

## 1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards

### I Policy Index:



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### II Policy:

The South Dakota Department of Corrections (DOC) has a zero-tolerance policy relating to the sexual abuse or sexual harassment of inmates. The DOC will cooperate in the investigation, discipline, and prosecution of anyone involved in a sexual abuse or sexual harassment of an inmate in a DOC facility. This policy does not apply to incidents of sexual abuse or sexual harassment by an inmate against a staff member, visitor, volunteer or any other individual who has business with the DOC.

### III Definitions:

#### **Bisexual:**

A person emotionally, physically, and/or sexually attracted to males and females. This attraction does not have to be equally split between genders and there may be a preference for one gender over the other.

#### **Facility:**

For the purpose of this policy, facility refers to individual inmate housing locations and campus within the South Dakota Department of Corrections. The facilities are:

South Dakota State Penitentiary (including Jameson Prison Annex and Sioux Falls Community Work Center)

Mike Durfee State Prison

Yankton Community Work Center

Rapid City Community Work Center

South Dakota Women's Prison (including E Unit and Pierre Community Work Center)

#### **Gay:**

Term used to describe male-identified people attracted romantically and/or emotionally to other male-identified people

**Gender Identity:**

The individual's internal sense of being male or female, distinct from his or her sexual orientation. The way an individual expresses his or her gender identity is frequently called "gender expression," and may or may not conform to social stereotypes associated with a particular gender, the individual's sex at birth or their physical anatomy.

**Gender Non-Conforming Committee:**

Comprised of PREA Compliance Manager, Director of Classification, Warden or designee, PREA Coordinator, Behavioral Health, Health Services, Facility PREA Investigator, Unit Manager, and Security.

**Inmate:**

Any offender in the custody of a DOC facility, including any parolee or Community Transition Program (CTP) detained within the facility.

**Intersex:**

Means a person whose external genitalia, internal reproductive organs or chromosomal pattern at birth does not fit typical definitions of male or female. The person may or may not also experience gender dysphoria.

**Lesbian:**

Term used to describe female-identified people attracted romantically, and/or emotionally to other female-identified people.

**New Admission Inmates:**

Any inmate, parole violator, parole detainee or inmate from another jurisdiction temporary housed at a DOC facility, who at the time of admission, does not currently have a PREA screen or assessment on file, or 90 days or more has elapsed since the screen/assessment was last complete.

**PREA:**

The Prison Rape Elimination Act of 2003. A federal act addressing the prevention, detection and punishment of prison sexual assaults.

**Sexual Abuse- Inmate on Inmate:**

Sexual abuse of an inmate includes any of the following acts, if the inmate does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

- (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) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- (4) 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.

**Sexual Abuse-Staff on Inmate:**

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

- (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, and
- (8) Voyeurism by a staff member, contractor, or volunteer.

*Voyeurism by a staff member, contractor, or volunteer* means an invasion of privacy of an inmate by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

Sexual penetration by any person employed by the State of South Dakota or employed within any DOC facility with an inmate who is housed at a DOC facility is a violation of state law (See SDCL § [24-1-26.1](#) and SDCL § [22-22-7.6](#)).

### **Sexual Harassment- Inmate on Inmate:**

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 directed toward another inmate.

### **Sexual Harassment-Staff on Inmate:**

Repeated verbal comments or gestures of a sexual nature to an inmate 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.

Note:

The terms "Sexual Abuse or Sexual Harassment does not include:

- Custodial or medical personnel gathering physical evidence, or engaging in other legitimate medical treatment, in the course of investigating a sexual assault/rape.
- 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.
- 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 1.3.A.5 [Searches – Institutions](#).
- Consensual sexual contact/activity between inmates (inmate on inmate). Although, this type of behavior is prohibited. (See Prohibited Act 4-3 in the [Inmate Living Guide](#)).

### **Sexual Incident:**

Investigative event involving alleged or potential sexual abuse or sexual harassment of an inmate.

**Staff Member:**

Any person employed by the DOC, full or part time, including an individual under contract assigned to the DOC, an employee of another State agency assigned to the DOC, authorized volunteers and student interns.

**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 qualify for a clinical diagnosis of gender dysphoria, depending on the presence or absence of clinically significant distress or impairment caused by gender identity.

**Unit Team:**

A team of correctional staff assigned to a particular housing unit of an adult facility, usually consisting of a unit manager, case manager and unit coordinator.

**Youthful Inmate:**

Any inmate under the age of 18.

**IV Procedures:****1. Approach:**

- A. The Department of Corrections (DOC) has zero tolerance for sexual abuse or sexual harassment. Staff at each facility housing inmates shall promptly investigate all reported allegations of sexual abuse or sexual harassment. 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.
- B. PREA staffing.
  1. The DOC will assign a PREA Coordinator to develop, implement and oversee adult facility compliance with PREA standards and PREA-related department policy. Duties shall include, but are not limited to:
    - a. Development and review of DOC PREA policies.
    - b. Develop compliance files and maintain PREA related documentation, consistent with requirements set forth within the PREA standards.
    - c. Provide assistance to the DOC Training Director with PREA education and training topics for staff, contractors and volunteers.
    - d. Review of investigations into allegations of sexual abuse and sexual harassment of inmates.
    - e. Monitoring facility compliance with PREA standards and provide support and assistance to facility PREA Compliance Managers.
    - f. Facilitate data submission to U.S. Department of Justice (DOJ) and annual data reviews.
    - g. Develop, maintain and facilitate MOU's for investigation of alleged instances of sexual abuse by outside investigators, at the request of the DOC and victim services.
    - h. Schedule and maintain documentation of PREA audits.
    - i. Provide input concerning contracts with vendors who have contact with inmates.

- j. Coordinate with outside entities, such as victim advocates, SANE's, medical and mental health providers and investigating agencies, as needed to maintain PREA compliance.
  - k. Work with PREA auditors to prepare for PREA audits.
  - l. Communicate with administrative staff and supervisors regarding any specific needs or changes in policy or practice to assure continued compliance with PREA standards.
  - m. Keep up to date with all new information concerning PREA and required standards.
2. Each DOC facility will designate a staff member to serve as the PREA Compliance Manager. The staff member must have sufficient time and authority to coordinate and manage the facility's compliance with required PREA standards. PREA Compliance Manager's duties shall include, but are not limited to:
- a. Knowledge of PREA standards, compliance measures and audit requirements.
  - b. Review of facility practices and procedures to maintain compliance with PREA standards and department policy.
  - c. Develop level compliance files and maintain documentation required by PREA standards.
  - d. Documentation and tracking of all sexual abuse and sexual harassment allegations reported at the facility.
  - e. Provide input in the facility staffing plan to ensure compliance with PREA standards, as directed.
  - f. Assist in responding to allegations of sexual abuse in another facility or unit, as requested or directed.
  - g. Assist with PREA audits.
  - h. Serve as the team leader when a sexual incident review is conducted at the facility.
  - i. Coordinate with the PREA Coordinator in development of the 'Pre-Audit' evaluation of the facility and make changes to the evaluation as needed.
  - j. Ensure inmate PREA education, material and advisements is continuously and readily updated and available to inmates at the facility.
  - k. Report PREA related information and needs to the PREA Coordinator as directed.
  - l. Serve as the facility PREA contact person.
- C. Unwanted sexual contact is considered sexual abuse. Sexual abuse does not have to be a violent act. If the victim feels they would be harmed or retaliated against if they refused to participate, it is sexual abuse. Sexual abuse by inmates (inmate-on-inmate) is a violation of institutional rules (See [Inmate Living Guide](#)). Incidents of sexual abuse may be referred to law enforcement and prosecutors, as deemed appropriate by the Secretary, Warden or designee. Consensual sexual contact amongst inmates may not be sexual abuse but is a violation of institutional rules and subject to disciplinary action.

- D. 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 inmate who is under the custodial, supervisory or disciplinary authority of the person is guilty of a Class 6 felony and in violation of DOC policy (See DOC policy 1.1.C.1 [Staff Code of Ethics](#), SDCL § 24-1-26.1).
1. An inmate is subject to disciplinary action if the sexual contact with the person is NOT consensual.
- E. Sexual harassment of an inmate by another inmate (inmate-on-inmate) is a violation of institutional rules.
1. Staff is required to report all suspected incidents of inmate sexual harassment.
  2. All reported incidents of inmate sexual harassment will be investigated.
- F. Staff shall not engage in, participate in, or otherwise take part in any act of sexual harassment of an inmate.
1. Sexual harassment of inmates by staff is expressly forbidden (See DOC policy 1.1.C.10 [Staff Anti-Harassment and Discrimination Policy](#)).
  2. Staff is required to report directly to their supervisor or other person of authority, all suspected incidents of staff on inmate sexual harassment, sexual contact or sexual abuse.

## 2. Prevention of Sexual Abuse/Harassment:

- A. Inmates under the age of 18 (youthful inmates), will not be placed in a housing unit where the youthful inmate may have sight, sound, or physical contact with any adult inmate. This includes use of a shared dayroom, common space, shower area or sleeping quarters (See DOC policy 1.4.B.6 [Adjudicated Delinquents and Children in Need of Supervision](#)).
1. When a youthful inmate has sight, sound or physical contact with adult inmates during transport, direct staff supervision of the inmates is required (See DOC policy 1.1.A.8 [Adult and Juvenile Joint Transportation Procedures](#)).
  2. Youthful inmates sentenced to the custody of SD DOC will be housed in a designated facility with like inmates under the age of 18 (See DOC policy 1.4.B.6 [Adjudicated Delinquents and Children in Need of Supervision](#) and SDCL § 26-11-3.1).
- B. All contracts with public or private facilities for incarceration of inmates sentenced to the South Dakota DOC will include an obligation that the facility comply with all applicable PREA standards.
- C. PREA Coordinators will ensure contract facilities where SD inmates may be housed are compliant with PREA requirements. This may include review of the facility's most recent PREA audit report.
- D. Each Warden will ensure each facility under his/her authority makes its best effort to utilize a staffing plan that provides adequate levels of staffing, and where applicable, includes appropriately placed video monitoring equipment to aid in supervision of inmates and help protect against sexual abuse. In calculating adequate staffing levels and video monitoring needs, the following will be considered:
1. Generally accepted best correctional practice, policy requirements and PREA standards;

2. Judicial findings of inadequacy;
  3. Findings of inadequacy from federal investigative agencies (PREA audit results);
  4. Findings of inadequacy from internal or external oversight bodies;
  5. All components of the facility's physical make-up, including "blind-spots" or areas where staff or inmates may be isolated;
  6. The composition of the inmate population, which may be determined by reviewing inmate PREA assessment results, individual scoring (AIMS/PREA), classification and crimes;
  7. The number and placement of staff (all shifts);
  8. Staff to inmate ratio for each shift; and
  9. The prevalence and location of substantiated or unsubstantiated incidents of sexual abuse;
- E. The Warden or designee will consult with the PREA Coordinator on an annual basis to discuss any recommended adjustments, revisions or changes at the facility which are necessary to comply with the PREA standards or enhance safety. If the action item requires immediate action/review, the PREA Coordinator shall promptly consult with the Warden or designee. At a minimum, the following will be reviewed:
1. The staffing plan;
  2. The video monitoring systems and other technologies used to monitor or track inmate movement; and
  3. The resources available to ensure adherence to the facility's staffing plan.
- F. If a shift is not compliant with the approved and applicable staffing plan, the OIC of the affected shift must document the reasons for the deviation/noncompliance in an Incident Report. The report must be sent to the Warden and the facility PREA Compliance Manager.
- G. 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 Compliance Manager and PREA Coordinator will consult with the Director of Security, Director of Prison Operations and Warden or designee to consider and effects of the design, acquisition, expansion, update or installation may potentially have on staff's ability to protect inmates from sexual abuse/harassment.
1. The physical plant manager or staff designated by the Warden will complete the *Upgrades to Facilities and Technology* form (See [Attachment 1](#)) describing any expansion, modification, installation, upgrade, etc. A copy of this report will be sent to the Warden, Director of Prison Operations, Director of Security, facility PREA Compliance Manager and PREA Coordinator.
- H. Each facility's staffing plan will be reviewed annually by the Warden or designee for any adjustments, additions or updates prior to the annual budget review (See [Attachment 4](#)). 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 or sexual harassment that occurred at the facility during the review period.
1. Once the review is complete, any recommendations will be forwarded to the Warden and Director of Prison Operations.
  2. If the recommendations are approved, these will be briefed to the Secretary of Corrections.

### 3. Inmate Screening for Risk of Sexual Victimization and Abusiveness:

- A. Within 72 hours of an inmate's admission to a DOC facility, admissions and orientation (A&O) unit staff will obtain and review information about the inmate's history and behaviors to guide housing decisions which may reduce the risk of the inmate initiating sexual abuse upon another or becoming a victim of sexual abuse (See DOC policies 1.4.B.16 *PREA Institutional Risk Screens*, 1.4.A.2 *Inmate Admission* and 1.4.B.3 *Adult Internal Management System (AIMS)* (male inmates only)).
1. Screening will be conducted by staff trained to complete the PREA Risk Screen Review.
  2. Inmates identified as being at risk for sexual abuse may be temporarily segregated from other inmates until such time as appropriate housing placement can be determined. This may include placement in protective custody.
- B. New admission inmates will be reviewed within 30 days of admission by staff trained in the PREA Risk Screen to determine the inmate's potential risk of sexual vulnerability, or potential to exhibit sexual abuse upon others. Inmates may be reviewed throughout their term of incarceration, and whenever a triggering event occurs. Triggering events include, but are not limited to, staff referral in response to an incident or information received, at the request of the inmate, involvement in any incident of sexual abuse (victim or perpetrator), or receipt of additional information by staff regarding the inmate's risk of victimization of sexual abuse or a perpetrator of sexual abuse. The PREA Risk Screen Review will be used to assign the inmate's PREA code.
1. A PREA Risk Screen Review will be completed in accordance with DOC policy 1.4.B.16 *PREA Institutional Risk Screens*.
  2. The intake screening shall consider, at a minimum, whether the inmate is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming, given the totality of the facts available at the time of assessment/screening.
  3. Inmates may not be disciplined for refusal to participate in the screening or failing to disclose complete information in response to questions regarding sexual orientation.
- C. DOC staff may use the inmate's PREA risk screen score, assessment results, history, and other relevant risk information when determining housing assignments, work assignments, education and programming placements.
- D. Inmates determined through the PREA risk screen to have a high risk of victimization will not be housed in Restricted Housing or protective custody solely for the purpose of separating the inmate from potential abusers, unless, the Protective Custody Hearing Board determines there is no alternative means of separating the inmate from likely abusers, taking into consideration the penological interests of the DOC and efficient, safe management of the inmate population as a whole and such placement is temporary and subject to regular review. Inmates who may require separation who also meet the criteria for placement in Restricted Housing may be housed in Restricted Housing.
- E. Medical and Behavioral Health.
1. If the PREA risk screen administered at the time of the inmate's admission indicates the inmate has either previously perpetrated sexual abuse, or has been the victim of sexual abuse, either in an institutional setting or the community, staff will ensure the inmate is offered a follow-up meeting with Behavioral Health staff within 14 days of the screening. The



- inmate may be referred for a sexual behavior issue assessment (See DOC policy 1.4.B.9 [Sexual Behavior Issue Review](#)).
2. Any confidential information/documentation gathered during the assessment/screening related to the sexual abuse of an inmate in an institutional setting will be limited in disclosure to Health Services staff, Behavioral Health staff and authorized DOC staff. The information may be used to develop treatment plans, programming and placement of the inmate. Life history information, including risk, is used to guide security and management decisions regarding the inmate, in addition to the inmate's PREA Risk Screen; i.e. housing, bunk assignment, work assignments, education, program assignments.
  3. A Release of Information form signed by the inmate may be required prior to release or request of confidential information about the about the inmate which may be requested from outside sources.

#### 4. Inmate Education:

- A. During the initial PREA risk screen, inmates will receive information explaining DOC's zero-tolerance of sexual abuse and sexual harassment and how to report incidents of sexual abuse or sexual harassment. This information is also discussed in the [Inmate Living Guide](#), which is available to all inmates in printed form and/or electronically.
  1. Receipt of the information will be documented with the *Acknowledgement of Prevention of Sexual Abuse/Harassment Information* form (See [Attachment 2](#)).
- B. Staff assigned to an A&O unit (located at Jameson Prison Annex (males) and SDWP (females)), will offer comprehensive education and information to new admission inmates, either in person, in writing or electronically, describing the inmate's right to be free from sexual abuse, sexual harassment and retaliation for reporting such incidents, along with information about DOC policies and facility procedures relating to PREA.
  1. This education/information will be offered to inmates within thirty (30) days of admission.
    - a. This will be documented on the *Acknowledgement of Prevention of Sexual Abuse/Harassment Information* form (See [Attachment 2](#))
- C. Inmates who have not been offered education and information explaining DOC's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment, will be offered education and information during the inmate's case planning and review with unit staff (See DOC policy 1.1.E.6 [Case Management](#)).
  1. Inmates who do not have a signed *Acknowledgement of Prevention of Sexual Abuse/Harassment Information* form on file, will be offered a video presentation of the information.
  2. Once completed, the inmate will sign the *Acknowledgement of Prevention of Sexual Abuse/Harassment Information - Part 2 Comprehensive PREA Education* (See [Attachment 2](#)) and the information entered in COMS/Assessments/Assessment Type: PREA Admissions and Orientation class.
  3. All inmates housed at a DOC facility will be offered comprehensive PREA Education and must sign an *Acknowledgement of Prevention of Sexual Abuse/Harassment Information* form upon receipt/offer of the education.

- D. The facilities will offer accommodations to provide PREA education and information to inmates who are limited English proficient, deaf, visually impaired, intellectually disabled, limited reading skills or have another communication disability, consistent with the American's With Disabilities Act (ADA) (See DOC policy 1.1.E.7 [Americans with Disabilities Act \(ADA\)](#)).

## 5. Staff Training:

- A. All new staff and volunteers and contract staff assigned to a facility who have direct contact with inmates who are not under the direct supervision of DOC staff for the duration of time they are within the facility, will receive education and training on their responsibilities under PREA. Staff and volunteers who are required to remain under the direct supervision of DOC staff while inside the facility are exempt from the education and training requirement.
- B. Annual staff in-service and pre-service training for staff and volunteers will include education and training on PREA issues, as directed by the Director of Prison Operations, Warden, Training Director and PREA Coordinator.
- C. DOC investigators (Special Investigations Unit (SIU) staff) conducting sexual incident investigations at the facility, must complete specialized training specific to conducting sexual incident investigations in a correctional environment.
1. Specialized training may include but is not limited to:
    - a. Techniques for interviewing sexual abuse victims.
    - b. Proper use of *Miranda* and *Garrity* warnings.
    - c. 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.
- D. Health Service and Behavioral Health staff will be informed of:
1. How to detect and assess signs of sexual abuse and sexual harassment;
  2. How to preserve physical evidence of sexual abuse;
  3. How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and
  4. How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

## 6. Victim Advocate/Rape Crisis Centers:

- A. Inmates shall have access to outside victim advocates. Inmates 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. Inmates may request a privileged telephone calls with Victim Advocate/Rape Crisis Centers by contacting their unit staff. Calls from the inmate telephones or tablets may be monitored and recorded unless prior arrangements have been made to make the call confidential. Messages sent from inmate tablets are not confidential and subject to reading by staff (See DOC policy

1.5.D.4 *Inmate Access to Telephones* and DOC policy 1.5.D.3 *Inmate Correspondence* (Attachment 1)).

2. The PREA Compliance Manager shall pursue and maintain any memoranda of understanding (MOU), or other agreement with a community service provider who agrees to provide inmates with confidential emotional support services related to sexual abuse. The PREA Compliance Manager will maintain copies of such agreements or documentation showing attempts to enter into such agreements and renew these as necessary.
- B. Victim advocates provided by Rape Crisis Centers, qualified agencies and qualified community-based organizations that provide services to inmates 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 and sexual harassment, detection and response to sexual abuse and harassment in accordance with DOC policy procedures – including the DOC’s zero-tolerance policy and how to report such incidents to the DOC.
- C. All victim advocates requesting access to a DOC facility to provide services to an inmate outside of the inmate visit process, must apply for a volunteer ID.

## **7. Transgender, Gender Dysphoria or Intersex Inmates:**

- A. Gender Non-Conforming Committee.
1. The Committee will convene when:
    - a. Staff identifies or suspects an inmate is transgender or intersex (usually when an inmate is in A&O or following assessment by Behavioral Health staff or consultant).
    - b. When staff has identified safety concerns related to the inmate’s placement. Staff shall complete a *Gender Review Request* form ([Attachment 5](#)). Forms may be completed at any time during the inmate’s incarceration with the DOC.
    - c. When an inmate who identifies as transgender or inmates with gender dysphoria or intersex inmates submit a request concerning any issue which the Gender Review Committee has authority to take action on ([Attachment 5](#)).
      - 1) Staff may assist the inmate in completing the Request form.
  2. The Gender Review Committee has authority to approve and make recommendations on the following:
    - a. Housing placement, including transfer to a different facility, consistent with the inmate’s external custody/risk classification and safety and security.
      - 1) Transgender, gender dysphoric or intersex inmates shall not be placed in dedicated facilities or units solely on the basis of their identification or status, unless such placement is in connection with a consent decree, legal settlement, or legal judgement issued for the purpose of protecting the inmate(s).
      - 2) The Committee will make recommendations for housing. Inmates will not be placed in involuntary protected custody housing unless all available alternatives have been reviewed and considered and a determination is made that there is no immediate alternative means of separating the inmate from likely abusers. Such placement will be temporary.

- 3) Transgender, Gender Dysphoric or intersex inmates will not be housed in dedicated units or cells/units solely on the basis of their gender identification, diagnosis or complaints received by other inmates about the inmate's gender identity. Inmates will not be housed based exclusively on external genital anatomy. Housing shall be determined on a case-by-case basis, consistent with safety and security.
  - 4) Housing placement will be reassessed a minimum of twice a year for all transgender (self-determined) and intersex inmates for any threats to the inmate's safety since the placement or last review. Reassessment of housing will be completed whenever a triggering event occurs, such as an incident documented by staff that may pose a risk to the inmate's safety or a report by the inmate describing concerns for their safety. Housing placement shall be based on consideration of all information available to staff at the time of the review.
  - 5) The bi-annual reassessment of the inmate's housing placement will be documented in COMS under Case Management/Case Note/Note Type: Case Management/Sub Type: GNC Review. These will be completed every 6 months by the inmate's case manager.
- b. Transgender, gender dysphoric or intersex inmate requests for separate showers and separate dressing. Separate does not imply "single" showers or space and may include showering or undressing with inmate the of the same gender identity.
    - 1) A transgender, gender dysphoric or intersex inmate's gender preference of staff performing hand pat searches of the inmate. Female staff may pat search any inmate. Inmates may not request to be searched by a particular staff member.
  - c. Transgender, gender dysphoric or intersex inmates may request to use their preferred title of Ms., Miss., Mrs. or Mr. in correspondence, provided the inmate's legal first and last name and DOC ID is included. Inmates may request to be addressed by staff with gender neutral reference.
3. The Committee will review an inmate's request within 30 calendar days of the request being received ([Attachment 5](#)).
    - a. The facility PREA Compliance Manager is the leader of the Committee and will coordinate with the other members to schedule a date and time for review or the request.
    - b. The Committee will consider each request on a case-by-case basis. In each case, the Committee will consider safety and security interests and concerns.
    - c. The Committee must consider the following:
      - 1) The inmate's gender identity- that is, whether the inmate self-identifies as male or female;
      - 2) The inmate's current genital status;
      - 3) The inmate's own views of his or her safety and privacy concerns. The inmate may choose to be present before the Committee to express his/her views and concerns regarding safety or privacy (as it relates to searches);
      - 4) Any incidents of victimization of the inmate. Inmates may have adjustments made to their care, placement, privileges, etc. based on victimization;
      - 5) Medical and Behavioral health treatment plans and treatment recommendations that address the needs, treatment and care of the inmate; and
      - 6) Custody/risk classification, criminal history, disciplinary history and security concerns. Recommendations for accommodation must be consistent with preservation of the legitimate penological interests of the DOC.

4. The Committee will complete a response form (see [Attachment 7](#)).
  - a. The Committee will summarize all facts and information considered and document their decision/action on the request. Action may include the following:
    - 1) Approve or recommend the request for accommodation.
    - 2) Deny the request for accommodation.
    - 3) Modify and approve or recommend the request for accommodation.
    - 4) Take no action or refer the inmate to Administrative Remedy process for request or issues outside of the authority of the Committee.
  - b. The inmate's unit staff will document the Committee's decision in COMS as a COMS Alert-Alert type: Security: Alert Code: gender non-conforming. Relevant information may be added in the comment box. This includes any accommodations approved/granted by the Committee.
  - c. Staff will not disclose an inmate's sexual orientation or gender identity except to those who must know.
  - d. No inmate who has received accommodation from the Committee will have the accommodation removed without advance notice to the Committee. The notice must include the reason(s) supporting why the accommodation should be terminated. An inmate may request to terminate any accommodation granted by the Committee by providing notice to the PREA Compliance Manager.
  - e. Inmates may appeal any decision reached by the Committee including any denial, termination or modification of a request for accommodation by the inmate (See DOC policy 1.3.E.2 [Administrative Remedy for Inmates](#)).

## 8. Reporting of Incidents:

- A. The PREA Compliance Manager shall provide multiple ways for inmates to privately report sexual abuse, sexual harassment, retaliation by other inmates or staff for reporting sexual abuse or sexual harassment, and staff neglect or violations of staff responsibilities pertaining to PREA that may have contributed to sexual abuse or harassment of an inmate. The following are some of the ways an inmate may report these concerns:
  1. Verbal report by the inmate;
  2. Written report (kite) by the inmate;
  3. Anonymous kite to staff; or
  4. Third party report, including from other inmates, the public or a victim advocacy entity.
- B. The PREA Compliance Manager will provide at least one way for inmates to report abuse or harassment to a public or private entity or office that is not part of the DOC. The public or private entity must be willing, able and committed to receiving and immediately forwarding reports of sexual abuse and sexual harassment involving an inmate to the DOC. The entity must have measures in place to ensure the inmate or reporting party's identity remains confidential if so requested.

- C. Staff are required to immediately report to their supervisor, any knowledge, suspicion or information received regarding an incident of sexual abuse or sexual harassment that has or may have occurred in a DOC institution, retaliation by staff or inmates against any inmate or staff member who has reported sexual abuse or sexual harassment, or any staff neglect or willful violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment of an inmate or retaliation. Any staff member with knowledge of an incident that requires reporting, who willfully fails to report the incident shall be subject to disciplinary action (See DOC policy 1.1.C.1 [Staff Code of Ethics](#)).
1. If staff has reasonable belief an inmate is at risk of being sexually abused, staff will take immediate action to protect the inmate.
    - a. Immediate action includes:
      - 1) Separate the alleged victim and potential abuser.
      - 2) Direct notification of the risk to the OIC.
      - 3) Placing inmate participants on IP status in Disciplinary Housing, pending an investigation (See DOC policy 1.3.D.1 [Disciplinary Housing](#)).
      - 4) Additional actions, as deemed appropriate and in the best interest of the inmate's safety.
  2. The DOC website includes information about how a third-party may report incidents of sexual abuse and sexual harassment involving an inmate and/or on behalf of an inmate within a DOC facility (See <http://doc.sd.gov/>).
- D. Upon receiving information alleging an inmate was sexually abused while confined at facility outside of the DOC (i.e. jail or contract facility), the Warden or his/her designee will notify the head of the facility or appropriate office of the agency where the alleged sexual abuse of the inmate occurred.
1. Notification will be provided by the Warden or designee to the facility as soon as possible, but no later than 72 hours after receiving the allegation.
  2. The Warden or designee will document the information has been reported. A copy of the notification and/or documentation shall be attached to the initial report alleging the abuse and sent to the DOC facility PREA Compliance Manager and the DOC PREA Coordinator.

## 9. Investigations:

- A. The DOC will respond to all allegations of sexual abuse and sexual harassment received, including third-party reporting and anonymous reports. All allegations will be promptly, thoroughly and objectively investigated by SIU staff (See DOC policy 1.3.E.6 [PREA Response Investigation of Sexual Abuse-Harassment](#)).
1. The sharing of confidential information pertaining to the alleged sexual abuse/harassment, including the identity of the victim(s), will be limited to those who must know. Sharing information regarding the victim will be conducted in a manner that is in accordance with all applicable policies, state statutes and professional licensure and ethics standards.
- B. Staff at each facility will follow a uniform and accepted evidence handling protocol set in place at the facility to maximize the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecution.
- C. Incidents of sexual abuse or sexual harassment that include potentially criminal behavior will be referred to the Division of Criminal Investigation (DCI). SIU staff will document all such referrals.



- D. The Warden will ensure inmates and staff who report sexual abuse or sexual harassment, or cooperate with such investigations, are protected from retaliation.
1. Each facility will employ multiple protection measures; such as housing transfers for inmate victims or abusers, restricting contact between the victim and abuser and offering emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
  2. For at least ninety (90) days following a report of sexual abuse, the facility staff will monitor the treatment of inmates or staff who report the sexual abuse. Staff will monitor the wellbeing of any inmate who is reported to be a victim of sexual abuse for any retaliation by staff or inmates. The Warden will act promptly to remedy any such retaliation.
    - a. Items staff should monitor include any disciplinary reports, housing, program or work assignment changes or negative performance reviews which lack substance or are inconsistent with practice, policy or procedure. Staff shall continue such monitoring beyond ninety (90) days if the initial monitoring indicates a continuing need.

## 10. Response to Incidents:

- A. Any sexual abuse of an inmate by a staff member must be reported to the DOC Administration, in accordance with DOC policy 1.1.A.3 *Staff Reporting Information to DOC Administration*.
1. Media inquiries regarding an incident of sexual abuse or sexual harassment at a DOC facility or reporting of sexual abuse or sexual harassment within a DOC facility, will be forwarded to the Communications & Information Manager for response/action.
  2. The Warden will assign a staff member who is responsible for the following:
    - a. Ensuring all investigations are completed thoroughly and in a timely manner.
    - b. All information relating to the investigation is accurately documented and recorded in a database.
- B. Following an investigation into an inmate's allegation he/she suffered sexual abuse or sexual harassment in the facility, the inmate will be informed as to the results of the investigation, consistent with preservation of the legitimate penological interests of the DOC.
1. Inmates are subject to disciplinary sanctions pursuant to the disciplinary process following an administrative finding the inmate engaged in inmate on inmate sexual abuse or sexual harassment; or following a criminal finding of guilt of sexual abuse (See DOC policies 1.3.C.2 *Inmate Discipline System*).
- C. SDCL § 24-1-26.1. Any person, employed by the state or any state prison or other detention facility, who knowingly engages in an act of sexual penetration with another person who is in detention and under the custodial, supervisory, or disciplinary authority of the person so engaging, is guilty of a Class 6 felony.
- D. SDCL § 22-22-7.6. Any person employed at any jail or juvenile correctional facility, who knowingly engages in an act of sexual contact or sexual penetration with another person who is in detention and under the custodial, supervisory, or disciplinary authority of the person so engaging, and which act of sexual contact or sexual penetration does not otherwise constitute a felony pursuant

to the provisions of chapter 22-22, is guilty of a Class 6 felony if the victim is an adult and a Class 4 felony if the victim is a juvenile. A juvenile correctional facility pursuant to this section is a juvenile detention facility as defined in subdivision [26-7A-1\(16\)](#).

- E. A sexual incident review will be completed at the conclusion of all sexual incident investigations where an allegation of inmate sexual abuse concluded in a substantiated or unsubstantiated result.
1. The Warden shall designate a DOC staff member to serve as the sexual incident review team leader.
  2. SIU staff shall maintain all documentation related to the investigation, regardless of the final determination of the investigation.
    - a. Such review shall ordinarily occur within thirty (30) working days of the administrative conclusion of the investigation.
    - b. The review team leader will receive a copy of all investigative forms and information from the investigative office within three (3) working days from the conclusion of the investigation of a sexual incident report.
    - c. The review team will include at a minimum, the facility PREA Coordinator or PREA Compliance Manager (Team Leader), the Warden, designed supervisors, SIU staff and a representative from Behavioral Health Services and Health Services, as appropriate.
  3. The review team shall complete the *Sexual Incident Review* (See [Attachment 4](#)). The review team will consider the following:
    - a. Whether the investigation supports a need to revise or implement policy or practice to better prevent, detect, or respond to sexual abuse incidents (such recommendation must be communicated to the Policy and Compliance Manager);
    - b. Whether the incident or allegation of sexual abuse was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification; status or perceived status; gang affiliation; or motivated or otherwise caused by other group dynamics at the facility;
    - c. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers or obstructed view or lack of supervision and/or video monitoring in the area may enable abuse;
    - d. Assess the adequacy of staffing levels (staffing plan) in the area where the incident occurred and at the time the incident occurred;
    - e. Assess whether video or other electronic monitoring technology should be deployed or augmented; and
    - f. Prepare a report of findings, including but not limited to, determinations made pursuant to this policy and any recommendations for improvement. The report will be submitted to the Warden and PREA Coordinator. The Warden may forward this report as deemed appropriate.



4. The Warden or his/her designee shall consider the recommendations for improvement and/or document reasons for not implementing the recommendations.

## **11. Recording Incidents:**

- A. The DOC will collect accurate, uniform data for every allegation of sexual abuse or sexual harassment at facilities under its direct control using a standardized instrument and set of definitions.
  1. SIU will document the incident investigations.
    - a. The PREA Coordinator will aggregate the incident-based sexual incident data at least annually.
    - b. The incident-based data collected will include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.
    - c. The PREA Coordinator will maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual incident reviews.
    - d. The PREA Coordinator will obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates.
    - e. Upon request, the PREA Coordinator will provide all such data from the previous calendar year to the Department of Justice no later than June 30.
- B. The Secretary of Corrections, Deputy Secretary, Director of Grants and Research and PREA Coordinator or designees will review data collected and aggregated to assess and improve the effectiveness of the department's overall sexual abuse prevention, detection, and response policies, practices, and training within its facilities, including by:
  1. Identifying problem areas;
  2. Taking corrective action; and
  3. Compiling an annual PREA report of findings and any corrective actions for each facility, as well as the DOC as a whole (training, policy, directives), which shall be prepared by the PREA Coordinator.
    - a. Such report shall include a comparison of the current year's data and corrective actions, along with those from prior years, and an assessment of the agency's progress in addressing sexual abuse.
    - b. The report shall be approved by the Secretary of Corrections and made available to the public, typically through the department's website.
    - c. The DOC shall redact personally identifying information from the reports and other information, that if released, presents a clear and specific threat to safety and security (See chapter 1-27).

- C. The PREA Coordinator will ensure confidential information collected is securely retained. Only aggregated data will be placed in the annual PREA report. The data will be reviewed by the Deputy Secretary, and Director of Grants or designees before it is placed in the report for approval by the Secretary.
1. The approved report will include all aggregated data from facilities under direct control of the DOC and private facilities with which the department contracts. The report will be made readily available to the public at least annually through the DOC website.
  2. Before making aggregated sexual abuse data publicly available, the DOC will remove all personal identifiers in accordance with state law.
  3. The DOC will maintain sexual incident data collected for at least ten (10) years after the date of the initial collection.

## V Related Directives:

- DOC policy 1.1.A.3 -- [Reporting Information to DOC Administration](#)  
 DOC policy 1.1.A.8 -- [Adult and Juvenile Joint Transportation Procedures](#)  
 DOC policy 1.1.C.1 -- [Code of Ethics](#)  
 DOC policy 1.1.C.10 -- [Staff Anti-Harassment and Discrimination PolicyHarassment.doc](#)  
 DOC policy 1.1.D.1 -- [Staff Training Requirements](#)  
 DOC policy 1.1.D.3 -- [Facility Access & ID Requirements](#)  
 DOC policy 1.1.E.6 -- [Case Management](#)  
 DOC policy 1.1.E.7 -- [Americans with Disabilities Act \(ADA\)](#)  
 DOC policy 1.3.D.1 -- [Disciplinary Housing](#)  
 DOC policy 1.3.E.2 -- [Administrative Remedy for Inmates](#)  
 DOC policy 1.1.E.7 -- [Americans with Disabilities Act \(ADA\)](#)  
 DOC policy 1.4.A.2 -- [Inmate Admission](#)  
 DOC policy 1.4.B.3 -- [Adult Internal Management System \(AIMS\)](#)  
 DOC policy 1.4.B.9 -- [Sexual Behavior Issue Review](#)  
 DOC policy 1.4.B.6 -- [Adjudicated Delinquents and Children in Need of Supervision](#)  
 DOC policy 1.4.B.16 -- [PREA Institutional Risk Screens](#)  
 DOC policy 1.5.D.4 -- [Inmate Access to Telephones](#)  
 DOC [Inmate Living Guide](#) and [Juvenile Inmate Living Guide](#)

## VI Revision Log:

**July 2014:** New Policy.

**April 2015:** Added 2. to Section 2 A.

**June 2016:** Added definition of "Gender Identity, Gender Non-Conforming, Lesbian, Gay, Bisexual, Transgender, Intersex". Deleted reference to STAR and to "Superintendent". Deleted "for the juvenile facilities and one for the adult facilities" in Section 1 B. Deleted B. In making housing and programming assignments, staff will consider on a case-by-case basis, whether a placement would ensure the inmate's health and safety and whether the placement may compromise the safety and security of the facility, its staff and other inmates" in Section 7. Deleted 1. Placement and programming assignments for each transgender or intersex inmate will be reassessed at least twice each year to review any threats to safety experienced by the inmate" in Section 7 B. Deleted 2. "A transgender or intersex inmate's own view with respect to his or her own safety will be considered when making placement and programming assignments" in Section 7 b. Deleted "Each facility will document this process with the Individualized Gender Identity Determination form (See Attachment 6)" in Section 7 B. Added new B and D in Section 7. Deleted Attachment 3. STAR Sexual Abuse/Harassment Information. Deleted "Individualized Gender Identity Determination form" and Added new Attachment 5 "Inmate Gender Determination Request"

**Added** Attachment 6 “Gender Non-conforming Committee” and **Added** Attachment 7 “Gender Non-Conforming Committee Response”.

**March 2017: Revised** definition of “Gender Identity”, “Intersex”, “Transgender” and “Youthful Offender”.

**Added** “and response to such incidents” in Section 2 D. 9. **Added** 2. to Section 3 A. **Added** “Inmates may be reassessed whenever triggering events occur throughout their incarceration” in Section 3 B.

**Added** 2. and 3. to Section 3 B. **Added** “or solely on complaints of other inmates about the inmate’s gender identity” in Section 7 A. **Deleted** “case management” and **Replaced** with “classification” in Section 7 B. **Added** “upon request by the inmate” to Section 7 B. 1. **Added** 1. to Section 7 B. **Deleted** “determination” and **Replaced** with “review” in Section 7. **Added** a. and 2. to Section 7 C. **Added** 1) 4) and 5) to Section 7 D. 4. a. **Added** e. to Section 7 E. **Added** a. to Section 8. **Updated** Attachment 5 and 6. **Added** Attachment 8.

**October 2018: Added** “or be actively working towards compliance” in Section 2 B. **Added** “and response to such incidents” in Section 2 D. 9. **Deleted** “staff” and **Replaced** with “Director of Security” in Section 2 G. **Added** “or the inmate meets the criteria for placement in Restricted Housing” in Section 3 D.

**Added** “The inmate may be referred for a sexual behavior issue assessment” in Section 3 E. 1. **Added** “confidential” to Section 3 E. 3. **Added** “while not under the direct supervision of DOC staff” in Section 5 A. **Added** “and pre-service training for staff and volunteers” to Section 5 B. **Revised** 1. in Section 6 A.

**Added** “a minimum of” in Section 7 B. **Added** “or consultant” in Section 7 C. 1. a. **Added** “consistent with the inmate’s risk/assigned custody level” in Section 7 C. 2. a. 3). **Added** “consistent with the inmate’s external custody/risk classification” in Section 7 C. 2. a. **Added** “and consultant (as deemed necessary) in Section” 7 C. 2 a. 3). **Added** “after consideration of all the facts and information available at the time of the decision” in Section 7 C. 2. b. **Added** 4). to Section 7 C. 2. b. **Added** “willing and” “and committed” and **Added** “or reporting party’s identity” in Section 8 B. **Added** “as deemed appropriate and in the best interest of the inmate’s safety” in Section 8 C. 1. 4). **Revised** Attachment 6.

**February 2020:** No changes.

*Mike Leidholt (original signature on file)*

Mike Leidholt, Secretary of Corrections

03/04/2020

Date

## Attachment 1: Upgrades to Facilities and Technology

The **Upgrades to Facilities & Technology Form** is located at:

<M:\DOC\DOC Policies\Agency\DOC Policies\Attachment Templates\PREA Upgrades to Facilities and Technology.doc>

<b>Upgrades to Facilities and Technology PREA Standard Review</b>	
Facility / Unit / Area <small>Click here to enter text.</small>	Date <small>Click here to enter a date.</small>
Upgrade is for: <small>Choose an upgrade</small>	
Date range of design, modification, installation or upgrade:	
From: <small>Click here to enter a date.</small>	To: <small>Click here to enter a date.</small>
1) Brief Description of Upgrade(s). <small>Click here to enter text.</small>	
2) Has the design, modification, installation or update been reviewed to consider how it will affect the agency's ability to protect offenders from sexual abuse?	<input type="button" value="Choose response"/>
3) Brief Explanation of the projects effect (or not effect) the agency's ability to protect offenders from sexual abuse. <small>Click here to enter text.</small>	
_____ Physical Plant Manager	_____ Date

## Attachment 2: Acknowledgement of Prevention of Sexual Abuse/Harassment Information

The **Acknowledgement of Prevention of Sexual Abuse/Harassment Information** form is located at: <M:\DOC\DOC Policies\Agency\DOC Policies\Attachment Templates\PREA Acknowledgement of Prevention Information.doc>

South Dakota Department Of Corrections Policy Distribution: Public	Attachment: Acknowledgement of Prevention of Sexual Abuse / Harassment Information 1.4.B.16 PREA Institutional Risk Screens
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### Acknowledgement of Prevention of Sexual Abuse/Harassment Information

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**PART 1 Initial PREA Risk Information:** To be completed with the inmates Initial PREA Risk Screen (72 hrs) and initial briefing on PREA.

I acknowledge receiving information on the prevention of sexual abuse/harassment and the Department of Corrections policy on Zero Tolerance of sexual abuse/harassment.

INMATE NAME (PRINT) \_\_\_\_\_ NUMBER \_\_\_\_\_

INMATE SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

STAFF WITNESS \_\_\_\_\_ DATE \_\_\_\_\_

---

**PART 2 Comprehensive PREA Education:** To be completed after the inmate has attended the in person or video presentation education regarding their rights to be free from:  
1) Sexual abuse, 2) sexual harassment, and 3) retaliation.  
In addition, how to report such incidents and the DOC's policy on Zero Tolerance.

Location:  A&O PREA Education Class or  PREA Housing Unit Education

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

I acknowledge reviewing information on the prevention of sexual abuse/harassment and the Department of Corrections policy on Zero Tolerance of sexual abuse/harassment.

INMATE NAME (PRINT) \_\_\_\_\_ NUMBER \_\_\_\_\_

INMATE SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

Inmate was offered education and refused participation. Inmate was given PREA brochure.

STAFF WITNESS \_\_\_\_\_ DATE \_\_\_\_\_

Revised: 07/28/2014 Page 1 of 1

### Attachment 3: Sexual Incident Review Form

The **Sexual Incident Report Form** is located at:  
<M:\DOC\DOC Policies\Agency\DOC Policies\Attachment Templates\PREA Sexual Incident Review Form.doc>

**Sexual Incident Review Form**

<b>Incident Date:</b> <small>Click here to enter a date.</small>	<b>Review Date:</b> <small>Click here to enter a date.</small>
<b>Offender/Victim(s)/Number:</b> <input type="text"/>	<b>Review Team Leader:</b> <input type="text"/>
<b>Perpetrator(s)/Number:</b> <input type="text"/>	<b>Security Supervisor:</b> <input type="text"/>
<b>Incident Location:</b> <input type="text"/>	<b>Investigator(s):</b> <input type="text"/>
	<b>Unit/Program Manager:</b> <input type="text"/>
	<b>Medical Representative:</b> <input type="text"/>
	<b>Mental Health Representative:</b> <input type="text"/>
	<b>Other Staff:</b> <input type="text"/>
	<input type="text"/>
	<input type="text"/>
	<input type="text"/>

**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.](#)


<small>Click here to enter name.</small> <b>Review Team Leader</b>	<small>Click here to enter a date.</small> <b>Date</b>
---	---

Send completed form to facility Warden / Superintendent and DOC PREA Coordinator within 10 working days.

## Attachment 4: Facility Staffing Plan Form

The **Facility Staffing Plan Form** is located at:

<M:\DOC\DOC Policies\Agency\DOC Policies\Attachment Templates\PREA Facility Staffing Plan.doc>



South Dakota Department of Corrections  
Facility Staffing Plan

**Annual Review of staffing plan, facility organizational chart and compliance review.**

DOC Facility:  Date:

**Staffing Plan:** Calculating staffing levels and determining need for video monitoring.

- 1) Are there any judicial findings of inadequacy? If yes-note below:  
Note:
  
- 2) Any findings of inadequacy from Federal Investigative agencies? If yes-note below:  
Note:
  
- 3) Any findings of inadequacy from Internal or external oversight bodies? If yes-note below:  
Note:
  
- 4) Review all components of the facilities physical plant (including "blind-spots" or areas where staff or inmates may be isolated): Note issues below. Note if video camera coverage.  
Note:
  
- 5) Review and note any applicable State or local laws, regulations, or standards:  
Note:
  
- 6) Review and note the prevalence of substantiated and unsubstantiated incidents of sexual abuse:  
Note problem areas:


**Facility Organizational Chart:**

- 1) Attach organizational chart that depicts all positions assigned to the facility.
- 2) Organizational Chart should, at a minimum, include the following:

## Attachment 5: Inmate Gender Review Request

The *Inmate Gender Review Request* is located at:

<M:\DOC\DOC Policies\Agency\DOC Policies\Attachment Templates\PREA Inmate Gender Review Request.doc>


	<b>SOUTH DAKOTA DEPARTMENT OF CORRECTIONS</b>	<b>INMATE GENDER REVIEW REQUEST</b>
<b>OFFENDER INFORMATION</b>		
Name:	Number:	
Current housing location:	Fac type : <input type="checkbox"/> Male <input type="checkbox"/> Female	
Offenders biological gender at birth:	<input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Intersex	
Available court documentation identifies the offender as:	<input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> N/A	
<b>REQUEST INFORMATION</b>		
The request for a DOC review of the offenders gender is based upon: (check all that apply)		
<input type="checkbox"/> Offender has requested / or considers themselves to be a different gender than the assigned facility.		
<input type="checkbox"/> Offender self identifies as a transgender or intersex individual. <i>Note: Have the offender write a written request identifying their issues and concerns. Attach written request to this document</i>		
<input type="checkbox"/> Offender presents gender non-conforming physical characteristics. (Note characteristics in Comments box below)		
Comments	<div style="border: 1px solid black; height: 40px;"></div>	
<b>NOTIFICATIONS</b>		
The following notifications have been completed (a notification for the purpose of this document is a e-mailed notice to the facilities department supervisor)		
<input type="checkbox"/> The offender's Unit Manager / Case Manager:	Who was notified:	Date notified:
<input type="checkbox"/> The facilities Correctional Health Services:	Who was notified:	Date notified:
<input type="checkbox"/> The facilities Correctional Behavioral Health Services:	Who was notified:	Date notified:
<input type="checkbox"/> The facilities PREA Compliance Manager Notified:	Who was notified:	Date notified:
<b>FORM COMPLETED BY:</b>		
Staff:	Title:	<input type="checkbox"/>
Send/E-mail copy of this form to: AW/DW of Facility Facility PREA Compliance Manager DOC PREA Coordinator		
Original to offenders unit file.		



## Attachment 6: Gender Non-conforming Committee

The **Gender Non-conforming Committee** is located at:

<M:\DOC\DOC Policies\Agency\DOC Policies\Attachment Templates\Gender Non-conforming Committee.doc>

	<b>SOUTH DAKOTA DEPARTMENT OF CORRECTIONS</b>	<b>GENDER NON-CONFORMING COMMITTEE</b>
<b>Definitions:</b>		
Gender Non-conforming:	means an inmate whose appearance or manner does not conform to traditional societal gender expectations.	
Intersex inmate:	means an inmate who's sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female.	
Transgender inmate:	means an inmate whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.	
<b>Purpose:</b>		
The purpose of the Gender Non-conforming Committee (GNC) is to consider and take action on inmate requests for accommodation, for which the Committee has authority to determine.		
The committee members will be a cross disciplinary group sharing their expertise to reach an informed decision regarding the inmate's request for accommodation. When determining a decision and response to an inmate's request, the committee will consider all relevant facts and evidence presented to the committee by staff and the inmate. Each decision and response to an inmate's request shall be decided on a case-by-case basis, taking into consideration all information and evidence made available to the committee at the time.		
<b>Role and Responsibility:</b>		
<ol style="list-style-type: none"><li>1. Respond to Inmate Gender Review Requests</li><li>2. Consider all relevant information and request information as needed to make an informed decision</li><li>3. Identify and consider any needs of the inmate</li><li>4. Consider safety and security of the institution, staff and other inmates</li><li>5. Identify least restrictive options</li><li>6. Prepare a written recommendation to the Director of Prison Operations as appropriate</li><li>7. Document and inform staff of the committee's decision</li></ol>		
<b>Staffing:</b>		
The Facility PREA Compliance Manager will organize and lead the meeting.		
Additional members of the GNC may include:		
<ul style="list-style-type: none"><li>• Facility Warden or designee</li><li>• Director of Classification and Transfers</li><li>• Behavioral Health</li><li>• Correctional Health Services</li><li>• PREA Coordinator</li><li>• Facility PREA Investigator</li><li>• Housing Unit Manager from the inmate's current housing assignment</li></ul>		
<b>Meetings:</b>		
Will be scheduled at the inmate's facility on an as needed basis. Notice shall be provided to the inmate of the time and date set for the meeting.		
<b>Decisions</b>		
The decision, including any recommendation to the Director of Prison Operations, completed Request and all information considered when making the decision will be recorded as one report. The original will be placed in inmate's Unit file. A scanned copy will be provided to the facilities PREA Compliance Manager.		
<small>Revised 10/18/2018</small>		<small>Page 1 of 1</small>

## Attachment 7: Gender Non-conforming Committee Response

The **Gender Non-conforming Committee Response** is located at:  
<M:\DOC\DOC Policies\Agency\DOC Policies\Attachment Templates\PREA Gender Non-Conforming Committee Response.doc>

SOUTH DAKOTA DEPARTMENT OF CORRECTIONS		GENDER NON-CONFORMING COMMITTEE RESPONSE	
<b>OFFENDER INFORMATION</b>			
Name:	_____	Number:	_____
Current housing location:	_____	Fac type:	<input type="checkbox"/> Male <input type="checkbox"/> Female
<b>BACKGROUND INFORMATION</b>			
The Gender Non-conforming Committee has received the following information:			
<input type="checkbox"/> Inmate Gender Determination Request AND/OR <input type="checkbox"/> Inmate's written request identifying his/her concerns.			
The inmate has stated they are:			
<input type="checkbox"/> Transgender Female (separate inmate pool) <input type="checkbox"/> Transgender Male (separate inmate pool) <input type="checkbox"/> Intersex <input type="checkbox"/> Other - not in comments			
Based upon his/her gender, the inmate has requested:			
<input type="checkbox"/> Separate shower accommodations <input type="checkbox"/> Gender appropriate housing - new facility <input type="checkbox"/> Different housing - same facility			
<input type="checkbox"/> Gender appropriate property <input type="checkbox"/> Other (not in comments) <input type="checkbox"/> No action at this time			
Comments: _____			
The following information was requested for the committee to review:			
<input type="checkbox"/> A Correctional Health Services assessment of the offender's gender issues.			
<input type="checkbox"/> A Correctional Behavioral Health assessment of the offender's gender issues.			
<b>GNC COMMITTEE</b>			
Meeting Location: _____		Date: _____	
Meeting Staff:			
"Warden/Case Manager/Program Manager"		"Facility Manager/Program"	
"Director of Case Management"		"Prison Coordinator"	
"Facility Correctional Behavioral Health"		"Facility Correctional Health"	
"Facility Program Manager"		"Program Manager/Program Coordinator"	
"Other"		"Other"	
Summarize the issues considered (Housing Disparity/Mental Health/Medical Health and/or Issue relating gender)			
_____			
<b>GNC COMMITTEE RECOMMENDATION</b>			
Recommendations of the GNC Committee:			
1. Add Inmate to GNC Shower list? _____			
2. Recommending safe & secure housing at: _____			
3. Mental Health follow-up necessary? _____			
1   Page			
4. Health Services program or property? _____			
5. Additional Property - Refer to Facility Property / Project Application _____			
6. Other: _____			
7. Other: _____			
<b>FORM COMPLETED BY:</b>			
Facility Compliance Manager: _____		Date: _____	
<b>DIRECTOR OF PRISON OPERATIONS (OR DESIGNATED RESPONSE):</b>			
The recommendation(s) is <input type="checkbox"/> Approved <input type="checkbox"/> NOT Approved			
<input type="checkbox"/> With exception listed below in comments			
Additional comments: _____			
Director of Prison Operations (or designee): _____		Date: _____	
Return signed form to Facility Compliance Manager. Facility Compliance Manager sends copies to all committee members.			
UPDATED: 2/10/2017			
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