

**South Dakota Department of Corrections
2017 Annual Prison Rape Elimination Act Report**



November 2018

**South Dakota Department of Corrections
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**SOUTH DAKOTA DEPARTMENT OF CORRECTIONS
2017 ANNUAL PRISON RAPE ELIMINATION ACT REPORT**

In September of 2003, President Bush signed the Prison Rape Elimination Act. In August 2012, the PREA standards promulgated by the United States Department of Justice went into effect. Since then, staff throughout the Department has taken action to prevent, detect, reduce and respond to sexual abuse and sexual harassment in confinement facilities, including community confinement facilities and privately operated facilities that hold contracts with the Department of Corrections.

The South Dakota Department of Corrections (SDDOC) is pleased to publish its 2017 Annual Report.

This report reflects the Department continued efforts to move forward in complying with the national standards promulgated under the Prison Rape Elimination Act (PREA). The SDDOC is committed to keeping those in our custody safe and free from harm and has zero tolerance for sexual assault and harassment of offenders under the jurisdiction of the department.

STAFFING

Protecting inmates and youth from sexual assault and harassment and compliance with PREA standards is a top priority for the SDDOC and all staff from throughout the Department has been involved in achieving these goals.

The Department Secretary has assigned a senior staff person in the Administration Office responsibility for overseeing the agency's PREA activities.

DOC PREA Coordinator & PREA Compliance Managers

In November of 2016 the Adult and Juvenile PREA positions were combined into the one DOC PREA Coordinator position. The PREA Coordinator manages the departments policies and procedures pertaining to the Prison Rape Elimination Act and the associated PREA Standards.

Each of the three main adult facilities has a PREA Compliance Manager to oversee facility level compliance with the PREA Standards. The juvenile division has assigned the Assistant Director of Juvenile Services as the Juvenile PREA Compliance Manager.

Adult Division

PREA Investigators: Each adult facility designated a primary PREA investigator and trained two additional staff as back-up PREA Investigators.

Staffing Plans: Each adult facility developed a PREA compliant staffing plan. The staffing plan outlined the minimum staffing levels, facility layout review, and video camera coverage. In 2017, staffing levels were maintained.

Juvenile Division

PREA Contract Compliance: The Juvenile PREA Compliance Manager assists and monitors the community placement facilities under contract for compliance to the National PREA Standards.

TRAINING

PREA Training

The adult division continued with pre-service training programs for new staff, contractors and volunteers. The yearly in-service training program continued to expand to include new PREA related updates and policies. In addition there were a number of specialty training programs/events for PREA Investigators and PREA Compliance Managers.

Pre-Service PREA Training - Training all staff must attend prior to contact with offenders:

This standardized training to include all of staff training requirements in the PREA Standards.

In-Service PREA Training - Annual training for all staff that has regular contact with offenders.

The in-service training for all facility staff for 2017 was:

Transgender/Intersex Awareness in Corrections:

Staff's training on transgender / intersex issues, how to professionally interact with this population and the impact on DOC policies and procedures.

Specialty Training – Adult and Juvenile Division specialized training to select groups to cover training and policy reviews.

PREA Investigator Training for Juvenile Facilities

Held in Sioux Falls in July 2017

Basic training on the Juvenile National PREA Standard - 115.334 Specialized training: Investigations.

Ten juvenile facilities that have contracted with the DOC to house or provide treatment for juveniles attended this training.

PREA Meeting/Review for PREA Compliance Manager / Special Investigations Unit

Yankton Community Work Center in November 2017.

Review / refresher on PREA related training including:

- Documentation requirements and procedures
- PREA Case Review
- Development of protocols and training materials
- Criminal investigation procedures

**South Dakota Department of Corrections
2017 Annual Prison Rape Elimination Act Report**

POLICIES

Adult Division Policy Updates

In 2017 there were not any new PREA impacted policies issued by the DOC. The following policies were reviewed with minor procedural changes:

- Compliance with the Prison Rape Elimination Standards Act
- Response and Investigation of sexual Abuse/Harassment
- PREA Institutional Risk Screen

Juvenile Division Policy Updates

In 2017 there were not any new or updated PREA impacted policies or operational memorandums issued by the DOC.

SUPPORT SERVICES

Pursuant to PREA Standards 115.21 (115.321) Evidence Protocol and Forensic Examinations and 115.53 (115.353) Access to Outside Confidential Support Services; the SD DOC has maintained Memorandums of Understanding (MOU) with the following local victim advocates groups' to provide services to DOC offenders who were victims of sexual abuse.

Support Services MOU's

The Compass Center in Sioux Falls

- Covering the Sioux Falls Campus: South Dakota State Penitentiary, Jameson Annex, and Sioux Falls Community Work Center.

Missouri Shores Domestic Violence Center in Pierre, SD

- Covering the South Dakota Women's Prison and Pierre Community Work Center.

Working Against Violence, Inc in Rapid City, SD

- Covering Rapid City Community Work Center.

River City Domestic Violence Center in Yankton, SD

- Covering Mike Durfee State Prison in Springfield and the Yankton Community Work Center.

AUDITS

Adult Division Audits:

The adult division contracted with a private PREA auditing company, The Nakamoto Group, to conduct an audit of South Dakota Women's Prison (SDWP) in Pierre, SD during August 2017. The SDWP facility consists of two housing units inside the parameter of the South Dakota Women's Prison

**South Dakota Department of Corrections
2017 Annual Prison Rape Elimination Act Report**

in Pierre, SD, and the Pierre Community Work Center (minimum and work release inmates) on the outside of the parameter.

The on-site visit to conduct a PREA compliance audit of SDWP was conducted from August 22nd thru August 24th, 2017. The final PREA compliance report was issued on September 17th, 2017. The report found SDWP compliant with the PREA Standards, meeting 41 of the standards and exceeding the standards in one category.

Juvenile Division Contract Facility Audits:

Pursuant to Section 115.401 of the PREA Standards, private providers utilized by the SDDOC – Juvenile Division conducted PREA Audits as outlined below.

The Sequel Transition Academy completed their audit in 2015 and were found in full compliance. In 2017 the DOC Juvenile PREA Compliance Manager monitored for compliance.

Their next PREA Audit is scheduled for 2018.

2017 DATA REVIEW FOR CORRECTIVE ACTION AND PUBLICATION

General Definitions:

Substantiated allegation:	An allegation that was investigated and a preponderance of the evidence determined the allegation to have occurred.
Unfounded allegation:	An allegation that was investigated and determined not to have occurred.
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.
Informational:	An allegation or report of sexual activity, while a possible institutional rule violation, the incident was determined not to involve sexual abuse or sexual harassment.

Adult Division:

The following definitions apply to the adult divisions data:

Inmate sexual abuse:	(1) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and (2) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer, includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse: a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight; b. Contact between the mouth and the penis, vulva, or anus;
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**South Dakota Department of Corrections
2017 Annual Prison Rape Elimination Act Report**

- c. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- d. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Staff sexual abuse:

Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (4) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (5) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;
- (7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and
- (8) Voyeurism by a staff member, contractor, or volunteer.

Sexual harassment includes:

- (1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and
- (2) Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures

**South Dakota Department of Corrections
2017 Annual Prison Rape Elimination Act Report**

Adult Division – Reported incidents: January 1 to December 31, 2017

SDDOC Adult Facilities (All)

DOC 2017	Inmate Sexual Abuse	Inmate Sexual Abuse -Touching	Inmate Sexual Harassment	Staff Sexual Abuse / Touching	Staff Sexual Harassment	Total Incidents - Determination
Substantiated	0	0	2	0	1	3
Unsubstantiated	3	17	45	2	8	75
Unfounded	7	10	19	4	7	47
Total Incidents - Category	10	26	67	6	16	125

Mike Durfee State Prison (MDSP)

MDSP 2017	Inmate Sexual Abuse	Inmate Sexual Abuse - Touching	Inmate Sexual Harassment	Staff Sexual Abuse / Touching	Staff Sexual Harassment	Total Incidents - Determination
Substantiated	0	0	2	0	0	2
Unsubstantiated	0	1	7	0	0	8
Unfounded	3	3	11	0	1	18
Total Incidents - Category	3	4	20	0	1	28

South Dakota State Penitentiary (SDSP)

SDSP 2017	Inmate Sexual Abuse	Inmate Sexual Abuse - Touching	Inmate Sexual Harassment	Staff Sexual Abuse / Touching	Staff Sexual Harassment	Total Incidents - Determination
Substantiated	0	0	0	0	1	1
Unsubstantiated	3	9	35	1	7	55
Unfounded	3	5	8	2	5	23
Total Incidents - Category	6	14	43	3	13	79

**South Dakota Department of Corrections
2017 Annual Prison Rape Elimination Act Report**

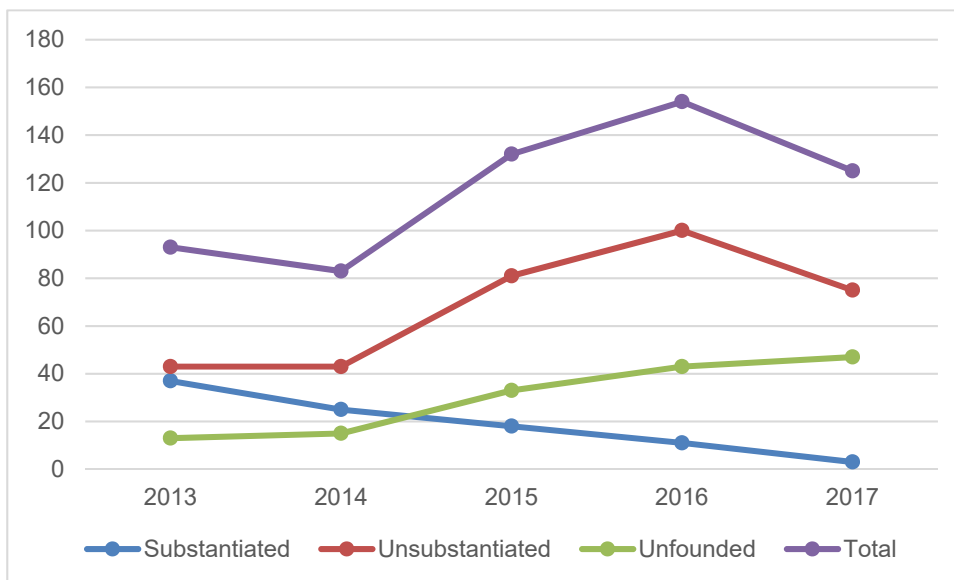
South Dakota Women’s Prison (SDWP)

SDWP 2017	Inmate Sexual Abuse	Inmate Sexual Abuse - Touching	Inmate Sexual Harassment	Staff Sexual Abuse / Touching	Staff Sexual Harassment	Total Incidents - Determination
Substantiated	0	0	0	0	0	0
Unsubstantiated	0	7	3	1	1	12
Unfounded	1	1	1	2	1	6
Total Incidents - Category	1	8	4	3	2	18

Adult Aggregate Data Review

All Facilities Charted Totals:

The chart below indicates the trends over the last 5 years in each reporting category.



Trends over 5-year period:

Although the 2017 total number of incidents at 125 is a decrease of 19% over 2016’s reported 154 total incidents. 2017’s total is 7% above the five-year average of total incidents at 116.

This year’s decrease over the previous year in totals is being driven by an 73% decrease in substantiated reports and a 25% decrease in unsubstantiated reports. This is a significant change in the trend for the previous three years. This decrease was primarily driven by the decrease in reported incidents at SDSP, while MDSP and SDWP both showed increases.

Substantiated incidents continue to decrease at an average rate of 43% per year and is the lowest number in the five years of tracking and 92% below the initial 2013 substantiated numbers.

**South Dakota Department of Corrections
2017 Annual Prison Rape Elimination Act Report**

Adult Facility Trends and Corrective Action

Mike Durfee State Prison (MDSP)

Trends over Five-year period:

MDSP had a 56% increase in 2017 of total allegations investigated, from 18 to 28 incidents over the 2016 reporting year. The current year's total incidents at 28 are higher than the five-year total incident average of 20 incidents.

This increase is due to Inmate Sexual Harassment incidents increasing from ten in 2016 to 20 incidents in 2017, a 100% increase.

The other category that contributed an increase is Unfounded incidents. This increased from five in 2016 to 18 in 2017, a 260% increase. Substantiated and Unsubstantiated incidents both showed decreases from 2016 to 2017.

No facility corrective action is indicated at this time.

South Dakota State Penitentiary (SDSP)

Trends over Five-year period:

SDSP showed a 38% decrease in all categories from 2016 to 2017. Additionally, all determination categories were below the five-year average. Substantiated incidents reached an all-time low of one incident during the 2017 reporting period. This is drop of 93% below the five-year average of 13.6.

Initial high levels of substantiated incidents during the first two years of record keeping (2013 & 2014) have inflated the average level. The average rate of substantiated incidents is expected to drop overtime.

No facility corrective action is indicated at this time.

South Dakota Women's Prison (SDWP)

Trends over Five-year period:

SDWP had a 125% increase in 2017 of total allegations investigated, from eight to 18 incidents over the 2016 reporting year.

This increase is attributed to increase of reported sexual abuse (touching & penetration) incidents and unsubstantiated sexual harassment incidents. In 2016 SDWP reported zero incidents of sexual abuse (touching & penetration). This increased in 2017 to four reported incidents of sexual abuse (touching) and one reported incident of sexual abuse (penetration). These incidents accounted for 38% of 2017's total incidents.

SDWP's total investigations at 18 for 2017 is 80% above the five-year average of 9.8.

This is the second year in a row that SDWP has reported zero substantiated incidents. This is below the five-year average of 1.2 substantiated incidents per year.

No facility corrective action is indicated at this time.

**South Dakota Department of Corrections
2017 Annual Prison Rape Elimination Act Report**

CONTRACTED FACILITIES

Adult Division

Adult Contracted Facilities – Reported incidents: January 1 to December 31, 2017

The St. Francis Halfway House in Sioux Falls house female work release offenders from the South Dakota Women’s Prison.

St. Francis House 2017	Inmate Sexual Abuse	Inmate Sexual Abuse -Touching	Inmate Sexual Harassment	Staff Sexual Abuse / Touching	Staff Sexual Harassment	Total Incidents - Determination
Substantiated	0	1	0	0	0	1
Unsubstantiated	0	0	0	0	0	0
Unfounded	0	0	0	0	0	0
Total Incidents - Category	0	1	0	0	0	1

Juvenile Division

The following definitions apply to the juvenile aggregated sexual abuse data.

Youth –on–Youth:	Sexual abuse of a resident by another resident. Sexual abuse of a resident by another resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:
Sexual Assault:	Contact between the penis and the vulva or the penis and the anus, including penetration, however slight; Contact between the mouth and the penis, vulva, or anus; Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument;
Sexual Touching:	Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.
Staff-on- Youth:	Sexual abuse of a resident by a staff member, contractor, or volunteer. Sexual abuse of a resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the resident:
Sexual Assault:	Contact between the penis and the vulva or the penis and the anus, including penetration, however slight; Contact between the mouth and the penis, vulva, or anus; Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire; Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

**South Dakota Department of Corrections
2017 Annual Prison Rape Elimination Act Report**

Sexual Touching:	Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire.
Voyeurism:	Invasion of privacy of a resident for reasons unrelated to official duties.

Juvenile Contracted Facilities – Reported incidents: January 1 to December 31, 2017

Sequel Transition Academy

SEQUEL TRANSITION ACADEMY 2017	YOUTH- ON-YOUTH ALLEGATIONS					Total Incidents - Determination
	Sexual Abuse - Sexual Assault	Sexual Abuse - Sexual Touching	Sexual Abuse - Attempted	Sexual Abuse - Indecent Exposure	Sexual Abuse - Voyeurism	
Substantiated	0	1				1
Unsubstantiated	0	0				0
Unfounded	0	1				1
Total Incidents - Category	0	2				2

SEQUEL TRANSITION ACADEMY 2017	STAFF- ON-YOUTH ALLEGATIONS					Total Incidents - Determination
	Sexual Abuse - Sexual Assault	Sexual Abuse - Sexual Touching	Sexual Abuse - Attempted	Sexual Abuse - Indecent Exposure	Sexual Abuse - Voyeurism	
Substantiated	0	0	0	0	0	0
Unsubstantiated	0	0	0	0	0	0
Unfounded	0	0	0	0	0	0
Total Incidents - Category	0	0	0	0	0	0

2018 PROSPECTUS

The SDDOC will continue its pursuit of compliance with the PREA standards and protecting inmates and youth from sexual assault and harassments.

The second PREA 3-year audit cycle started in 2017 with audit of South Dakota Women’s Prison in August 2017. The Mike Durfee State Prison Audit was conducted in April of 2018 and the South Dakota State Prison Audit planned in April of 2019.

**South Dakota Department of Corrections
2017 Annual Prison Rape Elimination Act Report**

The state's contracted juvenile facility, Sequel Transition Academy was not scheduled for an audit in 2017 but did complete its second cycle audit in June 2018.