing unit or area where offenders may be showering, performing bodily functions, or changing clothing will be made. The announcement will be made in such a manner that is most likely to be heard, such as an intercom system, and will be made clear that a staff member of the opposite gender has entered the unit (i.e., "cross gender supervision is monitoring the unit"). Opposite-gender announcements only need to be made based on the gender of the facility or unit overall.
  - b. However, on graveyard shift, the announcement can be made verbally. It should be loud enough for those offenders who are awake to hear, but not loud enough to disturb those sleeping.
  - c. Non-routine visits to the unit, to include tours or vendors will be announced, by the housing control/pod staff and logged into COMS shift report.
8. The DOC website includes information about how a third-party may report incidents of sexual assault/rape, sexual misconduct, and sexual harassment involving an offender and/or on behalf of an offender within a DOC facility: <http://doc.sd.gov> or email DOC.ADULTPREA@state.sd.us, or write DOC-Adult Division PREA Coordinator PO Box 5911 Sioux Falls, SD 57117 or call 605-367-4496 [PREA 115.54].
9. DOC may not rely on offenders for assistance if an offender is a suspect or a victim is deaf or hard of hearing, blind or low vision, or for those who have an intellectual, psychiatric, speech, or are limited English proficient consistent with the Americans with Disabilities Act (ADA) [PREA 115.16] and DOC Policy 1500-01 – *Americans with Disabilities Act (ADA)*.

## 2. Categories of Incidents

- A. Offender-on-Offender: All sexual abuse including sexual assault/rape, sexual misconduct, and sexual harassment between offenders is prohibited and will be reported to the officer in charge (OIC) to complete an administrative investigation. The OIC will refer to the IG any possible criminal investigation. If appropriate, the IG will refer such cases to the Office of the Attorney General for prosecution. Offenders may be disciplined and/or criminally charged for such activity [PREA 115.78] and DOC policy 300-17 – *Offender Discipline System*.

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- B. Offender-on-DOC Employee/Contractor/Volunteer/Visitor: All cases involving sexual assault/rape, sexual misconduct, and sexual harassment will be referred to the IG for a SIU investigator to complete an investigation. If appropriate, SIU will refer such cases to the Office of the Attorney General for prosecution. Offenders may also be charged per DOC policy 300-17 – *Offender Discipline System*, however offenders may only be disciplined for engaging in sexual assault/rape, sexual misconduct, or sexual harassment with an employee, contract worker, or volunteer upon finding that the employee, contract worker, or volunteer was forced, threatened, or did not consent to such behavior **[PREA 115.78]**.
- C. Employee/Contractor/Volunteer–on–offender: Acts of sexual assault/rape, sexual misconduct, and sexual harassment against offenders; retaliation against offenders who refuse to submit to sexual activity, and intimidation of a witness may be a crime. All cases involving sexual assault/rape and sexual harassment will be forwarded to the SIU, PREA coordinator and the respective warden will be immediately notified by the PREA facility compliance manager. If appropriate, SIU will refer such cases to the Office of the Attorney General for prosecution (see DOC policy 100-03 – *Staff Reporting information to DOC Administration and Office of Risk Management*).
1. All cases involving sexual assault/rape, sexual misconduct, and sexual harassment in community confinement facilities with offenders will be immediately reported to the local law enforcement agency with jurisdiction over the facility at which the incident took place. A copy of the report will be forwarded to the PREA coordinator.
  2. Employees, contractors, and volunteers in state owned prisons, and community confinement facilities may be criminally charged pursuant to SDCL § 22-22-7.6 (Sexual acts between jail or juvenile correction facility employees and detainees—Felony) or any other statutory provision.
  3. ***Employees, contractors, and volunteers may be subject to correction and/or disciplinary sanctions up to and including termination for violating department policies, post orders, and clinical standards [PREA 115.76].***
  4. ***Any contractor or volunteer who engages in sexual assault/rape or sexual harassment with an offender or retaliates against an offender who reports sexual assault/rape, sexual misconduct, and sexual harassment, or cooperates with the investigation where such behavior rises to the level of criminal behavior, will be prohibited from contact with offenders and reported to the IG or local law enforcement and to relevant licensing bodies. In the case of any other violation of department policies by a contractor or volunteer, the facility will take appropriate remedial measures, and will consider whether to prohibit further contact with offenders [PREA 115.77].***
  5. Procedures that are required by department policy or practices such as, but not limited to, staff taking pictures/photographs in the performance of their duties, universal pat searches, or medical exams are not defined as sexual assault/rape or sexual harassment.
  6. ***Disciplinary sanctions for violations of department policies relating to sexual assault or sexual harassment (other than actually engaging in sexual rape) will be commensurate with the nature and circumstances of the acts committed, the staff member’s disciplinary history, and the sanction imposed for comparable offenses by other staff with similar histories [PREA 115.76].***
  7. ***All termination for violations of department sexual assault or sexual harassment policies, or resignation by staff who would have been terminated if not for their resignation, will be reported to law enforcement agencies and to any relevant licensing bodies unless the activity was clearly not criminal [PREA 115.76].***
  8. The appropriate director or designee will make notification to the licensing body or agency within thirty (30) days of resignation or termination.

### 3. Employee, Contract Worker, and Volunteer Training

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- A. ***PREA training will be provided to all employees who may have contact with offenders tailored to the gender of the offenders at the facility*** during the basic training academy. Contract workers, temporary staff, interns, volunteers, and chaplains will receive the training in the basic volunteer training. All staff will take a refresher course on an annual basis thereafter. Training will include but will not be limited to **[PREA 115.31, 115.32 and 115.35]**:
1. Review of this policy, the Prison Rape Elimination Act of 2003, and any other applicable state or federal laws.
  2. ***Information on DOC's policy of zero tolerance for sexual assault/rape, sexual misconduct, and sexual harassment [PREA 115.31].***
  3. ***How to fulfill their requirements under DOC's sexual assault, and sexual harassment prevention, detection, reporting, and response policies and procedures [PREA 115.31].***
  4. Information on reporting and responding to such incidents.
  5. ***Recognition of warning signs that someone has been a victim of sexual assault/rape and sexual harassment and regarding available medical and behavioral health treatment [PREA 115.31].***
  6. Information related to the investigation of incidents of sexual assault/rape, and sexual harassment, and the prosecution of perpetrators.
  7. In addition to the above, training will cover the following:
    - a. ***Common reactions of victims [PREA 115.31].***
    - b. Sensitivity to offender allegations of sexual assault/rape, sexual misconduct, and sexual harassment.
    - c. ***Offenders right to be free from sexual assault/rape and sexual harassment and to be free from retaliation for reporting such behavior [PREA 115.31].***
    - d. ***How to communicate effectively with offenders, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming [PREA 115.31].***
    - e. Confidentiality.
    - f. ***Dynamics of sexual assault/rape, sexual misconduct, and sexual harassment in confinement [PREA 115.31].***
    - g. Recognition of signs of predatory offenders and potential victims.
    - h. ***Employee, contract worker, or volunteer involvement with offenders and how to avoid inappropriate relationships with offenders [PREA 115.31].***
    - i. Compliance with relevant laws related to mandatory reporting of sexual assault/rape and sexual harassment; and
    - j. Consequences for failure to report
  8. ***Each employee, contract worker, and volunteer will document through signature that they understand the training they have received.*** The original will be maintained in the employees training file **[PREA 115.31 and 115.32]**.
  9. Employees will be trained in how to conduct a universal pat search which includes searches of transgender and intersex offenders **[PREA 115.15]**.
- B. ***All full-and part-time clinical services staff (medical and mental health care practitioners) who work regularly in facilities will be trained in:*** **[PREA 115.35]**
1. ***How to detect and assess signs of sexual assault/rape and sexual harassment [PREA 115.35].***
  2. ***How to preserve physical evidence [PREA 115.35].***
  3. ***How to respond effectively and professionally to victims of sexual assault/rape and sexual harassment; and [PREA 115.35].***
  4. ***How and to whom to report allegations or suspicions of sexual assault/rape and sexual harassment [PREA 115.35].***
  5. Medical health care professionals will attend PREA First Responders training and behavioral health clinicians will attend Trauma Informed Practice training. Clinical staff will complete specialized PREA approved training and certifications will be forwarded to the PREA coordinator. Documentation of completion of this training will be recorded in each individual's training record **[PREA 115.35]**.



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- C. Additional specialized training is required for PREA first responders and SIU. This training may include, but is not limited to, crime scene management, elimination of trace evidence cross-contamination, evidence collection protocol, and sexual assault crisis intervention.
- D. Administrative and criminal SIU will remain current in required training. SIU will be trained in:
1. *Conducting investigations of sexual assault/rape and sexual harassment in confinement settings.*
  2. *Interview techniques [PREA 115.34].*
  3. *Trace evidence collection in confinement settings [PREA 115.34].*
  4. *Criteria required to substantiate a case for administrative action or prosecution referral; and [PREA 115.34].*
  5. *Proper use of Miranda and Garrity advisements [PREA 115.34].*
  6. *Documentation verifying completion of the specialized training will be recorded in each individual's training record and will be forwarded to the PREA coordinator [PREA 115.34 and 115.71].*

#### 4. Offender Screening Assessments and Placement

- A. *All offenders are assessed within seventy-two (72) hours of arrival at the admissions facility for potential vulnerabilities or tendencies of acting out with sexually aggressive behavior in person and in a private location.* This initial screening will be conducted by trained admission and orientation (A&O) staff [PREA 115.41].
1. *Offenders will not be disciplined for refusing to answer, or for not disclosing complete information, in response to any questions asked for the PREA risk assessments [PREA 115.41].*
  2. *Appropriate controls will be used on the dissemination of information in order to ensure that sensitive information contained in responses to all PREA Risk Screen Assessment is not exploited by staff or other offenders [PREA 115.41].* All PREA Risk Screen scores are confidential and not to be released to offenders or unauthorized staff.
  3. Information obtained during the intake assessment and reassessment processes will be used to assist in the classification and facility assignment of the offender, in accordance with policies addressing Male/Female Offender Classification, Adult Internal Management System (AIMS), and Restrictive Housing. *The facility will make individual determinations about how to ensure the safety of each offender [PREA 115.42].* Case managers will conduct these for facility transfers.
  4. Unit staff will use information from the PREA Risk Screen assessments *to determine housing, bed, work, education, and program assignments with the goal of keeping separate those offenders at high risk of being sexually victimized from those at high risk of being sexually aggressive [PREA 115.42].*
- B. *A Release of Information form from clinical services signed by the offender may be required prior to release or request of confidential information about the offender which may be requested from outside sources. Clinical services will inform offenders of the practitioner's duty to report, and the limitations of confidentiality and management decisions [PREA 115.61 and 115.81].*

#### 5. Offender Screening for Risk of Sexual Victimization and Abusiveness.

- A. The PREA Risk Screens are *assessments* (screens) based upon the Final Adult PREA National Standards. The goal of this screening is to aid in the determination of an offender's potential for sexually abusing others (aggressor) or being sexually abused by others (victim) *using an objective screening instrument [PREA 115.41].*
1. All PREA Risk Assessment codes are available for all staff, the questionnaire uses offender's demographics, results of a NCIC background check, sentencing information, pre-sentence investigation (PSI), classification, assessment information, and any documented/known institutional, probation, or parole behaviors that are available. This questionnaire's answers are restricted to assigned staff (see attachment #7 – *PREA Offender Admission Review Screen Scoring*).

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2. ***The screenings will consider prior non-institutional acts or history of sexual assault/rape, sexual harassment, or sexual misconduct; prior convictions for violent offenses, and history of prior institutional violence or sexual assault/rape, sexual harassment, or sexual misconduct in assessing offenders for risk of being sexually aggressive [PREA 115.41].***
  3. ***Any information related to sexual victimization or aggressiveness occurring within an institutional setting will be confidential and strictly limited to medical, behavioral health clinicians, and approved unit staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments or as otherwise required by law [PREA 115.81].***
  4. An offender's rights, privileges, or custody levels may not be forfeited, changed, determined, or affected on the basis of the assigned PREA screen score. The PREA Risk Screen assessments are considered a classification and thus not eligible for grievance.
- B. When scoring the PREA risk screen in COMS and scoring a PREA risk screen item as a "YES", it is mandatory the assessor put comments in the question comments field of COMS documenting why an item was scored "YES".
- C. ***Within thirty (30) days from the date of arrival at all facilities, a trained admissions case manager or unit case manager will assess or reassess the offender's risk of sexual victimization or sexual aggressiveness creating an updated PREA Risk Screen Assessment.*** The screening will be in person and conducted in a private location [PREA 115.41].
1. The case manager will re-assess the offender's risk level annually or when the offender's classification is reviewed and will update the PREA Risk Screen assessment. The reason for a PREA Risk Screen Review will be documented in the COMS PREA Risk Screen Comments section if changes occurred.
  2. After a PREA risk screen review has been completed and it is determined that there are no changes to the offender's PREA risk screen on file, a PREA case note can be entered into COMS under Case Management / Case Notes / Note Type: PREA / Note Sub Type Review.
- D. ***If an offender has experienced prior sexual victimization, whether it occurred in an institution or in the community, facility staff will ensure the information is reported and a referral to behavioral health is made for a follow-up meeting within fourteen (14) days of intake screening.*** The information will be used to assist with facility housing, bed, program, and work assignments The referral will be logged in the COMS PREA Risk assessment questionnaire [PREA 115.81]. The assessor will email the referral to behavioral health staff.
- E. ***If an offender has previously perpetrated sexual abuse, whether it occurred in an institution or in the community, facility staff will ensure the information is reported to the Sex Offender Management Program (SOMP) and behavioral health.*** SOMP will offer a follow-up meeting within ***fourteen (14) days of intake screening.*** The information will be used to assist with facility housing, bed, program, and work assignments The referral will be logged in the COMS PREA Risk assessment questionnaire [PREA 115.81]. The assessor will email the referral to SOMP staff.
- F. The case manager will meet individually in person and in a private location with offenders who identify as transgender and intersex. ***Offenders will be re-assessed every six (6) months to review placement and programming assignments to review any threats to safety experienced by the offender [PREA 115.42]. In addition, the case manager will inquire about the offender's opportunity to shower separately from other offenders [PREA 115.42].*** The case manager will complete documentation in COMS under case management/case note: case management/Subtype: Transgender review.

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- G. If an offender is suspected of being a potential sexual victim or potentially sexually aggressive at any time during their incarceration; is found guilty of an offense in custody for rape or sexual misconduct/sexual harassment; or if the offender is involved in an incident of sexual assault/rape, sexual harassment, or sexual misconduct during their incarceration, a PREA Risk Screen re-assessment will be conducted in-person and in a private location to determine the appropriate risk level and the following will occur [PREA 115.41]:
1. When an offender is identified as the victim in an incident of sexual assault/rape or sexual harassment, the PREA facility compliance manager will request the case manager to review and update the offender's PREA Risk Screen assessment. If the victim is self-identified as transgender or intersex, the PREA facility compliance manager will refer the offender to a multi-disciplinary staff review team hearing to review before having the facility conduct an in-person assessment with the victim and updating the PREA Risk Screen assessment.
  2. When an offender is identified as the aggressor in an incident of sexual assault/rape, or sexual harassment or receives a felony conviction for an institutional sexual assault, the PREA facility compliance manager will request the case manager update the offender's PREA Risk Screen assessment.
  3. When an offender is identified as being involved in an incident of sexual misconduct where no victim or aggressor is identified, the PREA facility compliance manager will review the offender's PREA Risk Screen assessment on all offenders involved in the incident, the PREA facility compliance manager will refer this to the case manager if there is a need for an update.
  4. In incidents with confidential information or involving employees, contract workers, or volunteers, the PREA facility compliance manager will request the unit case manager update the appropriate offender's PREA Risk Screen assessment.
- H. ***SOMP will initiate an evaluation of all known offender-on-offender sexual aggressors referred by the PREA facility compliance manager within sixty (60) days of learning of such sexually aggressive or abusive history and offer treatment when deemed appropriate [PREA 115.83]. SOMP will consider whether to require the offending offender to participate in such treatment, while incarcerated and/or in the community [PREA 115.78].***
- I. The PREA facility compliance manager will be responsible for all oversight to ensure PREA Risk Screen assessments are completed within the specified timeframes and ensure the information from the PREA Risk Screen assessments is used to inform housing, bed, work, education, and program assignments with the goal of keeping separate those offenders at high risk of being sexually victimized from those at high risk of being sexually abusive.
- J. The PREA Risk Screen assessment will assign four (4) institutional categories with the designations of:
1. Aggressor Potential (AP).
  2. Mixed (MX).
  3. No Score (NS).
  4. Victim Potential (VP).
- K. When there are extenuating circumstances that would lead to a higher or lower PREA Risk Screen assessment score on an offender that would otherwise be given, the PREA administrative override can be requested on the offender (see attachment #10 – *PREA Administrative Override Referral*).
- L. Offender Placement, Programming, and Work
1. ***Youthful offenders will not be placed in housing units in which they will have sight, sound, or physical contact with any adult offender through use of a shared dayroom or other common space, shower area, or sleeping quarters [PREA 115.14] (also see DOC policy 1200-15 – Adjudicated Delinquents and Children in Need of Supervision).***
    - a. ***In areas outside of housing units, the DOC will either: maintain sight and sound separation between youthful offenders and adult offenders or provide direct staff supervision (is defined***

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- as staff being present in the same area as the offenders and maintain direct visual observation of the offenders) when youthful offenders and adult offenders have sight, sound, or physical contact [PREA 115.14].*
- b. *Facilities will make best efforts to avoid placing youthful offenders in isolation to comply with this provision. Absent exigent circumstances, facilities will not deny youthful offenders daily large-muscle exercise or any legally required special education services to comply with this provision. Youthful offenders will also have access to other programs and work opportunities to the extent possible [PREA 115.14].*
2. *In making facility, cell/unit housing, and programmatic assignments for transgender or intersex offenders, the DOC will consider on a case-by-case basis whether the assignment would ensure the offender's health and safety, and whether the assignment would present management or security problems [PREA 115.42].*
    - a. *Serious consideration will be given to a transgender or intersex offender's own view with respect to their own safety [PREA 115.42].* A transgender or intersex offender can notify unit staff of any safety issues verbally or in writing. Unit staff will notify the warden or designee, PREA facility compliance manager and the gender dysphoria treatment committee so that the offender's safety issues can be addressed.
    - b. *Self-identified transgender and intersex offenders will be given the opportunity to request the opportunity to shower separately from other offenders that do not identify as transgender or intersex [PREA 115.42].*
    - c. *DOC will not place lesbian, gay, bisexual, transgender, or intersex offenders in dedicated facilities, units, or wings solely based on such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such offenders. Offenders will not be housed based exclusively on external genital anatomy [PREA 115.42].*
    - d. *The facility will not search or physically examine a transgender or intersex offender for the sole purpose of determining the offender's genital status. If the offender's genital status is unknown, it may be determined during conversations with the offender, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner [PREA 115.15].*
    - e. An offender that identifies as transgender or intersex, may request to be strip searched and pat searched by an employee of the gender the offender identifies with. The request will be honored if an employee of the designated gender is available and willing to conduct the search unless exigent circumstances dictate the need for an immediate search by available personnel. If the requested gender is not available or willing to conduct the search, an informational report shall be written in COMS and forwarded to the PREA facility compliance manager. **[PREA 115.15]**
    - f. Offenders will be placed in facilities based upon collaboration between the Gender Dysphoria Treatment Committee, clinical services, administration, and the Office of Offender Services on a case-by-case basis.
    - g. A gender dysphoria, transgender, or intersex offender may submit requests in writing to the Gender Dysphoria Treatment Committee to address individual circumstances.
  3. PREA category impact on housing assignment:
    - a. Offenders in the AP category can be housed with AP or NS category offenders.
    - b. Offenders in the VP category can be housed with VP or NS category offenders.
    - c. Offenders in the NS category can be housed with any category offender.
    - d. Offenders in the MX category can be housed with NS category offenders.
    - e. Offenders with an AP code may not be housed with offenders with a VP or MX code.
  4. Work supervisors and those providing education and programming to groups of offenders are responsible for knowing the identity of offenders assessed with victim potential and aggressor potential and providing necessary supervision to protect offenders from sexual abuse. If vulnerable and potentially abusive offenders are present in the area, at the same time, supervisors shall directly supervise the offenders.
    - a. Offenders with a VP, AP, or MX category may be placed in a program, education or work assignment with an AP or MX provided there is direct staff supervision.
    - b. Offenders with a NS category may be placed in a program, education or work assignment with an AP, VP, MX, or another NS without direct staff supervision.

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## 6. Offender Orientation and Education

- A. Admissions and Orientation (A&O) and intake staff shall conduct an intake screen and PREA safety briefing assessment on all new admissions to the facility within seventy-two (72) hours of arrival to identify risks of victimization and abusiveness [PREA 115.41].
- B. *Within thirty (30) days of intake, the DOC will provide all offenders entering all facilities **comprehensive education and orientation material regarding their rights to be free from sexual assault/rape, and sexual harassment, and to be free from retaliation for reporting such incidents or behavior, and regarding agency policies and procedures for responding to sexual assault/rape, sexual harassment, or sexual misconduct** [PREA 115.33].* PREA information is also provided to offenders via tablets as an addition to the orientation of PREA.
- C. The orientation information will be communicated orally, either in person or by video, and in written form in a manner that is clearly understood by the offender. In accordance with Americans with Disabilities Act – Offender Request for Accommodation, appropriate provisions will be made to ensure effective communication for offenders not fluent in English, those with low literacy levels, and persons with disabilities. The DOC will *provide offender education in formats accessible to all offenders, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to offenders who have limited reading skills. DOC will maintain documentation of offender participation in these education sessions* [PREA 115.33]. Information provided will include, but not be limited to:
1. The DOC zero tolerance policy.
  2. Self-protection.
  3. Prevention/intervention.
  4. Reporting procedures [PREA 115.33].
  5. Treatment and counseling.
  6. Protection against retaliation.
  7. Disciplinary actions for making false allegations.
- D. Offenders will be shown the “PREA: What you need to know” video and receive a copy of the “An Offender’s Guide to sexual abuse and sexual harassment awareness” brochure at intake. *In addition to providing such education, the facilities will have key information continuously and readily available or visible to offenders through posters, offender living guides, or other written format* [PREA 115.33].
- E. Offenders will be required to sign the PREA Acknowledgement of Prevention of Sexual Abuse/Harassment Information acknowledging receipt of this information. A copy of the offender orientation verification form will be maintained in the electronic file (see attachment #8 - *Acknowledgement of PREA Procedures*).
1. Offenders who have not been offered education and information explaining the zero tolerance policy regarding sexual abuse and how to report incidents or suspicions of sexual abuse will be offered education and information during the offender’s case planning within one (1) year and review with unit staff [PREA 115.33]

## 7. Tracking

- A. All allegations of sexual assault/rape, sexual misconduct, and sexual harassment will be forwarded to the facility SIU investigator and PREA facility compliance manager within twenty-four (24) hours of notification of an incident.

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- B. For tracking purposes, any written documentation regarding alleged sexual assault/rape, sexual misconduct, and sexual harassment that has not been entered into the COMS: Reportable Incidents and Incident Tracking System, will be forwarded to the PREA coordinator by the next business day following the incident or notification.
- C. SIU Investigators will maintain their own investigation file for each allegation investigated.

## 8. Reporting PREA Incidents

### A. Offender Reporting Methods

1. Offenders incarcerated in a DOC facility or contract facility may report any act of sexual assault/rape, sexual misconduct, or sexual harassment or retaliation for reporting such behavior by the following means **[PREA 115.51]**:
  - a. Tell a DOC employee, contract worker, or volunteer.
  - b. Call the Offender Reporting Line at 0-605-367-5638 or the Offender Rape Crisis Hotline at #21 or #22 (after hours). These numbers are located on posters throughout the penitentiaries in living areas, in offender living guides, beside the phones, in the brochures, and on the offenders' tablets. These phone calls are not recorded, considered confidential, and allowing the offender to remain anonymous upon request **[PREA 115.51]**.
  - c. Mail a letter to the PREA Coordinator at PO Box 5911, Sioux Falls, South Dakota, 57117.
  - d. Send a kite or give a note directly to any DOC employee, contract worker, or volunteer.
  - e. Request to talk to clinical services.
  - f. Send a note or letter in an envelope to the SIU investigator, unit staff, or warden **[PREA 115.51]**.
  - g. Offenders can report sexual abuse, sexual assault, or sexual harassment to an agency that is not part of the DOC. The outside PREA reporting agency - the Division of Criminal Investigations (DCI) will immediately forward written reports of sexual assault or sexual harassment to the IG. Offenders can remain anonymous by not identifying themselves in the letter. Correspondence addressed to this address will be treated as confidential **[PREA 115.51]**.  

***Division of Criminal Investigation***  
***1302 E Hwy 14 Suite 5***  
***Pierre SD 57501-8505***
2. ***Reports of sexual assault/rape, sexual misconduct, and sexual harassment made in good faith based upon a reasonable belief that the alleged conduct occurred will not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation [PREA 115.78].***
3. DOC disciplinary charges may be filed by the facility and/or criminal charges may be filed by the office of IG on offenders who intentionally make false allegations.
4. Community confinement offender reporting procedure:
  - a. All offenders in a community confinement facility, parolees, and the general public may report any incident of sexual assault/rape, sexual misconduct, and sexual harassment by calling the PREA reporting line at 1-605-367-4496 or contacting local law enforcement **[PREA 115.51]**.
  - b. Reports of sexual assault/rape, sexual misconduct, and sexual harassment can be made by a third-party on behalf of an offender by calling the PREA reporting line or mailing a letter to the PREA Coordinator at the address mentioned above **[PREA 115.54]**.
  - c. Additional information on how to report sexual assault/rape, sexual misconduct, and sexual harassment is located at [South Dakota Department of Corrections :: DOC \(sd.gov\)](https://www.sd.gov) under the trending topics section then Prison Rape Elimination Act [PREA] link.
5. DOC Employee/Contract Worker/Volunteer Reporting Procedure:
  - a. ***DOC employees, contract workers, and volunteers will accept reports made verbally, in writing, anonymously, and from third parties and will promptly document any reports and will immediately, confidentially, and directly report to their supervisor or the shift commander (report "directly" means the reporting person must speak directly to the supervisor or shift commander via radio, telephone, or in person) [PREA 115.51].***

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- b. Any DOC Employee/Contract Worker/Volunteer ***with knowledge, suspicion, or information (including third party and anonymous kites, letters, and reports), regarding incidents of sexual assault/rape, sexual misconduct, and sexual harassment in a correctional setting, (including DOC prisons, private prisons, and community confinement facilities); incidents of retaliation against offenders or DOC employees, contract workers, or volunteers who reported such incidents; and staff neglect or violation of responsibilities that may have contributed to an incident or retaliation who willfully fails to report shall be subject to disciplinary action [PREA 115.61].***
  - c. If a DOC employee, contract worker, or volunteer believes they cannot go through their normal facility protocol to make a report, DOC provides a private reporting phone line at (605) 367-4496 or 605-369-5561 **[PREA 115.51].**
  - d. ***The shift commander or OIC will notify the Duty Officer, the PREA facility compliance manager, and the SIU investigator of all allegations of sexual assault/rape and harassment by phone call and email.*** A detailed report should be completed pursuant to policy, a written informational and a copy of this report sent to the PREA coordinator by email from the PREA facility compliance manager **[115.61].**
  - e. ***DOC employees, contract workers, and volunteers will not reveal any information related to a sexual assault/rape, sexual misconduct, or sexual harassment report to anyone other than to supervisors, investigators, and designated officials. Such information will be limited to information necessary to make treatment, investigation, and other security and management decisions [PREA 115.61].***
  - f. If the alleged sexual assault/rape, sexual misconduct, or sexual harassment involves a return to custody offender, the community parole officer will immediately notify the SIU investigator, otherwise local law enforcement will be contacted. A detailed report will be completed by the community confinement supervisor pursuant to policy, a COMS report, and a copy sent to the PREA coordinator. In a community corrections facility, any letter or kite will immediately be referred to the community confinement supervisor who will notify the SIU investigator or request the local law enforcement agency be contacted. The community confinement supervisor will send copies of all documents to the PREA coordinator by email.
  - g. ***Upon receiving an emergency grievance alleging imminent/substantial risk of sexual abuse, the staff member in receipt of the grievance will immediately forward the grievance to the PREA facility compliance manager for review and have an initial response with 48 hours and will issue a final agency decision within 5 calendar days in compliance with 500-04 – Grievance Procedure [PREA 115.52].***
  - h. All allegations or information involving only offenders will be reported on the *PREA Response Facility Checklist* (see attachment #3).
    - 1) Staff may provide a written statement to the OIC staff who will complete threshold questioning then send to the SIU investigator and PREA facility compliance manager if it has determined there is a victim.
  - i. If the incident involves a contract facility employee, contract worker, or volunteer, the information is to be immediately reported using facility protocol which includes notifying the OIC staff who will forward the detailed report to SIU investigator or local law enforcement and the PREA facility compliance manager.
  - j. DOC Policy 100-05 – *Staff Code of Ethics*: Conduct by any staff member within or outside the scope of employment that violates the code of ethics or is included in the just causes listed in ARSD 55:10:07:04, is prohibited and shall subject the staff member to disciplinary action.
  - k. Staff who commit sexual abuse or sexual harassment may be considered to be in violation of DOC policy 100-10 – *Staff Anti-Harassment and Discrimination Policy*, DOC policy 100-05 – *Staff Code of Ethics*, in addition to other applicable state statutes and policies (Bureau of Human Resources and Administration Handbook), and may be subject to disciplinary action, up to and including termination of employment.
  - l. ***If the alleged victim is under the age of eighteen (18) or considered a vulnerable adult in accordance with SDCL 22-22-7.6: Sexual acts between jail or juvenile correctional facility employees and detainees-- Felony, the DOC will report the allegation to the designated state or local services agency under applicable mandatory reporting laws [PREA 115.61].***
6. Reporting to other confinement facilities **[PREA 115.63].**

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- a. ***Upon receiving an allegation that an offender was sexually assaulted or sexually abused while confined at another facility, the warden will notify the warden of the facility or appropriate office where the alleged sexual assault or sexual abuse occurred. Such notification will be provided as soon as possible, but no later than seventy-two (72) hours after receiving the allegation.*** Agency to agency referral (see attachment #9 – *Reporting to Other Confinement Facilities*) will be completed and placed with the written report that will be generated by SIU investigator and a copy will be sent to the PREA facility compliance manager and PREA coordinator [PREA 115.63].
  - b. ***The warden that receives any such notification will ensure that the allegation is investigated [PREA 115.63].***
7. Immediate Response Procedures:
- a. ***Each facility, including contracted facilities, must use the checklist, to develop a written PREA facility response plan. The facility specific PREA response plan will coordinate actions among first responders, clinical staff, SIU investigator or local law enforcement, facility leadership, victim rights, and advocacy in response to an incident of sexual assault or sexual activity [PREA 115.65].***  
Appropriate security procedures will include, at a minimum:
    - 1) ***Separate the perpetrator and victim [PREA 115.64].***
    - 2) ***Preserve and protect the crime scene, isolate, and cordon off the crime scene until appropriate steps can be taken to collect any evidence or receiving further direction from the SIU investigator [PREA 115.64].***
    - 3) ***First responding staff will instruct the suspect and request the victim within a time period that still allows for collection of physical evidence not to shower, wash, brush their teeth, urinate, defecate, eat, drink, and change clothing or anything else that might destroy evidence [PREA 115.64].***
    - 4) The first responding staff will notify the OIC who will follow their PREA Response Facility Checklist to determine if there is a victim of sexual abuse and complete a Major Incident Report and the PREA Response Facility Checklist. The Major Incident Report and the PREA Response Facility Checklist will be emailed to the PREA facility compliance manager using the facility's email distribution group for reporting PREA incidents. The PREA facility compliance manager will load the information from these two documents into the COMS Reportable incident section and give SIU Investigator the reportable incident number.
    - 5) The OIC will conduct threshold questioning and then contact the SIU investigator following facility protocol if there is an alleged victim. The OIC will relay information to the SIU investigator describing the sexual activity or behavior. The OIC will email SIU investigator and the PREA facility compliance manager the PREA Response Facility Checklist. The SIU investigator will direct the OIC on what actions, to take, if any.
    - 6) A SIU investigator will immediately respond if there is any reasonable suspicion that a sexual assault or sexual activity has occurred. It is the responsibility of the SIU investigator to determine whether a victim is transported for a forensic medical exam.
    - 7) The OIC will notify medical and behavioral health supervisors. ***If no qualified clinical services staff are on duty at the time a report of sexual assault is made, security staff/first responders will take preliminary steps to protect the victim and will immediately notify the appropriate medical administrator or designee and the on-call behavioral health clinician for immediate response [PREA 115.82].***
      - a) Transport the victim to clinical services for a cursory medical assessment, who will contact the local emergency department if a sexual assault nurse examiner (SANE) exam is necessary.
      - b) Secure perpetrator, under supervision, in a holding cell, and ensure the perpetrator is not allowed to wash, shower, brush their teeth, urinate, defecate, eat, drink, change clothes, or anything else that might destroy evidence. Assign an employee to secure the perpetrator, if necessary.
      - c) Under the instruction of the SIU investigator, a qualified PREA first responder will collect trace evidence at the facility. This will be conducted prior to transport for a SANE exam as instructed by the SIU investigator.



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- d) The SIU investigator is required to conduct a follow-up interview with both offenders the next day following the incident. The offenders will be kept separate until the SIU investigator conducts interviews.
- 8) Delayed Reporting Response Procedures.
  - a) When anonymous information (kite or letter) regarding sexual abuse is received, the OIC will conduct threshold questioning. The OIC will be immediately notified if the on-call SIU staff determine there is a reasonable suspicion of sexual abuse of any type.
  - b) If, through observation or credible information, the OIC has determined that offenders have engaged in non-coerced or non-forced sexual misconduct; it may not be treated as a sexual assault or sexual abuse. The crime scene will remain secured until released by an SIU investigator.
  - c) During the investigation or at any point thereafter, if an offender reports being forced or coerced, protocols for sexual assault will be taken immediately.

## 9. Treatment for Victims of Sexual Assault

### A. Treatment:

1. Acute trauma care will be provided *to victims of sexual assault while incarcerated* including but not limited to prophylactic measures, *testing for sexually transmitted infections* including Human Immunodeficiency Virus (HIV) / Acquired Immune Deficiency Syndrome (AIDS), and *treatment* of injuries. When appropriate, prophylactic therapy will immediately be administered for infectious disease exposures **[PREA 115.83]**.
2. Medical services will conduct a cursory assessment of any victim of a sexual assault. Non-emergent medical care will be provided at the facility, as needed. Any emergent additional medical care will be provided during or after the forensic exam. *Victims of sexual assault will receive timely, unimpeded access to emergency medical treatment and immediate crisis intervention services, the nature and scope of which will be determined by clinical services according to their professional judgment [PREA 115.82]*.
3. *Victims of sexual assault while incarcerated will be offered timely information from clinical services about access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care [PREA 115.82]*.
4. Medical services will consider any treatment of the victim of sexual assault as a medical emergency. The victim of sexual assault will be provided outside medical treatment pursuant to DOC medical protocols, when necessary, and transported to a medical facility for a forensic medical exam with a SANE, upon request by the SIU investigator. When the SIU investigator is not responsible for investigating allegations of sexual assault, the DOC will request that the investigating law enforcement agency follow the requirements outlined in this policy as well as the PREA standards **[PREA 115.21]**.
  - a. Victims of sexual assault are referred under appropriate security provisions to a community medical facility for treatment and gathering of forensic evidence **[PREA 115.83]**.
  - b. In cases where outside medical treatment including forensic evidence collection is required, sign language or language interpreters must be obtained for offenders requiring these services per DOC policy 1500-01 – *Americans with Disabilities Act (ADA)*.
  - c. At no time will the staff leave the victim alone until the victim is evaluated by behavioral health staff. A referral to behavioral health may be made by any DOC employee, contract worker, or volunteer during any step of this process. DOC Staff will contact behavioral health with the on-call system if behavioral staff are not available onsite.
  - d. The SIU investigator will ensure that offenders will be offered a referral to behavioral health and/or medical for immediate crisis intervention, treatment/counseling, and long-term follow-up care **[PREA 115.83]**.
  - e. Offenders identified as being a victim of DOC employee, contract worker, or volunteer sexual assault/rape, or sexual harassment will be referred to behavioral health for treatment/counseling by the SIU investigator or OIC **[PREA 115.83]**.

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5. ***Treatment services will be 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. [PREA 115.82 and 115.83].***
6. ***Offender victims of vaginal penetration while incarcerated will be offered pregnancy tests. If pregnancy results, such victims will receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services [PREA 115.83].***
7. Forensic medical examinations conducted by a SANE nurse will not be completed without the victim's consent.

## 10. Housing:

- A. The OIC or duty officer will arrange housing for victims and perpetrators of any sexual assault. All housing options shall be considered. Following a report of sexual assault, the involved offenders may be removed from population within the guidelines of DOC policy 400-11 – *Offender Classification* pending further review of the incident.
- B. ***Offenders at high risk for sexual victimization or alleged to have suffered sexual abuse or sexual assault will not be placed in involuntary restrictive housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If a facility cannot conduct such an assessment immediately, the facility may hold the offender in involuntary restrictive housing for less than twenty-four (24) hours while completing the assessment [PREA 115.43 and 115.68].***
  1. The facility will document the basis for this housing determination and the reason why no alternative can be arranged. ***Offenders placed in restrictive housing for this purpose will have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility will document the opportunities limited, the reason for such limitations, and the duration of the limitation [PREA 115.43].***
  2. ***The facility may assign victim offenders to restrictive housing for investigative purpose (IP) only until an alternative means of separation from likely abusers can be arranged, and such an assignment will not ordinarily exceed a period of thirty (30) days [PREA 115.43].***
  3. ***If an involuntary restrictive housing assignment is made for this purpose the facility will clearly document, utilizing the IP status form, the basis for the facility's concern for the offender's safety; and the reason why no alternative means of separation can be arranged [PREA 115.43].*** The PREA facility compliance manager or designee will monitor the offender's removal from population and document the reason for the limitations such as restricted access to programs, privileges, education, or work opportunities and the duration of the limitations. All efforts to restore program, privileges, education, and work opportunities should be made as soon as possible, but no longer than thirty (30) days. Once the offender is removed from IP status and access to opportunities have been restored, the PREA facility compliance manager can stop the monitoring.
  4. Offenders at high risk for sexual victimization or alleged to have suffered sexual abuse or sexual assault requiring IP housing beyond thirty (30) days will be held and reviewed in accordance with DOC Policy 300-18 – *Special Management*.
- C. A housing and programming plan will be developed to identify potential threats or risks to an offender's safety. Those involved in identifying housing and programming placement and/or needs include, but are not limited to, security, housing, case management, medical, behavioral health, SIU investigator, PREA facility compliance manager, warden, or designee. If an offender is transferred to another facility, the PREA facility compliance manager will ensure information is provided to the receiving facility's PREA facility compliance manager.

## 11. Victim Advocacy:

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- A. The OIC will initiate victim advocate services *if requested by the victim, a victim advocate or behavioral health will accompany and support the victim through the forensic medical examination process and investigatory interviews and will provide emotional support, crisis intervention, information, and referrals [PREA 115.21]*. If a victim advocate from a rape crisis center is not available to provide victim advocate services, behavioral health staff from the department will respond accordingly.
- B. Offenders shall have access to outside victim advocates. Offenders will be provided mailing addresses and telephone numbers (including toll-free hotline numbers, where available) of local, state, or national victim advocacy or rape crisis organizations.
1. Correspondence with a Victim Advocate/Rape Crisis Center is privileged. Offenders are allowed privileged telephone calls with Victim Advocate/Rape Crisis Centers Calls from the offender telephones or tablets will not be monitored and/or recorded for content. Messages sent from offender tablets are not confidential and subject to reading by staff (see DOC policies 500-05 – *Offender Access to Telephones and Tablets* and 500-06 – *Offender Correspondence*).
- C. The PREA coordinator shall pursue and maintain any memoranda of understanding (MOU), or other agreement with a community service provider who agrees to provide offenders with confidential emotional support services related to sexual abuse. *The PREA coordinator will maintain copies of such agreements or documentation showing attempts to enter into such agreements* and renew these as necessary [PREA 115.21].
- D. Victim advocates provided by rape crisis centers, qualified agencies, and qualified community-based organizations that provide services to offenders through an agreement or MOU with the facility/DOC, will be offered specialized training from the DOC, as necessary.
1. Training may include advocate responsibilities to prevent sexual abuse, detection, and response to sexual abuse in accordance with DOC policy and procedures – including the DOC’s zero-tolerance policy and how to report such incidents to the DOC.
- E. All victim advocates requesting access to a DOC facility to provide services to an offender outside of the offender visit process, must apply for a volunteer ID.

## 12. Investigation Procedures

- A. General Procedure
1. *SIU investigators will conduct all administrative and criminal investigations into allegations of sexual abuse, sexual assault/rape, sexual misconduct, or sexual harassment that occur in DOC facilities operated by, or pursuant to, a contract with the DOC (including return to custody offenders of contract facilities). SIU will contact and work with DCI for criminal cases [PREA 115.22].*
- B. *SIU will ensure that a criminal investigation is completed for all allegations of sexual abuse and sexual assault/rape and will ensure that for all cases alleging criminal behaviors are referred for investigation to an agency with the legal authority to conduct criminal investigations.* SIU investigators will document all such referrals in the COMS reportable incident reporting system. When outside agencies conduct investigations, the facility will cooperate with outside investigators and will endeavor to remain informed about the progress of the investigation [PREA 115.22 and PREA 115.71].
- C. *Criminal investigations will be documented in a written report containing a thorough description of physical, testimonial, and documentary evidence with copies of all documentary evidence attached where feasible* SIU will document such investigations from DCI in reportable incidents in COMS [PREA 115.71].

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- D. The SIU investigator will provide an Offender PREA brochure to victims of sexual assault or sexual harassment and victims of retaliation related to the reporting of such behavior. The SIU investigator will explain the right(s) the offender has concerning the investigation and prosecution.
- E. *The credibility of an alleged victim, suspect, or witness will be assessed on an individual basis and will not be determined by the person's status as offender or staff. DOC will not require an offender who alleges an act of sexual assault/rape, or sexual harassment to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation [PREA 115.71].*
- F. *DOC will impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual assault, sexual abuse, or sexual harassment are substantiated. Substantiated allegations of conduct that appear to be criminal will be referred for prosecution.* For each allegation of sexual assault, sexual abuse, or sexual harassment, the PREA coordinator, PREA facility compliance manager, SIU investigator, or appointing authority will determine whether the allegation is: **[PREA115.71 and PREA 115.72]**.
1. **Substantiated:** The allegation was determined to have occurred.
  2. **Unsubstantiated:** Evidence was insufficient to make a final determination that the allegation was true or false; or
  3. **Unfounded:** The allegation was determined not to have occurred.
- Following an investigation into an offender's allegation of sexual abuse or sexual assault, the PREA facility compliance manager will inform the offender as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded in accordance with policy with the investigation determination form [PREA 115.73] (see attachment #6 – Notice of PREA Investigation Determination).*
- G. *After completing an investigation of sexual abuse, sexual assault, or retaliation for reporting such behavior in a correctional setting that was substantiated, SIU or the outside agency DCI investigator will submit the findings to the Office of the Attorney General for prosecution [PREA 115.71].*
- H. *The departure of the suspect or victim from the employment or control of the facility or agency will not provide a basis for terminating an investigation [PREA 115.71].*
- I. Sexual assault collection of evidence.
1. *The SIU investigator will follow a sexual assault uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.* Collection of trace evidence will be done by a qualified DOC PREA first responder and/or DCI **[PREA 115.21]**.
  2. The requesting SIU investigator will be onsite and present to ensure appropriate chain of custody, during trace evidence collection at the facility, prior to transport for a forensic medical exam (the only exception is when an investigator is not geographically available to the facility).
  3. During the trace evidence collection, any anatomical exam will be done in accordance with clinical standards and procedures for sexual assault/rape.
  4. In the event that the offender's injuries prevent the offender from standing to participate in trace evidence collection, the offender will have this process conducted at the hospital by the SANE. A medical facility with available SANE staff is preferred to ensure proper procedures are followed for the collection of evidence.
  5. *Access to forensic medical examinations will be free of charge. Once the SIU Investigator determines a forensic medical examination is needed, such examinations will be performed by Sexual Assault Forensic Examiners (SAFE) or SANE where possible. If a SAFE or SANE cannot be made available, the examination can be performed by other qualified medical practitioners at the hospital. DOC will document efforts to provide a forensic medical exam performed by a SAFE or SANE [PREA 115.21].*
  6. Victims who do not wish to cooperate may be offered a forensic medical exam by the SIU investigator. If a victim of a sexual assault crime wishes to receive a forensic medical exam but does

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not at the time of receiving the exam, want to participate in the investigation, the offender may be transported to a hospital for a forensic medical exam. [PREA 115.82]

#### J. Victim Services

1. ***The facility will provide offenders with access to outside victim advocates for emotional support services through the following [PREA 115.53]:***
  - a. The contact information for statewide, national, and local rape crisis centers, is available through the PREA facility compliance manager and/or offender tablet.
  - b. Offenders can contact the rape crisis hotline at #21 (or #22 after hours). Offenders will be advised these calls are free, confidential, anonymous, and are not recorded or monitored. The rape crisis advocates are mandatory reporters and are required to report threats of suicide or homicide and reports of child abuse to the DOC or appropriate agency. Abuse of the rape crisis hotline will be reported to the SIU investigators by the rape crisis advocate and may result in disciplinary action. Disciplinary action may include, but is not limited to, blocking of calls to the rape crisis line and/or DOC disciplinary sanctions [PREA 115.53].
  - c. DOC behavioral health counselors are available for crisis counseling upon offender request.

#### K. Supervision and Monitoring

1. ***Whenever necessary, but no less frequently than once each year, each facility operated by the DOC, the warden in consultation with the PREA coordinator and PREA facility compliance manager, will assess, determine, and document whether adjustments are needed to the facility staffing plan (see attachment #1 - Facility Staffing Plan). The overall rate of compliance with the approved staffing plan during the past year shall be considered, in addition to the number of documented incidents of sexual abuse and deviations from the staffing that occurred at the facility during the review period [PREA 115.13].***
2. ***When designing or acquiring any new facility, or planning any substantial expansion or modification of an existing facility, or installing or updating a new video monitoring system, electronic surveillance system or other monitoring technology, the PREA facility compliance manager and PREA coordinator will consult with the director of prisons and warden or designee to consider any effects of the design, acquisition, expansion, update, or installation may potentially have on staff's ability to protect offenders from sexual abuse [PREA 115.18].***
3. The physical plant manager or staff designated by the warden will complete the *Upgrades to Facilities and Technology* form (see attachment #2) describing any expansion, modification, installation, upgrade, etc. A copy of this report will be sent to the warden, director of prisons, PREA facility compliance manager, and PREA coordinator [PREA 115.18].
4. Once the review is complete, any recommendations will be forwarded to the warden and director of prisons.
5. If the recommendations are approved, these will be briefed to the secretary of corrections (SOC).
6. ***Lieutenants or higher-level supervisors will conduct and document unannounced rounds to identify and deter sexual assault/rape, sexual abuse, sexual misconduct, and sexual harassment. Such unannounced rounds will occur during all shifts and be documented via the rounds tracking system and/or COMS shift log. DOC employees are prohibited from alerting others that these supervisory rounds are occurring unless such announcement is related to the legitimate operational functions of the facility [PREA 115.13].***

### 13. PREA Incident Reviews and Data Review for Corrective Action:

#### A. PREA Sexual Incident Reviews

1. Upon completion of the investigation for sexual abuse (excluding sexual harassment and sexual misconduct), the PREA facility compliance manager will send the completed investigation packet and accompanying documents to the PREA coordinator.
2. ***Facilities will conduct a sexual incident review at the conclusion of every sexual assault/rape investigation (excluding sexual harassment and sexual misconduct). The sexual incident review will be conducted for all substantiated and unsubstantiated sexual abuse incident. If an allegation***

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*has been determined to be unfounded, no sexual incident review needs to be completed [PREA 115.86].*

- a. The PREA facility compliance manager will receive the completed investigation packet within three (3) working days of the conclusion of the investigation from the SIU Investigator.
- b. ***The sexual incident review will ordinarily occur within thirty (30) days of the conclusion of the investigation [PREA 115.86].***
- c. The PREA facility compliance manager (review team leader) will arrange and oversee the sexual incident review.
- d. ***The sexual incident review team will include PREA facility compliance manager (team leader), PREA coordinator, warden or designee, unit manager of participants of report, SIU investigator, associate director of offender services or designee, medical supervisor, behavioral health supervisor, and SOMP supervisor [PREA 115.86].***
- e. The sexual incident review team will meet and complete the *PREA Sexual Abuse Incident Review Form* (see attachment #4).
  - 1) ***Consider whether the allegation or investigation indicates a need to change policy or practice [PREA 115.86].***
  - 2) ***Consider whether the incident or allegation was motivated by race, ethnicity, gender identity, lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status, gang affiliation, or was motivated or otherwise caused by other group dynamics at the facility [PREA 115.86].***
  - 3) ***Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable sexual abuse or sexual assault [PREA 115.86].***
  - 4) ***Assess the adequacy of staffing levels in that area during different shifts [PREA 115.86].***
  - 5) ***Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff [PREA 115.86].***
  - 6) ***Prepare a report of its findings, including but not necessarily limited to determinations made above, and any recommendations for improvement and submit such report to the facility warden, director of prisons, and PREA coordinator [PREA 115.86].***
  - 7) ***The facility will implement the recommendations for improvement or will document its reasons for not doing so [PREA 115.86].***

B. PREA aggregated data and annual report:

1. ***The PREA coordinator will:***
  - a. ***Review data collected and aggregate the information in order to assess and improve the effectiveness of DOC's prevention, detection, and response policies, practices, and training using a standardized instrument and set of definitions [PREA 115.88].***
  - b. ***Identify problem areas.***
  - c. ***Recommend corrective action on an ongoing basis, and***
  - d. ***Prepare an annual report of findings and corrective actions for each facility, as well as DOC as a whole. Such report will include a comparison of the current year's data and corrective actions with those from prior years and will provide an assessment of DOC's progress in addressing sexual assault/rape, sexual misconduct, and sexual harassment. DOC's report will be approved by the DOC SOC or designee and made readily available to the public through its website. DOC may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility but must indicate the nature of the material redacted [PREA 115.88].***
  - e. ***The PREA coordinator and PREA facility compliance manager will maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and facility PREA incident reviews [PREA 115.87]. This data collected will be maintained in a secure area and will only be shared on a need-to-know basis by the PREA coordinator [PREA 115.89].***
  - f. Case Records: In accordance with the SDCL § 1-27 public records and files, and any subsequent updates or supersessions thereof, all case records associated with claims of sexual assault/rape, sexual misconduct, and sexual harassment, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and/or counseling, are retained by the IG or DOC

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at least ten (10) years after the date of the initial collection. Information required as part of the offender's medical care will be maintained in their medical record.

- g. The PREA coordinator will be responsible to **aggregate** and report on **incident-based sexual assault/rape, sexual misconduct, and sexual harassment at least annually**. The DOC also will obtain incident-based and aggregated data from every contracted entity with which it contracts for the confinement of its offenders [PREA 115.87].
- h. The PREA coordinator will make all aggregated sexual assault, and sexual harassment data, from facilities under its direct control and contracted facilities, the Secretary of Corrections will approve the report and the report will be readily available to the public at least annually through its website after removal of all personal identifiers.
- i. The PREA coordinator will be responsible for compiling records and reporting statistical data to the Federal Bureau of Justice Statistics, as required by PREA of 2003 using a standardized instrument and set of definitions. **Upon request, the DOC will provide all such data from the previous calendar year at the date requested by the Department of Justice no later than June 30 [PREA 115.87].**

#### 14. Hiring and Promotions:

- A. **Hiring authority will ensure any incidents of sexual harassment are considered in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with offenders. Bureau of Human Resources and Administration personnel will be responsible to notify the hiring authority after their selection has cleared the background process. Any staff member, contractor, or volunteer who is found to have engaged in sexual abuse or sexual harassment of an offender is subject to the provisions of DOC policy 100-12 – Screening of Staff Volunteers and Contractors for Prior Sexual Abuse. [PREA 115.17]**

#### V. RESPONSIBILITY

- A. All PREA training curriculum will be reviewed and approved by the corrections training academy in conjunction with the PREA coordinator prior to implementation.
- B. The director of Prisons is responsible for the annual review and maintenance of this policy.

#### VI. AUTHORITY

SDCL §§ 1-27, 22-22-7.6, 24-1-26.1, 24-2-9  
ARSD: 55:10:07:04

#### VII. HISTORY

**1.3.D.06 – New Combined Policy**  
August 2023

**The following policies combined into singular 1.3.D.06:**

**1.3.E.5 - PREA Compliance with Prison Rape Elimination Act Standards**  
September 2021  
February 2020  
October 2018  
March 2017  
June 2016  
April 2015  
July 2014 – New policy

**1.3.E.6 - PREA Response and Investigation of Sexual Abuse/Harassment**  
September 2021  
March 2020  
October 2018

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April 2017  
April 2016  
April 2015  
September 2014 – New policy

#### **1.4.B.16 - PREA Institutional Risk Screens**

August 2021  
March 2020  
June 2018  
January 2018  
May 2016  
April 2015  
November 2013 – New policy

#### **ATTACHMENTS** (\*Indicates document opens externally)

1. Facility Staffing Plan\*
2. Upgrades to Facilities and Technology\*
3. PREA Response Facility Checklist\*
4. PREA Sexual Abuse Incident Review Form\*
5. Retaliation Monitoring\*
6. Notice of PREA Investigation Determination\*
7. PREA Offender Admission & Review Screen Scoring\*
8. Acknowledgment of PREA Procedures (*Generated in COMS*)
9. Reporting to Other Confinement Facilities\*
10. Administrative Override Referral\*
11. DOC Policy Implementation / Adjustments



## SDDOC PREA Facility Staffing Plan

Click or tap to enter a date.

**SDDOC** Choose an item. **has developed the following plan to ensure adequate staffing levels and video monitoring to protect offenders from sexual abuse:**

In developing the attached staffing plan, Choose an item. considered the following factors:

1. Generally accepted detention, correctional, and community confinement practices. *Refer to the National Institute of Correction (NIC)'s Staffing Analysis Workbook for Jails (available at <http://static.nicic.gov/Library/016827.pdf>), American Correctional Association (ACA)'s Core Jail Standards, or similarly peer reviewed document.*

Yes:  No:

Notes:

2. Any judicial findings of inadequacy: *Indicate if any inadequacies have been found in the facility's staffing or supervision by any courts (such as a circuit or appellate court), and how the facility is addressing these deficiencies in the current staffing plan.*

Yes:  No:

Notes:

3. Any findings of inadequacy from Federal investigative agencies: *Indicate if any inadequacies have been found in the facility's staffing or supervision by any federal investigative agencies (such as the U.S. Department of Justice), and how facility is addressing these deficiencies in the current staffing plan.*

Yes:  No:

Notes:

4. Any findings of inadequacy from internal or external oversight bodies? *Indicate if any inadequacies in facility's staffing or supervision have been found by any internal or external oversight bodies (such as an Office of the Inspector General, an accrediting body, or the U.S. Department of Justice), and how facility is addressing these deficiencies in the current staffing plan.*

Yes:  No:

Notes:

5. All components of the facility's physical plant (including "blind-spots" or areas where staff or offenders may be isolated). *Indicate how the various components of the facility's physical plant were considered in creating the staffing plan, including any areas that can be accessed by offenders and staff. Include "blind spots" or other areas that are not visible to staff, as well as areas in the facility with minimal staffing (such as the kitchen or other places where offenders may congregate without constant supervision by custody staff).* See Facility Lay-out requirements.

Yes:  No:

Notes:

6. The number and placement of supervisory staff: *Indicate how the facility considered the number of supervisory staff on each shift, their rank, and the areas they supervise within the facility. Small jails, in particular, will want to note their strategy for ensuring adequate supervision in facilities where there may be few intermediate-level supervisors.* See Organizational Chart requirements.

Yes:  No:

Notes:

7. Institutional programs occurring on a particular shift: *Indicate how the facility determined where it would assign staff to cover any programs – such as visitation, recreation, education classes, – on given shifts when determining staffing levels. Facility should demonstrate the methodology for assigning staff to various shifts based on programs.* See Organizational Chart requirements.

Yes:  No:

Notes:

8. The composition of the offender population: *Indicate how the composition of the facility's offender's population was taken into consideration when creating the staffing plan. PREA coordinator will prepare a detailed analysis of the offender population, including an examination of demographic characteristics such as age, gender, race, ethnic origin, gender identity, security levels, designation of individuals with specific risk factors (such as serious persistent mental illness, intellectual disabilities, physical disabilities), and/or predatory risks – such as gang affiliation, prior violent outbursts, poor disciplinary history, etc.*

Yes:  No:

Notes:

9. The prevalence of substantiated and unsubstantiated incidents of sexual abuse cases: *Provide an explanation for how the number of incidents of sexual abuse (both substantiated and unsubstantiated) were considered when determining the staffing plan. For example, if most allegations of sexual abuse occur in the evenings, your agency may need to assign more staff or supervisors to night shifts.*

Yes:  No:

Notes:

10. Any applicable state or local laws, regulations, or standards: *List any state or local laws, regulations, or standards regarding staff supervision. These laws typically indicate a specific staff to offender ratio that may be required in a particular jurisdiction or type of facility.*

Yes:  No:

Notes:

11. Any other relevant factors: *Consider operations factors such as key control and monitoring of movement of staff and offenders (such as how rounds are documented); transportation policies; how contractual and volunteer staff are supervised; procedures for emergencies that might lead to a staff shortage.*

Yes:  No:

Notes:

### Required attachments:

#### Facility Organizational Chart:

1. Attach an organizational chart that depicts all posts assigned to the facility.
2. Organizational chart should, at a minimum, include the following:
  - a. Composition of offender population for facility.
  - b. Institutional work, programming, and educational posts.
  - c. Post Name, full/part time, and a summary post description (identify supervisory staff).
  - d. Identify post priority levels.

#### Security Staff/ Direct Care

Level 1: Security / Direct Care staffed 24/7. Not to be reassigned.

Level 2: Security / Direct Care staffed on schedule post. Possible reassignment.

Level 3: Security / Direct Care staffed post. Can be reassigned.

#### Administrative / Program

Level A: Administrative Priority. Not to be reassigned.

Level B: Administrative Post. Possible Security reassignment.

Level C: Programs / Education staff. Not to be reassigned

Facility Lay-out:

1. Identify current deployment of video and other electronic monitoring systems.
2. Identify 'blind spots' or other problem areas.

Staffing Plan Compliance:

1. Review previous years (if applicable) facility compliance reports and note any discrepancies on the current report.
2. The facility will document any deviations of Security Staff level 1 posting, and the reason for the deviation in the shift report:

Corrective Review:

1. Has the facility made its best efforts to comply with the staffing plan on a regular basis?  
Yes:  No:   
Notes:
2. Is the facility's deployment of video monitoring systems adequate? Any updates or additions needed?  
Yes:  No:   
Notes:
3. Does the facility have the resources available to commit to ensure adherence to the staffing plan?  
Yes:  No:   
Notes:
4. Other Recommendations:  
Yes:  No:   
Notes:

Prepared By: \_\_\_\_\_

Next Review Date: Click or tap to enter a date.

Approved By: \_\_\_\_\_ Date: \_\_\_\_\_

**Copy to PREA Coordinator**

\_\_\_\_\_  
**INT Date Received**

## Upgrades to Facility and Technology PREA Standard Review

Facility: \_\_\_\_\_

Unit: \_\_\_\_\_

Area: \_\_\_\_\_

Description of upgrade: \_\_\_\_\_

Reason for upgrade: \_\_\_\_\_

Will the design, modification, installation, or update affect the agency's ability to protect offender from sexual abuse?

Yes

No

If yes: Briefly explain the project's effect on the agency's ability to protect offender from sexual abuse.

Facility Physical Plant

Manager: \_\_\_\_\_

Date: \_\_\_\_\_

Facility Administrator: \_\_\_\_\_

Date: \_\_\_\_\_

CC: Physical Plant Manager  
PREA Facility Compliance Manager  
PREA Coordinator

**PREA Response Facility Checklist**

<b>Checklist:</b>		<b>SEXUAL ABUSE INCIDENTS</b>
<b>V</b>	<b>P</b>	
<input type="checkbox"/>	<input type="checkbox"/>	Any information indicating sexual activity occurred ( <i>such as staff observation, claims of not forced or coerced sexual activity, allegations of force used or intimidation to perform sexual activity, allegations of staff sexual involvement, physical evidence visible, witness statement or allegations, etc.</i> ) Ask no further questions except as indicated below or as directed by the SIU investigator.
<input type="checkbox"/>	<input type="checkbox"/>	Secure the crime scene in accordance with policy:
<input type="checkbox"/>	<input type="checkbox"/>	Separate offenders and place under continuous staff observation with no plumbing access. No water for cleaning self. No questions asked by staff. Offenders' bodies and clothing are potential crime scene/evidence. Request the alleged victim not take any actions to destroy physical evidence, including as appropriate washing, brushing teeth, changing clothing, urinating, defecating, eating, and drinking.
<input type="checkbox"/>	<input type="checkbox"/>	Separate/segregate potential witnesses and cellmates of victim/perpetrator pending SIU investigator interviews.
<input type="checkbox"/>	<input type="checkbox"/>	Transport the victim to clinical services for a cursory medical assessment and render emergency medical care if appropriate (offender may remain in clinical until SIU is notified).
<input type="checkbox"/>	<input type="checkbox"/>	If there is life threatening trauma, the offender (s) will be transported by ambulance to the hospital.
<input type="checkbox"/>	<input type="checkbox"/>	OIC begins threshold questions: Who, what, where, when, and hygiene questions ( <i>have you showered, brushed your teeth, changed clothing, urinated, or had a bowel movement?</i> )
<input type="checkbox"/>	<input type="checkbox"/>	Record all spontaneous utterances. <b>DO NOT INTERRUPT WITH QUESTIONING</b>
<input type="checkbox"/>	<input type="checkbox"/>	Notify duty officer by phone.
<input type="checkbox"/>	<input type="checkbox"/>	Notify SIU investigator.
<input type="checkbox"/>	<input type="checkbox"/>	Notify HSA.
<input type="checkbox"/>	<input type="checkbox"/>	Notify behavioral health staff.
<input type="checkbox"/>	<input type="checkbox"/>	Trace evidence collection when OIG instructed.
<input type="checkbox"/>	<input type="checkbox"/>	Upon instruction of SIU, apply transport restraints and transport potential victim (s) to the hospital for forensic medical examination.
<input type="checkbox"/>	<input type="checkbox"/>	Inform staff they cannot sign for the offender for the forensic medical exam; only the offender can consent. Instruct staff to direct any questions asked of them, by hospital staff, to SIU investigator.
<input type="checkbox"/>	<input type="checkbox"/>	Upon return to the facility; OIC will ensure the offender remains under continuous direct supervision. Notify behavioral health to assess the victim upon return from the SANE examination preferably in person.
<input type="checkbox"/>	<input type="checkbox"/>	Complete all for alleged perpetrator.

<b>Submitted to the IG and PREA Compliance office:</b>	Click or tap to enter a date.	<b>Submitted by:</b>	
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### PREA Sexual Abuse Incident Review Form

Type of Incident: Double click and select "Checked" on one or more of the boxes below.

Offender

Staff/Contractor/Volunteer

Sexual Abuse

Sexual Assault/Rape

Substantiated

Unsubstantiated

**Reportable Incident Title:**

**Reportable Incident Number:**

**Incident Date:**

**Review Date:**

#### Review Questions

1. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse.

*Notes/Recommendation:* [Click here to enter text.](#)

2. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.

*Notes/Recommendation:* [Click here to enter text.](#)

3. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.

*Notes/Recommendation:* [Click here to enter text.](#)

4. Assess the adequacy of staffing levels in that area during different shifts.

*Notes/Recommendation:* [Click here to enter text.](#)

5. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

*Notes/Recommendation:* [Click here to enter text.](#)

6. Other considerations (list).

*Notes/Recommendation:* [Click here to enter text.](#)

PREA Sexual Abuse Incident Recommendation Review			
Recommendation	Approve	Deny	
1.	<input type="checkbox"/>	<input type="checkbox"/>	
2.	<input type="checkbox"/>	<input type="checkbox"/>	
3.	<input type="checkbox"/>	<input type="checkbox"/>	
Denied Explanation:			
Warden Signature:		Date:	

**PREA Sexual Abuse Incident Committee:**

PREA Facility Compliance Manager: \_\_\_\_\_

Associate Warden: \_\_\_\_\_

Investigator: \_\_\_\_\_

Medical Representative: \_\_\_\_\_

Behavioral Health Representative: \_\_\_\_\_

Unit Staff (Unit or Case Manager): \_\_\_\_\_

SOMP Manager: \_\_\_\_\_

Other Staff: : \_\_\_\_\_

PREA Facility Compliance Manger: \_\_\_\_\_ Date: \_\_\_\_\_

Send Copy to

- Warden
- PREA Coordinator
- Director of Prison Operations

Add to reportable incident packet



### Retaliation Monitoring

<b>Incident Title:</b>		<b>Incident Number:</b>	
<b>Incident Type:</b>	Choose an item.	<b>Incident Findings:</b>	Choose an item.
<b>Incident Date:</b>	Click or tap to enter a date.	<b>Reported Date:</b>	Click or tap to enter a date.

<b>Participation:</b>	<b>Name:</b>	<b>Number:</b>
Choose an item.		

Is the participant experiencing any issues with offenders or staff related to this incident?		
First Status Check	Click or tap to enter a date.	Choose an item.
Second Status Check	Click or tap to enter a date.	Choose an item.
Third Status Check	Click or tap to enter a date.	Choose an item.
Additional Status Check	Click or tap to enter a date.	Choose an item.
2 <sup>nd</sup> Additional Status Check	Click or tap to enter a date.	Choose an item.
Comments:		

Does the participant feel safe in their current placement?		
First Status Check	Click or tap to enter a date.	Choose an item.
Second Status Check	Click or tap to enter a date.	Choose an item.
Third Status Check	Click or tap to enter a date.	Choose an item.
Additional Status Check	Click or tap to enter a date.	Choose an item.
2 <sup>nd</sup> Additional Status Check	Click or tap to enter a date.	Choose an item.
Comments:		

Review of disciplinary, assignments, programs, and work changes.		
First Status Check	Click or tap to enter a date.	Choose an item.
Second Status Check	Click or tap to enter a date.	Choose an item.
Third Status Check	Click or tap to enter a date.	Choose an item.
Additional Status Check	Click or tap to enter a date.	Choose an item.
2 <sup>nd</sup> Additional Status Check	Click or tap to enter a date.	Choose an item.
Comments:		

First Status Check Completed by:		Click or tap to enter a date.
Second Status Check Completed by:		Click or tap to enter a date.
Third Status Check Completed by:		Click or tap to enter a date.
Additional Status Check Completed by:		Click or tap to enter a date.
PREA Facility Compliance Manger:		Click or tap to enter a date.

Notification of Staff:		
SIU:		Click or tap to enter a date.
PREA Coordinator:		Click or tap to enter a date.
Warden:		Click or tap to enter a date.

## Notice of PREA Investigation Determination

Inspector General

<b>Participation:</b>	<b>Name:</b>	<b>Number:</b>
Choose an item.		

<b>Incident Title:</b>		<b>Incident Number:</b>	
<b>Incident Type:</b>	Choose an item.	<b>Incident Findings:</b>	Choose an item.
<b>Incident Date:</b>	Click or tap to enter a date.	<b>Reported Date:</b>	Click or tap to enter a date.

The Inspector General (IG) has completed the investigation into the allegation reported. This notice is to inform you that the allegation of (TYPE) Choose an item. was determined to be (FINDINGS) Choose an item.

**Definitions:**

- Substantiated: This means there was **evidence** or information that the allegation **did happen**.
- Unsubstantiated: This means there is **not enough evidence** or information **to make a determination**.
- Unfounded: This means there was **evidence** or information that the allegation **did not happen**.

\_\_\_\_\_  
*SIGNATURE*

\_\_\_\_\_  
*DATE*

\_\_\_\_\_  
*WITNESS*

\_\_\_\_\_  
*DATE*

*NOTICE: If you believe there was a procedural of policy error or omission in this investigation and determination you may file a grievance with your unit staff. You do not need to go through the informal resolution step for this type of procedure. In the grievance you must identify the procedural or policy error or omission.*

*Original to file  
Copy to offender*

**PREA Offender Admission & Review Screen Scoring**  
SOUTH DAKOTA DEPARTMENT OF CORRECTIONS  
PREA RISK SCREEN SCORING GUIDE

**PREA Risk Screen Types**

**Initial (72 HR) PREA Risk Screen:**

All offenders newly admitted to the DOC will have an Initial PREA Risk Screen completed by trained facility Unit Staff within seventy-two (72) hours of their arrival at the facility.

**Admissions (30 Day) Risk Screen:**

All offenders newly admitted to the DOC will have an Admissions PREA Risk Screen completed by trained A&O case manager within thirty (30) days of their arrival at the facility.

**PREA Risk Screen Review:**

Reassess warranted due to a facility transfer, incident of sexual abuse, or receipt of additional information that effects the offender's risk of sexual victimization or abusiveness.

**Note:** Staff conducting the PREA Risk Screen shall implement appropriate controls on the dissemination of offender information and responses to questions asked pursuant to this risk screen in order to ensure that sensitive information is not exploited to the offender's detriment by staff or other offenders.

**POTENTIAL AGGRESSOR:**

**1. Institutional incidents of sexually abusing other offenders**

*Review NCIC, prior PREA assessments, and any institutional (DOC or jail) reports. File information when available. Ask offender in interview. If reported as YES, notify SOMP/clinical services for follow up interview.*

***Initial or Admissions Interview question:***

*Have you ever been involved in an incident where you sexually abused other offenders?*

***For Reviews:***

*There has to be documented reports or other evidence. Revised offender yes statements cannot be changed later unless there is documented evidence from an accredited source.*

**2. Offender has prior acts of violent sexual abuse (non-institutional)**

*Review NCIC, file information when available. Include offenses that were originally charges of a violent sex offense and plea bargained down at court\* (refer to SOMP), Ask offender in interview. If reported as Yes, notify SOMP/clinical services for follow up interview. \*Note: Only count sexual charges that plea bargained down to a lesser charge - do not count if the charge was dismissed or not prosecuted.*

***Initial or Admissions Interview question:***

*Have you ever been involved in an incident where you sexually abused other people outside of prison?*

***For Reviews:***

*There has to be documented reports or other evidence. Revised offender yes statements cannot be changed later unless there is documented evidence from an accredited source.*

**3. Offender has prior felony convictions for violent offenses**

*Review NCIC, prior felony incarcerations, use DOC Crime Codes & Classification for determination of violent offenses. Note: Count **prior violent felony convictions** only - do not count current charge or any misdemeanor offenses.*

**4. Offender has violence within institutional setting or jails**

*Include any institutional (DOC or jail) reports.*

***Initial or Admissions:***

*If information not available yet, ask offender.*

***For Reviews:***

*There has to be documented reports or other evidence.*

**POTENTIAL VICTIM:****1. Presents or identities a mental, physical, or developmental disability**

*Check the Alert Status in COMS for the Mental Health code of “No Move- Contact CBH - Support Living Environment - NOMOVE”, and interview staff can make referral to behavioral health based upon observation. Behavioral health will make the final determination in writing. Clinical services will make an individual determination if a person has a physical or developmental disability. Offender may have an ADA coding in COMS Medical Restrictions. \*Note: Clinical services should determine if an individual offender’s physical limitation is significant enough to make him/her vulnerable to other offenders (not just sexual abuse). Is the offender’s ability to protect themselves to the same level of other offenders, compromised by this disability?*

**2. History of prior sexual victimization (institutional)**

*Review prior PREA assessments. File information when available. Include all detention facilities. Ask offender in interview. If reported as Yes, notify behavioral health for follow up interview.*

***Initial or Admissions Interview question:***

*Have you ever been a victim of sexual abuse in prison or jail? Note: Offender discloses to sexual abuse victimization during the Initial or Admissions interview cannot be changed later unless there is documented evidence supporting the change.*

***For Reviews:***

*There has to be documented reports or other evidence. Revised offender statements of yes cannot be changed later unless there is documented evidence from an accredited source.*

**3. History of prior sexual victimization (non-institutional)**

*Review NCIC, prior incarcerations, use DOC Crime Codes & Classification for determination of violent offenses. Accredited sources can also be used. Examples of accredited sources: PSI, Treatment Needs Assessments, CD & SOMP Assessments, and/or psychosexual evaluations.*

***Initial or Admissions Interview question:***

*Have you ever been a victim of sexual abuse in the community? Note: If offender discloses sexual abuse victimization during the Initial or Admissions interview yes answers cannot be changed later unless there is documented evidence supporting the change.*

***For Reviews:***

*There has to be documented reports or other evidence. Revised offender yes statements cannot be changed later unless there is documented evidence from an accredited source.*

**4. Offender is less than 21 years old or over 65 years old**

*Check incoming or prior records on COMS. If information is not available yet, ask offender.*

**5. Offender is of slight physical stature:**

*Male: less than 5’6” and/or less than 140 pounds / Female: less than 5’ and/or less than 100 pounds Check incoming or prior records on COMS. If information is not available yet, ask offender. Note: Offender needs to meet only one of these criteria; the offender does not have to meet both.*

**6. Offenders first time incarcerated in prison.**

*Review NCIC. File information when available.*

***Initial or Admissions interview question:***

*If information is not available yet, ask offender.*

***For Reviews:***

*There has to be documented reports or other evidence. **Note:** 1) This is only scored on offender's first admission to a State or Federal facility. 2) Offenders returning to prison after leaving prison on parole, probation or suspended sentence and having access to the community would not score. **Example:** A first time offender who has been released to the community (or on CTP with access to the community) and is returning on a parole violation would not score.*

**7. Criminal History is exclusively non-violent**

*Review NCIC – include all (felony & misdemeanor) convictions. File information when available. Use DOC Crime Codes & Classification for determination of violent offenses. If information is not available yet, ask offender.*

**Note:** *All convictions - includes past and current.*

**8. Offender is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming**

*File information when available. Ask offender in interview. Staff perception is based upon the interview with offender and staff observation.*

**Must Ask Interview question:** *Are you gay, lesbian, bisexual, transgender, intersex, or gender nonconforming? If the offender answers yes to transgender, gender nonconforming, or intersex refer inmate to the tender dysphoria treatment committee.*

**9. Offender has current or prior convictions for sex offenses against a child or adult**

*If available review NCIC – include all (felony & misdemeanor) convictions.*

***At Initial or Admissions:***

*If information not available yet, ask offender. **Note:** Offender admissions to current or prior sex offences during the Initial or Admissions interview yes answers cannot be changed later unless there is documented evidence supporting the change.*

***For Reviews:***

*There has to be documented reports or other evidence. Revised offender statements cannot be changed later unless there is documented evidence from an accredited source.*

**10. Offender believes he/she is vulnerable to being sexually victimized in the institution**

**Must Ask Interview question:** *Do you believe yourself to be vulnerable to being sexually abused in prison?*

**NOTES:** When scoring the Risk Screen in COMS and scoring a PREA RISK screen item as a “YES” it is mandatory that the assessor put comments in the Question Comments Field of COMS documenting why an Item was scored YES.

### Acknowledgement of Prison Rape Elimination Act Procedures

Name: \_\_\_\_\_ DOC ID: \_\_\_\_\_

- PREA 72 HR (A&O) Assessment:** to be completed with the offenders initial PREA 72 HR assessment.
- PREA 72 HR Safety Briefing** to be given to offender during the PREA 72 HR assessment.
- PREA Admissions and Orientation Class:** to be completed during admissions and orientation either in person or by video presentation regarding the offender’s rights to be free from sexual abuse, retaliation, and how to report incidents.
- PREA Risk Screen Assessment:** to be completed within 30 days of offender’s admission to the facility.

Checkmark if the following are completed.

I acknowledge receiving information on the prevention of sexual abuse and the SDDOC policy on zero tolerance of sexual abuse.

I acknowledge receiving information on my rights to be free from sexual abuse and to be free from retaliation from reporting such incidents.

I acknowledge completing the PREA admissions and orientation class.

I acknowledge receiving information pertaining to the prevention and reporting of sexual assault. I understand that I am obligated to immediately report the sexual abuse of any offender.

Offender was offered PREA Admissions and orientation class and refused participation.

Offender’s Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Staff’s Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## Reporting to Other Confinement Facilities

From: South Dakota Department of Corrections

[Enter your facility here](#)

Attention: [Enter agency director.](#)

Subject: PREA Standard 115.63 Report of sexual abuse

Date: [enter today's date.](#)

The following information is a report of Sexual Abuse made by an offender on [Click or tap to enter a date.](#) In accordance with PREA Standard 115.63 we are forwarding this to you for appropriate action.

Reported victim's name:	<a href="#">Click or tap here to enter text.</a>
Reported perpetrator's name:	<a href="#">Click or tap here to enter text.</a>
Date of incident:	<a href="#">Click or tap here to enter text.</a>
Time of incident:	<a href="#">Click or tap here to enter text.</a>
Facility of incident:	<a href="#">Click or tap here to enter text.</a>

Response:		
New allegation	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Previously investigated allegation:	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Returned Date:	<a href="#">Click or tap to enter a date.</a>
Reporting Facility Contact Information:	
<a href="#">[Contact]</a>	
<a href="#">[Address]</a>	
<a href="#">[Telephone]</a>	
<a href="#">[Email Address]</a>	

***Copy to the PREA Agency Coordinator***

### PREA Administrative Override Referral

DOC #	Enter DOC ID	Offender Name:	Last name, First name
Referred by:	Staff members name	Title:	Position
Facility:	Facility	Unit:	Offender's current unit

Required Documentation:

PSI:	<input type="checkbox"/>
Criminal History:	<input type="checkbox"/>
Booking Summary:	<input type="checkbox"/>
Disciplinary History:	<input type="checkbox"/>
Medical History:	<input type="checkbox"/>
Behavioral Health History:	<input type="checkbox"/>
PREA Incident Reports:	<input type="checkbox"/>
Other documentation:	<input type="checkbox"/>

Reason for requested override:

Click or tap here to enter text.
----------------------------------

Recommended Assessment Score:

- AP
- VP
- MX

Review and approve:

PREA Facility Compliance Manager \_\_\_\_\_ Date: \_\_\_\_\_

PREA Coordinator \_\_\_\_\_ Date: \_\_\_\_\_

All documentation will be sent to the PREA facility compliance manager to review. Once completed the packet will be mailed to the PREA coordinator at 1600 North Dr. Sioux Falls SD 57117 and emailed to the PREA coordinator.