

SOUTH DAKOTA DEPARTMENT OF CORRECTIONS 2022 ANNUAL PRISON RAPE ELIMINATION ACT REPORT



APRIL 2023

Overview

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 Department of Corrections.

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 PREA Coordinator oversees PREA policy development, PREA staff training, PREA investigator training, and PREA documentation of agency procedures. The PREA Coordinator collects and aggregates annual data for the Department.

DOC PREA Compliance Manager

Each of the three main adult facilities have at a minimum of one PREA Compliance Manager to oversee facility level compliance with the PREA Standards.

Juvenile PREA Compliance Manager

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

PREA Investigator

Each adult facility designated a primary PREA investigator and trained additional staff as back-up PREA investigators. PREA Investigator attend specialized and annual training.

Adult Division Staffing Plan

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 2022, staffing levels were maintained with documentation of staff shortage.

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 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 Training

All staff must attend pre-service training prior to contact with offenders; this standardized training including all ten of the staff training requirements in the PREA standards 115.31 Employee training.

- 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.

PREA Annual Training

All staff that has regular contact with offenders complete annual training. The in-service training for all facility staff for fiscal year 2022 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 Specialized Training

Adult and Juvenile Division specialized training to select groups to cover training, policy and procedures.

Juvenile Investigator training covering PREA- Role as a Community Corrections Professional was completed in September of 2022 and PREA Terminology was completed in Sioux Falls in February of 2022. In September 2022, specialized training included the following topics: gender responsiveness for investigations, components for institutional culture and their impact on sexual abuse of inmates, effective communication with victims, witnesses, and perpetrators, COMS utilization, and Policy and annual review of data.

PREA Policies

In 2022 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, PREA Compliance with Prison Rape Elimination Act Standards, PREA Response investigation of sexual abuse-harassment, PREA Institutional Risk screens, Management of Gender Dysphoria, and community service programs with minor changes throughout the policy.

In 2022 for the Juvenile SDDOC there were no changes to PREA Policies or OMs. 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 and Cornerstone Rescue Mission.
- 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 State Penitentiary in June of 2022. SDSP was found compliant with PREA Standards after a corrective action review period.

The South Dakota Women's Prison is scheduled to audited in June 2023.

The juvenile division contract facility for the Brighter Transition Youth Treatment Center will be scheduled to be audited in 2024.

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 misconduct: (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.

Adult Aggregated Data Review:

In 2022 the total number of reportable incidents increased 31.65% with a total of 139 compared to 2021 total incidents of 95. The 2022 data is above the five-year average of 127.6 total incidents. SDDOC had an increase in reporting and investigated allegations in 2022.

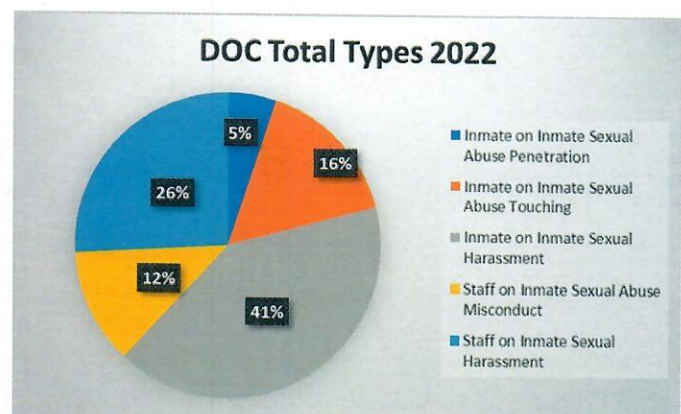
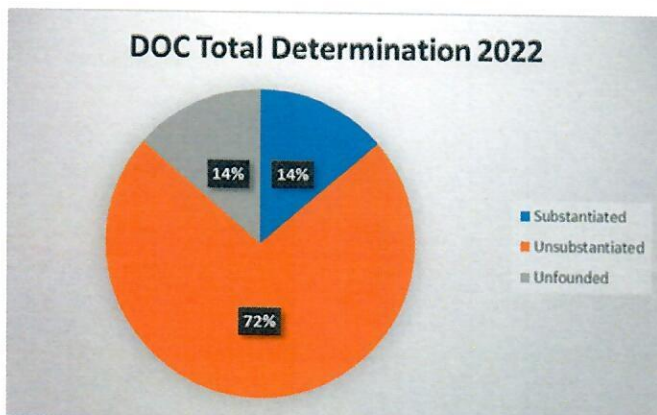
Trends over the one-year period:

The 2022 data for substantiated cases has increased to 19 incidents from the 2021 of 15 incidents. The percentage of substantiated cases from 2021 to 2022 decreased from 16% in 2021 to 14% in 2022. Unsubstantiated cases for 2022 increased from 64 in 2021 to 101 cases. The percentage of unsubstantiated cases increased from 67% in 2021 to 72% in 2022. There was an increase in unfounded cases in 2022 from 16 in 2021 to 19 cases. The percentage of unfounded cases decreased from 17% in 2021 to 14% in 2022.

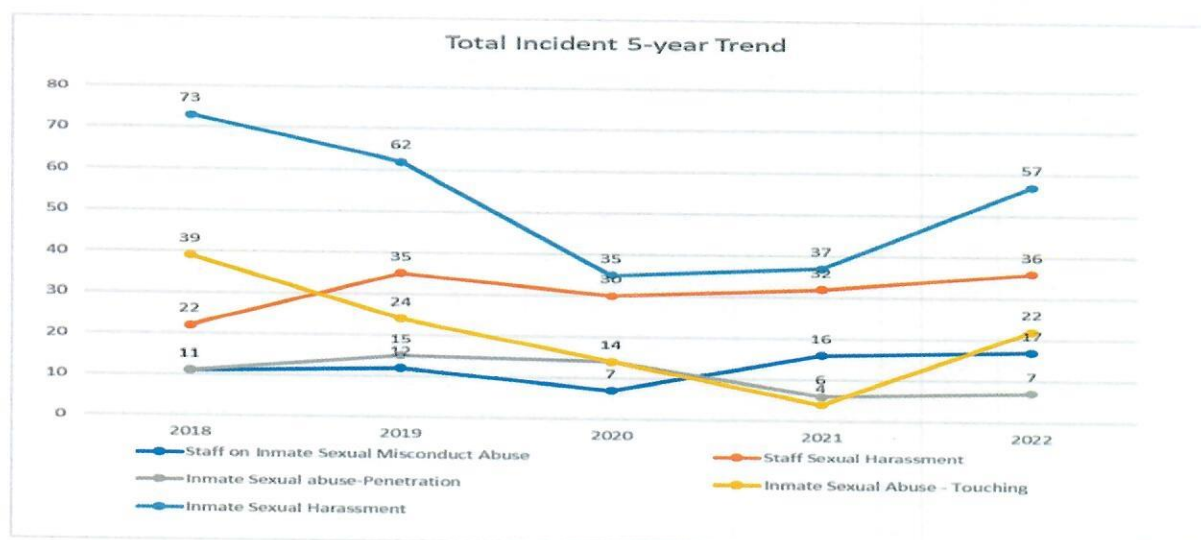
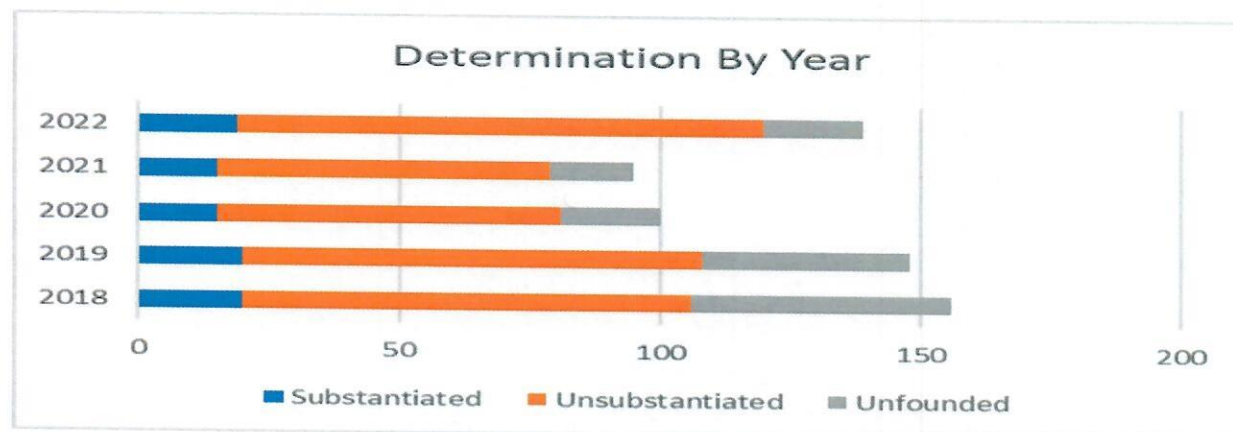
There was an increase of staff sexual abuse misconduct cases that were investigated in 2022 of 17 compared to 16 in 2021. There was an increase of staff sexual harassment cases investigated in 2022 of 36 compared to 32 in 2021. There was an increase of inmate-on-inmate sexual abuse penetration cases in 2022 of 7 compared to 6 in 2021. There was an increase of inmate-on-inmate sexual abuse touching cases in 2022 of 22 compared to 4 in 2021. There was an increase of inmate-on-inmate sexual harassment cases of 57 in 2022 compared to 37 in 2021.

2022 SDDOC Determination Chart

Incident Type	Inmate on Inmate Sexual Abuse Penetration	Inmate on Inmate Sexual Abuse Touching	Inmate on Inmate Sexual Harassment	Staff on Inmate Sexual Abuse Misconduct	Staff on Inmate Sexual Harassment	Grand Total
Adult DOC						
Substantiated	1	4	9	2	3	19
Unsubstantiated	5	15	46	7	28	101
Unfounded	1	3	2	8	5	19
Total	7	22	57	17	36	139



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



Adult Division – Reported Incidents and Administrative Responses:

Reporting Period: January 1, 2022 to December 31, 2022

Mike Durfee State Prison

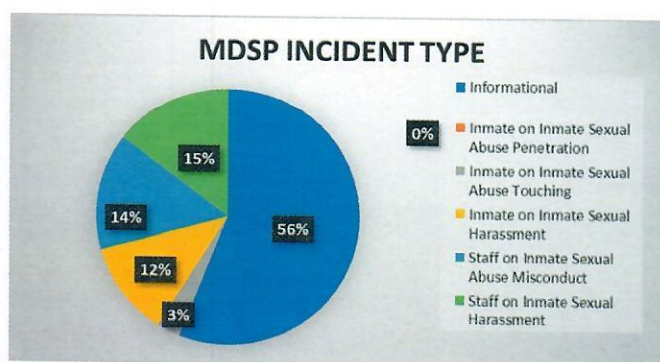
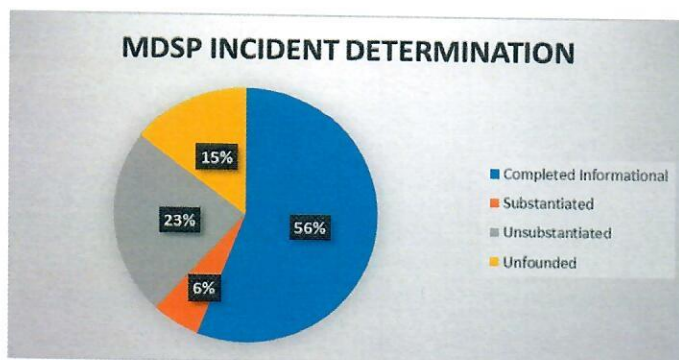
MDSP had 34 allegations reported in 2022. Of the 34 allegations only 15 are considered PREA reportable. The reportable incidents from 2021 to 2022 increased by 2. The area of increase was with staff sexual abuse misconduct of 5 in 2022 from 2 in 2021. There was no change with staff sexual harassment between the two years. The inmate sexual harassment also increased with 4 in 2022 from 3 in 2021. There was a change with inmate sexual abuse touching with 1 reported in 2022 and 0 reported in 2021. There was a decrease of inmate sexual abuse penetration incidents report in 2022 to 0 from the 3 in 2021.

When reviewing the determination of the reported there was a change in substantiated from 1 in 2021 to 2 in 2022. There was a change in unsubstantiated determinations also 7 in 2021 to 8 in 2022. The unfounded remained the same with 5 determinations.

The 5-year trend is higher than the PREA reportable cases. The average is 18.8 for the five-year trend and MDSP cases are at 15 in 2022.

MDSP held sexual incident reviews and there were no recommendations made in 2022.

DETERMINATION AND TYPE	Informational	Inmate on Inmate Sexual Abuse Penetration	Inmate on Inmate Sexual Abuse Touching	Inmate on Inmate Sexual Harassment	Staff on Inmate Sexual Abuse Misconduct	Staff on Inmate Sexual Harassment	Grand Total
Completed Informational	19	0	0	0	0	0	19
Substantiated	0	0	1	0	0	1	2
Unsubstantiated	0	0	0	3	2	3	8
Unfounded	0	0	0	1	3	1	5
Total	19	0	1	4	5	5	34



***Administrative response to substantiated staff involved incidents:** There was one staff-involved substantiated case at Mike Durfee State Prison. The one case was a staff sexual harassment, where the staff member resigned.

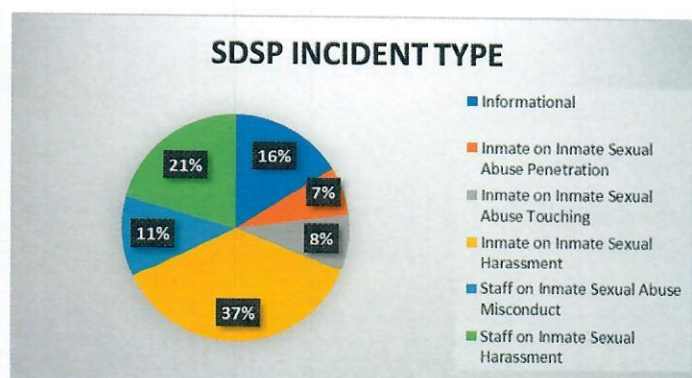
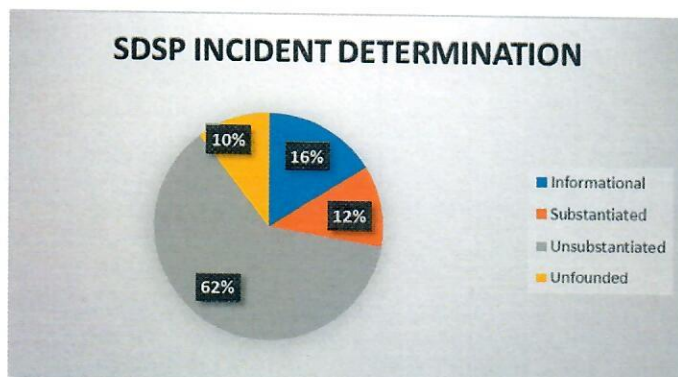
South Dakota State Penitentiary

SDSP had 87 allegations reported in 2022. Of the 87 allegations 73 are considered PREA reportable. The reportable incidents from 2021 to 2022 increased by 12. Reviewing each type of incident staff sexual abuse misconduct increased from 9 in 2021 to 10 in 2022. The staff sexual harassment had a significant decrease of with 27 in 2021 to 18 in 2022. The inmate sexual abuse penetration increased from 3 in 2021 to 6 in 2022. Inmate sexual abuse touching also increased from 2 in 2021 to 7 in 2022. Inmate sexual harassment had a significant increase from 20 in 2021 to 32 in 2022. Reviewing the allegations there was an increase of inmate-on-inmate allegations in 2022.

When reviewing the determination of incidents report there was a change in substantiated cases from 9 in 2021 to 10 in 2022. The unsubstantiated cases increased from 47 in 2021 to 54 in 2022. The unfounded cases also increased from 5 in 2021 to 9 in 2022.

The 5-year trend continues to be higher than the PREA reportable cases. The average of 81.6 cases for the five-year trend compared to the 73 cases for SDSP in 2022.

Determination and Type	Informational	Inmate on Inmate Sexual Abuse Penetration	Inmate on Inmate Sexual Abuse Touching	Inmate on Inmate Sexual Harassment	Staff on Inmate Sexual Abuse Misconduct	Staff on Inmate Sexual Harassment	Grand Total
Informational	14	0	0	0	0	0	14
Substantiated	0	1	1	5	2	1	10
Unsubstantiated	0	4	5	26	4	15	54
Unfounded	0	1	1	1	4	2	9
SDSP Facilities Total	14	6	7	32	10	18	87



***Administrative response to substantiated staff involved incidents:** There were three staff involved substantiated cases at South Dakota State Penitentiary. One staff sexual harassment case the staff member received a written reprimand. One staff sexual abuse misconduct the staff member received one-day suspension. One staff sexual abuse misconduct the staff member was terminated from employment. None of these cases were referred to DCI as they did not seem criminal in nature.

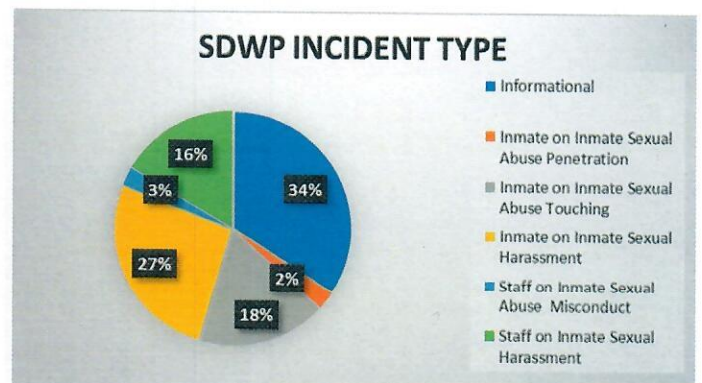
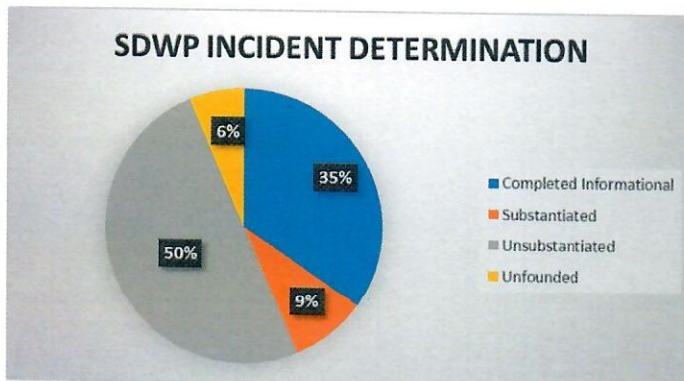
South Dakota Women's Prison

SDWP had 79 allegations reported in 2022. Of the 79 allegations 52 are considered PREA reportable. The reportable incidents from 2021 to 2022 increased by 31 incidents. Looking at the different types of allegations, staff sexual misconduct decreased in 2022 with 2 cases compared to 2021 with 5 cases. The staff sexual harassment increases significantly to 13 cases in 2022 compared to 0 in 2021. The inmate sexual abuse penetration increased from 0 in 2021 to 2 in 2022. There was an increase with inmate sexual abuse touching from 2 in 2021 to 14 in 2022. The increase of inmate sexual harassment was 14 in 2021 compared to the 21 in 2022.

Reviewing the determinations of the incidents reported the change of substantiated cases from 5 in 2021 to 7 in 2022. There was a significant increase of unsubstantiated cases in 2022 of 39 compared to 10 in 2021. There were 6 unfounded cases in 2021 compared to 5 in 2022. There is still one case pending with the states attorney office.

The 5-year trend is significantly lower than the 2022 total PREA reportable cases. The average of 27.2 cases for the five-year trend compared to the 52 cases for SDWP in 2022.

DETERMINATION AND TYPE	Informational	Inmate on Inmate Sexual Abuse Penetration	Inmate on Inmate Sexual Abuse Touching	Inmate on Inmate Sexual Harassment	Staff on Inmate Sexual Abuse Misconduct	Staff on Inmate Sexual Harassment	Grand Total
Completed Informational	27	0	0	0	0	0	27
Substantiated	0	0	2	4	0	1	7
Unsubstantiated	0	1	10	17	1	10	39
Unfounded	0	0	2	0	1	2	5
Pending	0	1	0	0	0	0	1
SDWP Facilities Total	27	2	14	21	2	13	79



***Administrative response to substantiated staff involved incidents:** There was one staff involved substantiated case at the South Dakota Women's Prison. The one staff sexual harassment case the staff member was terminated from employment.

South Dakota Department of Corrections 2022 Annual Prison Rape Elimination Act Report

Juvenile Aggregated Data Review

The Sequel Transition Facility Academy opened in 2013, has been renamed Brighter Transitions Youth Treatment Center (BTYTC) that provides transitional services to the DOC youth returning to the Sioux Falls area. The single facility operating on behalf of the South Dakota Department of Corrections, leases land from the state.

SDDOC Descriptive Categories	Equivalent (=)	Youth Descriptive Categories
Youth Sexual Abuse - Penetration	=	Youth Nonconsensual Sexual Acts
Youth Sexual Abuse - Touching	=	Youth Abusive Sexual Contact
Youth Sexual Harassment	=	Youth Sexual Harassment
Staff Sexual Abuse Penetration/Touching	=	Staff Sexual Misconduct
Staff Sexual Harassment	=	Staff Sexual Harassment

Based on the data collected for the 2022 year there was an increase in reporting and investigations. In the year 2022, there was 11 reported allegations, of these allegations 5 of them are considered PREA Reportable incidents. There was no change in allegations involving staff. There was no change with allegations of youth sexual abuse penetration or youth sexual harassment. There was an increased by one case in 2022 with 4 cases compared to 3 in 2021.

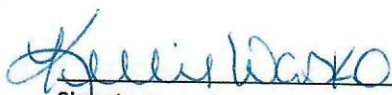
DETERMINATION AND TYPE	Informational	Youth Sexual Abuse - Penetration	Youth Sexual Abuse- Touching	Youth Sexual Harassment	Staff Sexual Abuse Penetration / Touching	Staff Sexual Harassment	Grand Total
Informational	6	0	0	0	0	0	6
Substantiated	0	1	3	0	0	0	4
Unsubstantiated	0	0	1	0	0	0	1
Unfounded	0	0	0	0	0	0	0
Juvenile Total	6	1	4	0	0	0	11

2023 Prospectus

In 2022, the South Dakota State Penitentiary audit was completed in June for the year 3 cycle 3. This report was received and SDSP was requested to work on corrective action within the 45-day timeframe. SDSP was able to correct opposite gender accident viewing by correcting camera views, staff with camera access completed PREA certified investigator training, and curtains for shower areas were installed. The South Dakota Women's Prison is scheduled for the audit year 4 cycle 1 in June 2023.

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

Reviewed and approved:


Signature

Kellie Wasko
Printed Name

Department Secretary
Title

5-3-2023
Date