

SOUTH DAKOTA DEPARTMENT OF CORRECTIONS 2020 ANNUAL PRISON RAPE ELIMINATION ACT REPORT



OCTOBER 2021

In September of 2003, President Bush signed the Prison Rape Elimination Act (PREA). In August of 2012, the PREA standards promulgated by the United States Department of Justice went into effect. Since then, staff throughout the Department have 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 South Dakota Department of Corrections (SDDOC).

This report reflects the Department's continued efforts to move forward in complying with the national standards promulgated under PREA. The SDDOC is committed to keeping those in our custody safe and free from harm and has a 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 the PREA standards is the top priority for SDDOC. All SDDOC staff have been involved in achieving and maintaining these goals.

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

DOC PREA Coordinator

The PREA Coordinator manages the department's policies and procedures pertaining to PREA and the associated PREA Standards. The Coordinator oversees PREA policy development, PREA staff training, PREA investigator training, and PREA documentation of agency procedures.

DOC PREA Compliance Manager

Each of the three main adult facilities have a PREA Compliance Manager to oversee facility level compliance with the PREA Standards. The juvenile division has assigned a Juvenile PREA Compliance Manager to oversee PREA compliance at the agency's contracted facilities. Each adult facility designated a primary PREA investigator and trained additional staff as back-up PREA investigators.

Adult Division

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 2020, staffing levels were maintained with documentation of staff shortage.

Juvenile Division

The Juvenile PREA Compliance Manager assists and monitors the community placement facilities under contract for compliance with the PREA Juvenile standards.

Training

The adult division continued with pre-service training programs for new staff, contactors, and volunteers. The yearly in-service training program continued to expand to the new PREA related updates and policies. In addition, there were specialty training programs/events for the PREA investigators and PREA compliance managers.

Pre-service PREA

All staff must attend prior to contact with offenders; this standardized training including all ten of the staff training requirements in the PREA standards.

- Zero-tolerance policy for sexual abuse and sexual harassment
- How to fulfill staff responsibilities under DOC sexual abuse and sexual harassment prevention, detection, reporting and response, policies and procedures
- Inmates' right to be free from sexual abuse and sexual harassment
- The right of inmates and staff members to be free from retaliation from reporting sexual abuse and sexual harassment
- The dynamics of sexual abuse and sexual harassment in confinement/correctional settings
- The common reaction of sexual abuse and sexual harassment victims
- How to detect and respond to signs of threatened and actual sexual abuse
- How to avoid inappropriate relationships with inmates
- How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, and gender nonconforming inmates
- How to comply with relevant laws related to mandatory reporting of sexual abuse to law enforcement.

In-service PREA Training

All staff that has regular contact with offenders complete annual training. The in-service training for all facility staff for 2020 was PREA's: Professional Boundaries/GNC vs Gender Dysphoria course. Topics discussed included the definitions, procedures and practices for professional boundaries, and the differences between gender non-conforming versus gender dysphoric offender and how to respond to requests.

PREA Specialty Training

Adult and Juvenile Division specialized training to select groups to cover training, policy and procedures. Juvenile Investigator training covering definitions, reporting procedures, responding to a report and investigation outcomes was completed in Sioux Falls in September. The Adult PREA Compliance and investigator training was held March 2020 which covered training on preponderance of evidence. The second training was held in December on investigation procedures for the tracking system in SDDOC's offender management system.

Policies

In 2020 for the Adult SDDOC there were PREA impacted policies issued by the SDDOC. The following policies were reviewed: Americans with Disabilities Act with minor changes to definitions of ADA Director, PREA Compliance with Prison Rape Elimination Act Standards with no changes, PREA Response investigation of sexual abuse-harassment with minor changes, PREA Institutional Risk screens with no changes, Management of Gender Dysphoria is a new policy, and community service programs with minor changes throughout the policy.

In 2020 for the Juvenile SDDOC there was a minor change to the PREA operational memorandum for accurate definitions and updated links. No other PREA impacted policies or operational memorandums were updated or new.

Supportive Services

Pursuant to PREA standard 115.21 evidence protocol and forensic examinations and 115.53 access to outside confidential support services; the SDDOC has maintained memorandums of understanding (MOU) with the following local victim advocate groups to provide services to SDDOC offenders who were victims of sexual abuse.

Support Services MOU's

- The Compass Center in Sioux Falls covers the Sioux Falls campus of the South Dakota State Penitentiary, Jameson Annex, Sioux Falls Community Work Center, and St. Francis House.
- Missouri Shores Domestic Violence Center in Pierre covers the Pierre campus of the South Dakota Women's Prison and the Pierre Community Work Center.
- Working Against Violence Inc. in Rapid City covers the Rapid City Community Work Center.
- River City Domestic Violence Center in Yankton covers the Mike Durfee State Prison and the Yankton Community Work Center.

Audits

The adult division contracted with a private PREA auditing company, the Nakamoto Group, to conduct the audit of the South Dakota Women's Prison during October 2020, due to COVID-19 this was rescheduled for May 2021. Mike Durfee State Prison facilities was audited May 2021.

The juvenile division contract facility for the Sequel Transition Academy was completed in August 2021. There was no juvenile audit completed in 2020 per pursuant to section 115.401 of the PREA standard audits; will only need to be completed once every three years.

General Definitions:

Incident Determinations

Substantiated allegation:	an allegation that was investigated and determined 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 the event occurred.
Informational incident:	a sexual incident that did not involve an allegation of sexual abuse or harassment, i.e. a consensual incident between inmates.

Sexual Abuse and Harassment The following definitions apply to adult division data:

Inmate sexual abuse: (of an inmate, detainee or resident by another inmate, detainee or resident)

Includes any of the following acts, if the victim does not consent, is coerced into such acts by overt or implied threats of violence or is unable to consent or refuse:

- 1) Contact between the penis and 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

Inmate sexual abuse – touching: (of an inmate, detainee or resident by another inmate, detainee or resident)

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 incidentally to a physical altercation.

Staff 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) – 3) Same first 3 points as inmate sexual abuse and
- 4) 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.
- 5) Any other intentional contact, either directly or through 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 relationships of a romantic nature between staff and inmates are included in this definition.

Inmate sexual harassment: (of an inmate, detainee or resident by another inmate, detainee or resident)

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

Staff sexual harassment: (of an inmate, detainee or resident by another inmate, detainee or resident)

Repeated verbal comments or gestures of a sexual nature to an inmate, detainee or resident by a staff member, contractor or volunteer, including demeaning reference to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

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Adult Division – Reported Incidents and Administrative Responses:

Reporting Period: January 1st to December 31st, 2020

DOC Adult 2020	Inmate Sexual Abuse - Penetration	Inmate Sexual Abuse - Touching	Inmate Sexual Harassment	Staff Sexual Abuse	Staff Sexual Harassment	Total Incident Determination
Substantiated	1	1	7	2	4	15
Unsubstantiated	10	10	26	3	17	66
Unfounded	3	3	2	2	9	19
Total Incident Category	14	14	35	7	30	100

MDSP Adult 2020	Inmate Sexual Abuse - Penetration	Inmate Sexual Abuse - Touching	Inmate Sexual Harassment	Staff Sexual Abuse	Staff Sexual Harassment	Total Incident Determination
Substantiated	0	0	1	0	0	1
Unsubstantiated	2	0	3	2	2	9
Unfounded	0	0	1	0	2	3
Total Incident Category	2	0	5	2	4	13

***Administrative Response to substantiated staff involved incidents:** Not applicable – no staff substantiated cases.

SDSP Adult 2020	Inmate Sexual Abuse - Penetration	Inmate Sexual Abuse - Touching	Inmate Sexual Harassment	Staff Sexual Abuse	Staff Sexual Harassment	Total Incident Determination
Substantiated	1	1	6	2	3	13
Unsubstantiated	6	7	13	1	15	42
Unfounded	3	2	0	2	6	13
Total Incident Category	10	10	19	5	24	68

***Administrative Response to substantiated staff involved incidents:** There were 4 staff-involved substantiated cases at the South Dakota State Penitentiary. Two cases were staff sexual harassment--Neither were referred to Division of Criminal Investigation (DCI) as they did not appear to be criminal. One case the staff was terminated and the other case the staff received a written reprimand. There were two cases of staff sexual misconduct, neither of which were referred to DCI. In both cases the staff members were terminated.

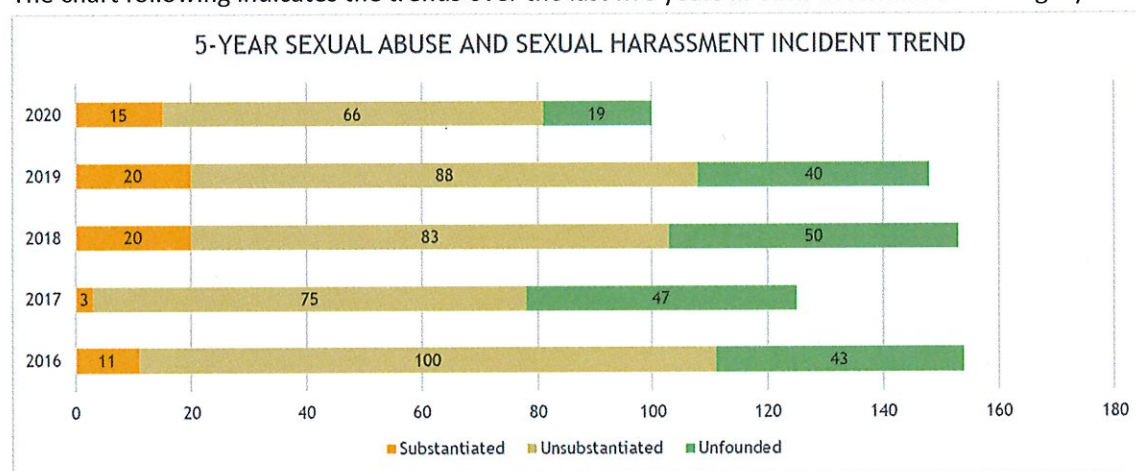
SDWP Adult 2020	Inmate Sexual Abuse - Penetration	Inmate Sexual Abuse - Touching	Inmate Sexual Harassment	Staff Sexual Abuse	Staff Sexual Harassment	Total Incident Determination
Substantiated	0	0	0	0	1	1
Unsubstantiated	2	3	9	0	1	15
Unfounded	0	1	1	0	1	3
Total Incident Category	2	4	10	0	3	19

***Administrative Response to substantiated staff involved incidents:** The one staff-involved substantiated sexual harassment cases involved an officer at SDWP. The incident was not referred to Division of Criminal Investigations (DCI) as it did not appear to be criminal. The staff received a written reprimand.

*Adult Aggregated Data Review and Corrective Action:***Trends over a five-year period:**

The 2020 total number of incidents at 100 is a 32.4% decrease over 2019's reported 148 total incidents. 2020's total is 24.3% below the five-year average of total incidents at 136. This year's decrease over the previous year was due to the number of allegations reported as all determination decreased. Substantiated determinations in 2019 were at 20 cases that have decreased in 2020 to 15 cases. Unsubstantiated determinations in 2019 were at 88 cases that have decreased in 2020 to 66 cases. Finally, unfounded determinations in 2019 were at 40 cases that have decreased in 2020 to 19 cases. This trend is re-establishing PREA related incidents and are being reported and investigated. This decrease was SDDOC-agency wide, each facility had a decrease of incidents. Mike Durfee State Prison showed a 55% decrease from 2019 of 29 incidents to 2020 of 13 incidents. South Dakota State Penitentiary showed a 30.5% decrease from 2019 of 98 incidents to 2020 of 68 incidents. South Dakota Women's Prison showed a 10.5% decrease from 2019 of 21 incidents to 2020 of 19 incidents.

The chart following indicates the trends over the last five years in each determination category.

*Mike Durfee State Prison (MDSP) Trends over a five-year period*

MDSP has a 55% decrease in the year 2020 of total allegations investigated, from 29 to 13 incidents over the 2020 reporting year. The current year's total at 13 is lower than the five-year total incident average of 22.4 incidents.

This decrease is due to a large decrease in reported inmate sexual harassment from 19 incidents in 2019 to 5 incidents in 2020 which is a 73.7% decrease. There was a decrease with inmate sexual abuse from 9 incidents in 2019 to 2 incidents in 2020, with a 77.8% decrease. There was one substantiated case of inmate sexual harassment in 2020 at MDSP. Substantiated sexual abuse (penetration & touching) continued their five-year downward trend with no substantiated cases in 2020. The trend for reported allegations of sexual abuse (both types) has been decreasing over the last five years and has an average of 5 sexual abuse allegations per year.

There were no corrective actions for MDSP indicated at this time.

South Dakota State Penitentiary (SDSP) Trends over a five-year period

SDSP has a 30.5% decrease in the year 2020 of total allegations from 98 to 68 over the 2020 reporting year. The current year's total incidents at 68 is lower than the five-year total incident average of 96.2 incidents.

This decrease is due to the inmate sexual abuse and harassment cases decreasing from 60 cases in 2019 to 41 cases in 2020. There was also a decrease in staff sexual abuse and harassment cases from 38 cases in 2019 to 27 cases in 2020. All determinations decreased in 2020 from 2019. Substantiated cases in 2019 of 15 determinations decreased to 13 determinations in 2020. Unsubstantiated case in 2019 of 55 determinations decreased to 42 determinations in 2020. Finally, unfounded cases in 2019 of 28 determinations decreased to 13 determinations in 2020. SDSP is showing a downward trend of cases being reported.

There was one corrective action for SDSP indicated at this time. It was reviewed by DOC staff and was approved to install an additional camera.

South Dakota Women's Prison (SDWP) Trends over a five-year period

SDWP had an 10.5% decrease in the year 2020 of total allegations investigated, from 21 to 19 incidents over the 2020 reporting year. The current year's total incidents at 19 is higher than the five-year total incident average of 18 incidents.

This decrease is due to staff sexual abuse and harassment incidents decreasing from 8 cases in 2019 to 3 cases in 2020.

The other area of decrease was inmate sexual abuse (touching) decreasing from 6 cases in 2019 to 4 cases in 2020. There was a slight increase with inmate sexual abuse (penetration) from 0 (zero) in 2019 to 2 cases in 2020 where both cases were unsubstantiated. Inmate sexual harassment also increased slightly from 7 cases in 2019 to 10 cases in 2020. Substantiated cases decreased from 2 determinations in 2019 to 1 determination in 2020. Unsubstantiated cases decreased from 17 determinations in 2019 to 15 determinations in 2020. Unfounded cases increased from 2 determinations in 2019 to 3 determinations in 2020. The trend for reported allegations of sexual abuse (both types) has been maintained over the last five-year period.

There were no corrective actions for SDWP indicated at this time.

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Juvenile Aggregated Data Review

Sequel Transition Academy (STA) is a juvenile facility operated by a private provider on behalf of the South Dakota Department of Corrections. STA is a 32-bed licensed group care home that provides transitional services to DOC youth returning to the Sioux Falls area. Sequel Youth and Family Services leases the property from the state.

Juvenile Division- Contracted Facilities

Reporting Period: January 1st to December 31st, 2020

DOC STA 2020	Youth Sexual Abuse - Penetration	Youth Sexual Abuse - Touching	Youth Sexual Harassment	Staff Sexual Abuse	Staff Sexual Harassment	Total Incident Determination
Substantiated	0	0	1	0	0	1
Unsubstantiated	0	1	1	0	0	2
Unfounded	0	0	0	0	0	0
Total Incident- Category	0	1	2	0	0	3

2021 Prospectus

In 2021, the South Dakota Women's Prison audit was completed in May for audit year 3 cycle 1. This report was received and SDWP met all PREA Standards. The Mike Durfee State Prison audit was completed in May for audit year 3 cycle 2. This report was received and MDSP met all PREA Standards exceeding four standards. The Juvenile contract facility 2021 audit year 3 cycle 2 was completed August 2021 and met all PREA Standards. The South Dakota State Penitentiary is scheduled for audit year 3 cycle 3 audit in 2022.

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

Reviewed and approved:


Signature

Tim Reisch
Printed Name

Interim Department Secretary
Title

11-8-2021
Date