

# Prison Rape Elimination Act (PREA) Audit Report Adult Prisons & Jails

Interim       Final

Date of Report: May 9, 2019

## Auditor Information

Name: Diane Lee	Email: diane.lee@nakamotogroup.com
Company Name: The Nakamoto Group, Inc.	
Mailing Address: 11820 Parklawn Dr., Suite 240	City, State, Zip: Rockville, MD 20852
Telephone: 240-357-3162	Date of Facility Visit: April 23-25, 2019

## Agency Information

Name of Agency: South Dakota Department of Corrections	Governing Authority or Parent Agency (If Applicable):		
Physical Address: 3200 East Highway 34	City, State, Zip: Pierre, SD 57501		
Mailing Address: c/o East Capitol Ave.	City, State, Zip: Pierre, SD 57501		
Telephone: (605) 773-3478	Is Agency accredited by any organization? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
The Agency Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal

**Agency mission:** It is the mission of the Department of Corrections is to protect the citizens of South Dakota by providing safe and secure facilities for juvenile and adult offenders committed to their custody by the courts, to provide effective community supervision to offenders upon their release and to utilize evidence-based practices to maximize opportunities for rehabilitation.

**Agency Website with PREA Information:** <http://doc.sd.gov/about/PrisonRapeEliminationAct.aspx>

## Agency Chief Executive Officer

Name: Mike Leidholt	Title: Secretary of Corrections
Email: Mike.Leidholt@state.sd.us	Telephone: 605-367-6136

## Agency-Wide PREA Coordinator

Name: Ken VanMeveren	Title: PREA Coordinator
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<b>Email:</b> Ken.VanMeveren@state.sd.us	<b>Telephone:</b> 605-367-4496
<b>PREA Coordinator Reports to:</b> Kevin McLain	<b>Number of Compliance Managers who report to the PREA Coordinator:</b> Three

**Facility Information**

<b>Name of Facility:</b> South Dakota State Prison			
<b>Physical Address:</b> 1600 North Drive, Sioux Falls, SD 57104			
<b>Mailing Address (if different than above):</b> PO Box 5911, Sioux Falls, SD 57117			
<b>Telephone Number:</b> (605) 369-2201			
<b>The Facility Is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Private not for profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
<b>Facility Type:</b>	<input type="checkbox"/> Jail	<input checked="" type="checkbox"/> Prison	

**Facility Mission:** The mission of the Department of Corrections is to protect the citizens of South Dakota by providing safe and secure facilities for juvenile and adult offenders committed to their custody by the courts, to provide effective community supervision to offenders upon their release and to utilize evidence-based practices to maximize opportunities for rehabilitation.

**Facility Website with PREA Information:** <http://doc.sd.gov/about/PrisonRapeEliminationAct.aspx>

**Warden/Superintendent**

<b>Name:</b> Darin Young, Chief Warden	<b>Title:</b> Director of Prison Operations/Warden SDSP
<b>Email:</b> Darin.Young@state.sd.us	<b>Telephone:</b> (605) 367-5050

**Facility PREA Compliance Manager**

<b>Name:</b> Sam Badure	<b>Title:</b> Unit Manager
<b>Email:</b> Sam.Badure@state.sd.us	<b>Telephone:</b> (605) 367-5178

**Facility Health Service Administrator**

<b>Name:</b> Kayla Tinker, BSN, RN	<b>Title:</b> Correctional Health Services Administrator
<b>Email:</b> Kayla.tinker@state.sd.us	<b>Telephone:</b> (605) 773-2707

**Facility Characteristics**

<b>Designated Facility Capacity:</b> South Dakota State Penitentiary: 957; Jameson Prison Annex: 687; Sioux Falls Community Work Center: 243; TOTAL: 1888	<b>Current Population of Facility:</b> South Dakota State Penitentiary: 770; Jameson Prison Annex: 529; Sioux Falls Community Work Center: 224; TOTAL: 1523
<b>Number of inmates admitted to facility during the past 12 months</b>	<b>1085</b>

<b>Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:</b>		1085
<b>Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:</b>		1085
<b>Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:</b>		423
<b>Age Range of Population:</b>	<b>Youthful Inmates Under 18:</b> 0	<b>Adults:</b> 18-72
<b>Are youthful inmates housed separately from the adult population?</b>		<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
<b>Number of youthful inmates housed at this facility during the past 12 months:</b>		0
<b>Average length of stay or time under supervision:</b>		South Dakota State Penitentiary (SDP) = 20.3 years; Jameson Prison Annex (JPA) = 13.4 years; Sioux Falls Comm. Work Center (SFC) = 7.5 years
<b>Facility security level/inmate custody levels:</b>		JPA: Maximum and High Medium; SDP: High Medium and Low Medium; SFC: Minimum Administrative
<b>Number of staff currently employed by the facility who may have contact with inmates:</b>		South Dakota State Penitentiary: 85; Jameson Prison Annex: 85; Sioux Falls Comm. Work Center: 9; Shared SDSP/JPA: 149; Dept. of Health 20.6/SDSP 25.2; JPA: 45.8; Mental Health: 22 Total 395
<b>Number of staff hired by the facility during the past 12 months who may have contact with inmates:</b>		89
<b>Number of contracts in the past 12 months for services with contractors who may have contact with inmates:</b>		98

### Physical Plant

<b>Number of Buildings:</b> SDP:7; JPA: 2; SFC: 4 Total 13	<b>Number of Single Cell Housing Units:</b> 0
<b>Number of Multiple Occupancy Cell Housing Units:</b>	SDP:3; JPA: 3; SFC: 1; Total 7
<b>Number of Open Bay/Dorm Housing Units:</b>	SDP: 0; JPA: 1; SFC: 1; Total 2
<b>Number of Segregation Cells (Administrative and Disciplinary):</b>	SDP: 38; JPA: 48 Restrictive Housing and 16 Disciplinary (64); SFC: 0; Total 102

**Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.):** South Dakota State Prison employs a video camera system for video surveillance. Cameras are placed strategically throughout the institution to ensure the safety and security of both inmates and staff.

### Medical

<b>Type of Medical Facility:</b>	SDP: Staffed with nursing staff 24 hours a day and includes the medical clinic, dental clinic, an infirmary and a comfort care room for terminally ill inmates; JPA: Staffed with nursing staff 24 hours a day and includes the medical clinic, dental clinic, an infirmary and a comfort care room for terminally ill inmates; SFC: Nursing available and access to JPA facilities
<b>Forensic sexual assault medical exams are conducted at:</b>	Mc Kennan Hospital, Sioux Falls, SD

### Other

<b>Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:</b>	98
<b>Number of investigators the agency currently employs to investigate allegations of sexual abuse:</b>	4

# Audit Findings

## Audit Narrative

*The auditor's description of the audit methodology should include a detailed description of the following processes during the pre-onsite audit, onsite audit, and post-audit phases: documents and files reviewed, discussions and types of interviews conducted, number of days spent on-site, observations made during the site-review, and a detailed description of any follow-up work conducted during the post-audit phase. The narrative should describe the techniques the auditor used to sample documentation and select interviewees, and the auditor's process for the site review.*

### Pre-Audit Preparation

Prior to the on-site visit, the facility forwarded Agency and Facility policies and supporting documentation, including the completed Pre-Audit Questionnaire, administrative reports, contracts, incident reports, memorandums, policies, brochures, staff rosters, PREA audit notices, staffing plans, training information, and other reference materials for examination on a flash drive, as well as in written form. These documents included Brochures on Sexual Abuse and Sexual Harassment for Family and Friends, Employees, Contractors and Volunteers and Inmates. Also included in the packet of information was the Sexual Incident Protocol and Reference Book, a PREA Handbook and a PREA First Responders laminated card. This auditor also contacted Victim Advocates at Just Detention and The Compass Center in Sioux Falls, South Dakota.

### Entrance Briefing and Tour

The on-site visit for the PREA (Prison Rape Elimination Act) compliance audit of South Dakota State Prison was conducted April 23-25, 2019 by The Nakamoto Group, Inc. certified auditors Diane Lee (Lead) and Robert Manville. This is the second PREA audit for this facility. Upon arrival at the facility, an in-briefing meeting was held with the Warden, Deputy Warden, three Associate Wardens, Physical Plant Manager, two Unit Managers, PREA Coordinator and the PREA Compliance Manager. The main Penitentiary facility contains three housing units: South Dakota State Penitentiary (SDP), the Jameson Prison Annex (JPA) and the Sioux Falls Community Work Center (SFC). The standards used for this audit became effective August 20, 2012. As part of the audit, a review of all agency and local facility PREA policies was conducted, staff and inmates were interviewed, and a tour of the facility was conducted.

The tour of the South Dakota State Penitentiary (SDP), the Jameson Prison Annex (JPA) and the Sioux Falls Community Work Center (SFC) included the intake processing areas, all housing units, as well as the Segregated Housing Units (SHU), the Health Services Department, Recreation, Food Service, facility support areas, Education, Visiting Rooms and programming areas. During the tour, it was noted that there was sufficient staffing to ensure a safe environment for inmates and staff. Signs were posted (in English and Spanish) that

indicated employees of the opposite gender were present in the housing units. Inmates were able to shower, dress, and use the toilet facilities without exposing themselves to employees of the opposite gender. Postings, regarding PREA violation reporting and the agency's zero tolerance policy toward sexual abuse and sexual harassment, were prominently displayed in all housing units, meeting areas and throughout the facility. Audit notice postings with the PREA auditor's contact information were located in the same areas. These notices were posted February 13, 2019. The auditor received correspondence from four inmates. They were all interviewed on Day 2 of the audit. There was no correspondence received from staff. File sampling was conducted in the human resources, training, classification, and investigative sections. Documents related to background investigations for new staff as well as staff considered for promotions were reviewed. PREA training documentation for staff, volunteers, and contractors was reviewed. Classification documents were reviewed to assess propensity for sexual victimization or abusiveness. Files related to referrals for mental health follow-up and transgender reviews were reviewed. The auditors spent three days on-site. The last PREA audit of South Dakota State Prison occurred on May 2, 2016. The facility is accredited by the National Commission on Correctional Health Care.

### **Staff-Inmate Interviews**

A total of 41 staff members were interviewed, to include 21 correctional officers, from all three shifts and all three units. Specialized staff interviewed included the Warden, statewide PREA Coordinator, PREA Compliance Manager, Human Resource Manager (HRM), Medical Clinical Supervisor, Investigative Services Major, two Investigative Services Lieutenants, Clinical Behavioral Health Supervisor, Mental Health Clinical Supervisor, Sex Offender Management Program Manager, Special Management Unit Supervisor, Chief Training Lieutenant, two Unit Managers, four Case Managers (one from the Assessment and Orientation section), a Religious Volunteer and Food Service Director Contract Staff. The agency head submitted written answers to the PREA questions.

There were 40 inmates interviewed. Of the 40, one was physically disabled (deaf), four were victims of sexual abuse discovered during intake screening, one had reported sexual harassment, one was limited English proficient (Spanish), five were transgender, two were in the Special Management Unit, two were cognitively disabled and four were identified as being at high risk of sexual victimization. The four inmates who wrote a letter were part of those interviewed.

The auditors concluded, through interviews and the review of policies and documentation, that all staff and inmates were very knowledgeable concerning their responsibilities involving the PREA. During the interviews, the inmates acknowledged that they received information about the facility's zero tolerance policy against sexual abuse upon their arrival to the facility, that staff were respectful and that they felt safe at the facility. Staff members were able to describe in detail their specific duties and responsibilities, including being a "first responder", if an incident occurred or an allegation of sexual abuse/sexual harassment were made.

### **Investigations**

During the current auditing period, there were a total of 37 reported allegations of sexual abuse. Of the cases reported and investigated, three were found to be substantiated, 21 were found to be unsubstantiated and 13 were found to be unfounded. The auditor reviewed the sexual abuse allegations and all pertinent documentation related to the allegations. All allegations were found to be appropriately investigated and adjudicated in accordance with the PREA standards.

## Facility Characteristics

*The auditor's description of the audited facility should include details about the facility type, demographics and size of the inmate, resident or detainee population, numbers and type of staff positions, configuration and layout of the facility, numbers of housing units, description of housing units including any special housing units, a description of programs and services, including food service and recreation. The auditor should describe how these details are relevant to PREA implementation and compliance.*

The South Dakota State Penitentiary (SDSP) is located in northern Sioux Falls, occupying approximately thirty acres. The main Penitentiary facility contains three housing units, to include the South Dakota State Penitentiary (SDP), the Jameson Prison Annex (JPA) and the Sioux Falls Community Work Center (SFC).

First constructed as a territorial prison in 1881, it became the South Dakota State Penitentiary when South Dakota was granted statehood in 1889. Though a large portion of the original buildings remain, numerous structural changes have occurred over the years. The SDP consists of four inmate housing units; North Unit, South Unit, West Unit and the Special Housing Unit (segregation unit). The primary population of inmates housed at the SDP is classified as being High Medium security risks. The G. Norton Jameson Annex opened in February 1993. The Jameson Annex contains three housing units within a secure perimeter, to include Unit A (Mental Health & Segregation), Unit B (Admissions & Orientation and general population) and Unit D. JPA usually houses a variety of inmate security classifications, due to the nature of the housing units, but is designed to house inmates classified as maximum security. The Sioux Falls Community Work Center, located outside the perimeter fence, houses inmates on work release and community service status and parolees in the Community Transition Program. In October 2004, the Department of Corrections began a Community Transition Program (CTP) designed to identify and assist offenders in need of support in their transition to community supervision, maximizing the potential for the offender to be successful upon release to the community. The Community Transition Program provides community program services (including chemical dependency, budgeting and money management, case planning for release, corrective thinking programming, etc.) and interim housing options for select released offenders in order that they may pursue employment and program opportunities while waiting for a community placement; or provides temporary housing and addresses re-entry programming issues (including housing, employment and accessing community-based treatment services) for released offenders who have relapse/chemical dependency needs, in lieu of revoking the parole or suspended sentence of these offenders.

Inmate employment opportunities at the SDSP Complex fall into two basic categories, which include institutional support and prison industries. Institutional support includes those employed in food service, as well as clerks for various departments, cell orderlies and those working in maintenance. Prison Industries consists of upholstery, printing, sign, decal, license plates, carpentry, book binding, machine shop, garments, data entry and a Braille unit. All but the garment and data entry work are done at the Penitentiary. Most of the work is done for government agencies. Inmate educational programs offered are literacy, Adult Basic Education, General Educational Development (GED) classes, cognitive behavioral, financial and employment programming. An intensive sex offender treatment program is also offered. The DOC recognizes the importance of cultural activities in the lives of those committed to their care. They offer opportunities for inmates to participate in both spiritual ceremonies and cultural activities on a daily and weekly basis. Seven major faith groups are represented at the facilities, to include Asatru, Buddhism, Christianity, Islam, Judaism, Native American Spirituality and Wicca. Inmates are also provided the opportunity to participate in a wide variety of recreational programs and have access to leisure and law libraries.

The State Department of Health provides medical, dental and optometric services for the adult corrections system. Its aim is to continually explore new ways of providing basic health care services more efficiently. The program works to meet the basic health care needs of offenders by providing general primary care, acute inpatient hospital care, dental services and optometric care. Physical, mental and dental screenings and exams are completed in the required periods following admission for adult males. Jameson Annex is a high security area as well as the admitting unit for all adult males who are incarcerated in SDDOC. This is where the medical record is generated and physicals, mental health evaluations and dental evaluations are completed. This facility has a specialized mental health section as well as disciplinary sections. All new inmates live in this unit until their orientation to prison has been completed. The facility is accredited by the National Commission on Correctional Health Care (NCCHC) and complies with the Commission's health standards for care delivered in the correctional setting. Correctional Health operates much like an ambulatory clinic. This facility has nursing care available around the clock. Staff nurses are responsible for noting orders, sick call, medical treatments, drawing lab, IV therapy, emergency care and passing out medications. Comfort care rooms are located at the Jameson Annex to care for inmates who are terminally ill. A multi-disciplinary team with staff from the SDDOC, to include nursing, mental health and clergy, participate in the patient's care. The Department of Corrections also allows immediate family members in the comfort care section. The Clinical Supervisor is responsible for the day-to-day operations of the clinic. A Clinical Coordinator and charge nurses direct daily work assignments in the clinics and on the units. Outside medical and emergency care is available at McKennan Hospital in Sioux Falls. The State Department of Social Services provides quality mental health and substance use disorder services to offenders committed to the Department of Corrections' institutions and evidence-based practices to maximize opportunities for rehabilitation and recovery. Chemical dependency counselors and mental health professionals provide the following services: group and individual therapy, intake screenings, assessments and evaluation, crisis management and intervention, consultations with Department of Corrections Staff, treatment plan development, counseling, staff training and education, and discharge planning. The Correctional Behavioral Health program contracts



with licensed psychiatrists to provide psychiatric consultations, diagnosis and treatment plan services. A new Health Services Unit is scheduled to be built and be open by April 2020.

## Summary of Audit Findings

*The summary should include the number of standards exceeded, number of standards met, and number of standards not met, **along with a list of each of the standards in each category**. If relevant, provide a summarized description of the corrective action plan, including deficiencies observed, recommendations made, actions taken by the agency, relevant timelines, and methods used by the auditor to reassess compliance.*

The auditors concluded, through interviews and the examination of policy and documentation, that staff members were knowledgeable regarding their responsibilities involving the PREA. Staff members were able to describe in detail their specific duties and responsibilities, including being a “first responder”, if an allegation of sexual abuse or sexual harassment were made. They were aware of reporting responsibilities, preservation of evidence, as well as dealing with victims of sexual assault and/or sexual harassment. The staff members have all had extensive training on how to identify signs of sexual assault/sexual harassment and how to deal and treat victims of sexual assault and/or sexual harassment. During the interviews, inmates stated that facility employees were respectful and that they felt safe at the facility. Staff members were observed to be interacting with inmates in a positive manner. It was evident that South Dakota State Penitentiary has an effective program in place to effectively educate all concerned in the zero-tolerance policy against sexual abuse.

Upon completion of the on-site visit, an exit briefing was held to discuss the audit findings. This briefing was held in the administrative conference room with the Warden, statewide PREA Coordinator and several members of the executive staff. Participating on the phone conference call was Mike Leidholt, Secretary of Corrections and Laurie Feiler, Deputy Secretary of Corrections. The auditors had been provided with extensive files prior to and during the audit for review to support a conclusion of compliance with the PREA. There are adequate limits to cross-gender viewing and searches. The facility has adaptive measures in place to ensure disabled and LEP inmates can participate in and benefit from all aspects of the PREA process. Hiring and promotion practices are consistent with sexual abuse safety measures. The facility has appropriate medical and victim advocacy networks in place and available, as needed. PREA education and training is documented. Inmates acknowledged the admissions screening process included questions regarding any history of sexual abuse or victimization and whether they would like to identify a sexual preference. Intake, classification assessment and medical/mental health processes are efficient and seamless in addressing referrals based on victimization or abusiveness screening data. Related support documentation is organized and stored in information systems available on a need-to-know basis. Reporting mechanisms are displayed in a conspicuous manner and inmates and staff members are aware of all reporting methods available to them. Systems are in place for coordinated responses to incidents of sexual abuse, as needed. The facility also has sufficiently trained personnel who conduct administrative investigations. Staff indicated adequate training in all aspects of the PREA, particularly First Responder duties or actions to be taken in the event of a reported sexual abuse related incident. All interviews and observations also supported compliance. Facility staff members were found to be cooperative and professional. Staff morale appeared to be

very good and the observed staff/inmate relationships were determined to be good. All areas of the facility were observed to be clean and well maintained. The auditor thanked the Warden and staff for their hard work and dedication to the PREA audit process.

**Auditor Note:** No standard should be found to be “Not Applicable” or “NA”. A compliance determination must be made for each standard.

**Number of Standards Exceeded:** 1

### 115.11

**Number of Standards Met:** 44

**Number of Standards Not Met:** 0

### Summary of Corrective Action (if any)

There were no findings of corrective action.

## PREVENTION PLANNING

### Standard 115.11: Zero tolerance of sexual abuse and sexual harassment; PREA coordinator

#### All Yes/No Questions Must Be Answered by The Auditor to Complete the Report

#### 115.11 (a)

- Does the agency have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment?  Yes  No
- Does the written policy outline the agency’s approach to preventing, detecting, and responding to sexual abuse and sexual harassment?  Yes  No

#### 115.11 (b)

- Has the agency employed or designated an agency-wide PREA Coordinator?

Yes  No

- Is the PREA Coordinator position in the upper-level of the agency hierarchy?  
 Yes  No
- Does the PREA Coordinator have sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities?  
 Yes  No

#### 115.11 (c)

- If this agency operates more than one facility, has each facility designated a PREA compliance manager? (N/A if agency operates only one facility.)  Yes  No  NA
- Does the PREA compliance manager have sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards? (N/A if agency operates only one facility.)  Yes  No  NA

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

The South Dakota State Penitentiary's (SDSP) Policies 1.3.E.5, PREA Compliance with Prison Rape Elimination Act Standards and 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment, mandate zero tolerance towards all forms of sexual abuse and sexual harassment. The policies outline the facility's approach to preventing, detecting, and responding to such conduct, and include such definitions. The South Dakota Department of Corrections' (SDDOC) zero tolerance against sexual abuse and sexual harassment is clearly established and policies outline the agency's approach to preventing, detecting and responding to sexual abuse and sexual harassment allegations. Zero Tolerance posters are displayed

throughout every area of the institution. Both institution staff and inmates are provided with a variety of opportunities to become aware of the PREA. Staff members receive initial in-service training and annual training, thereafter. All staff members are provided individual cards, as well as pocket notebooks explaining the PREA process. Inmates receive PREA information during the classification and orientation process upon intake into the system. Inmate's identification cards also have printed PREA information on the back of the card. The South Dakota Department of Corrections has a designated agency wide PREA Coordinator. A Unit Manager at the SDSP serves as the PREA Compliance Manager (PCM) for the facility. Interviews with the PREA Coordinator and PCM indicated they have sufficient time and authority to develop and oversee compliance. The PREA Coordinator reports directly to the Director of Grants and Research under the Secretary of Corrections and the Unit Manager/PREA Compliance Manager reports directly to the Warden, which indicates proper authority. A review of policy and documentation, as well as interviews with staff and inmates, indicated the facility has zero tolerance for all forms of sexual abuse and sexual harassment and is compliant with the standard. All interviews with staff, volunteers, contractors and inmates confirmed that each was aware of the zero-tolerance policy towards all forms of sexual abuse/sexual harassment. The commitment to the enforcement and implementation of the PREA exceeds the required mandates of this standard.

#### **Standard 115.12: Contracting with other entities for the confinement of inmates**

#### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

##### **115.12 (a)**

- If this agency is public and it contracts for the confinement of its inmates with private agencies or other entities including other government agencies, has the agency included the entity's obligation to comply with the PREA standards in any new contract or contract renewal signed on or after August 20, 2012? (N/A if the agency does not contract with private agencies or other entities for the confinement of inmates.)  
 Yes    No    NA

##### **115.12 (b)**

- Does any new contract or contract renewal signed on or after August 20, 2012 provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards? (N/A if the agency does not contract with private agencies or other entities for the confinement of inmates OR the response to 115.12(a)-1 is "NO".)  
 Yes    No    NA

#### **Auditor Overall Compliance Determination**

- Exceeds Standard** (*Substantially exceeds requirement of standards*)

- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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SDSP has established policy and compliance requirements when contracting with other entities for the supervision of, and confinement of inmates. SDSP Policy 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment and the PREA Compliance Survey for Agencies housing SDDOC Offenders address this standard. A review of contracts with Sequel Falls Academy and St. Francis House confirmed that these documents include the required PREA language. The contracts require that the agency monitor the contractor's compliance with PREA standards.

### Standard 115.13: Supervision and monitoring

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

##### 115.13 (a)

- Does the agency ensure that each facility has developed a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse?  Yes  No
- Does the agency ensure that each facility has documented a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the generally accepted detention and correctional practices in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any judicial findings of inadequacy in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any

findings of inadequacy from Federal investigative agencies in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No

- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from internal or external oversight bodies in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration all components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated) in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the composition of the inmate population in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the number and placement of supervisory staff in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the institution programs occurring on a particular shift in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No  NA
- Does the agency ensure that each facility's staffing plan takes into consideration any applicable State or local laws, regulations, or standards in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the prevalence of substantiated and unsubstantiated incidents of sexual abuse in calculating adequate staffing levels and determining the need for video monitoring?  
 Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No

#### 115.13 (b)

- In circumstances where the staffing plan is not complied with, does the facility document and justify all deviations from the plan? (N/A if no deviations from staffing plan.)  
 Yes  No  NA

#### 115.13 (c)

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The staffing plan established pursuant to paragraph (a) of this section?  Yes  No
- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The facility's deployment of video monitoring systems and other monitoring technologies?  Yes  No
- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The resources the facility has available to commit to ensure adherence to the staffing plan?  Yes  No

### 115.13 (d)

- Has the facility/agency implemented a policy and practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment?  Yes  No
- Is this policy and practice implemented for night shifts as well as day shifts?  Yes  No
- Does the facility/agency have a policy prohibiting staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*



SDSP Policy 1.3.E.5, PREA Compliance with Prison Rape Elimination Act Standards, addresses this standard. Interviews with the Warden, PCM and the Bureau of Human Resources designee indicated that reviews of the staffing plan, recruitment policy and institutional needs are conducted routinely to ensure the safety of staff and inmates. Intermediate and higher-level staff members conduct unannounced rounds to identify any deviation from policy or procedure. Staff compliance is monitored through these unannounced rounds. The officers and management staff use a touch screen PEG system to record rounds. Electronic logs as well as manual logs, incident reviews and reports are maintained in accordance with the standard. SDSP has increased the minimum staffing ratio in every housing unit in the past six years. They have also been allocated an additional 16 full time positions in the last budget cycle. Sufficient staff members are currently assigned to each shift to ensure the safety of both inmates and staff. The facility reviews the staffing plan at least annually and the staff complement is adequate. There have been no instances where the staffing plan was not complied with. Documentation of unannounced rounds covering all shifts by administrative staff was reviewed. Interviews with higher-level facility staff confirmed unannounced rounds to all areas of the institution are conducted on a weekly basis, with no warning to staff. It was the auditor's impression, from interviews with higher level and intermediate staff, as well as interviews of random staff and inmates, that supervision was appropriate, that staff and inmates both felt safe and that the facility was compliant with the standard.

#### **Standard 115.14: Youthful inmates**

#### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

##### **115.14 (a)**

- Does the facility place all youthful inmates in housing units that separate them from sight, sound, and physical contact with any adult inmates through use of a shared dayroom or other common space, shower area, or sleeping quarters? (N/A if facility does not have youthful inmates [inmates <18 years old].)  Yes  No  NA

##### **115.14 (b)**

- In areas outside of housing units does the agency maintain sight and sound separation between youthful inmates and adult inmates? (N/A if facility does not have youthful inmates [inmates <18 years old].)  Yes  No  NA
- In areas outside of housing units does the agency provide direct staff supervision when youthful inmates and adult inmates have sight, sound, or physical contact? (N/A if facility does not have youthful inmates [inmates <18 years old].)  Yes  No  NA

##### **115.14 (c)**

- Does the agency make its best efforts to avoid placing youthful inmates in isolation to comply with this provision? (N/A if facility does not have youthful inmates [inmates <18 years old].)  Yes  No  NA



- Does the agency, while complying with this provision, allow youthful inmates daily large-muscle exercise and legally required special education services, except in exigent circumstances? (N/A if facility does not have youthful inmates [inmates <18 years old].)  Yes  No  NA
- Do youthful inmates have access to other programs and work opportunities to the extent possible? (N/A if facility does not have youthful inmates [inmates <18 years old].)  Yes  No  NA

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

South Dakota State Penitentiary does not house youthful inmates.

### Standard 115.15: Limits to cross-gender viewing and searches

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.15 (a)

- Does the facility always refrain from conducting any cross-gender strip or cross-gender visual body cavity searches, except in exigent circumstances or by medical practitioners?  Yes  No

#### 115.15 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female inmates in non-exigent circumstances? (N/A here for facilities with less than 50 inmates before August 20,2017.)  Yes  No  NA
- Does the facility always refrain from restricting female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision? (N/A here for facilities with less than 50 inmates before August 20, 2017.)  Yes  No  NA

### 115.15 (c)

- Does the facility document all cross-gender strip searches and cross-gender visual body cavity searches?  Yes  No
- Does the facility document all cross-gender pat-down searches of female inmates?  Yes  No

### 115.15 (d)

- Does the facility implement a policy and practice that enables inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks?  Yes  No
- Does the facility require staff of the opposite gender to announce their presence when entering an inmate housing unit?  Yes  No

### 115.15 (e)

- Does the facility always refrain from searching or physically examining transgender or intersex inmates for the sole purpose of determining the inmate's genital status?  Yes  No
- If an inmate's genital status is unknown, does the facility determine genital status during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner?  Yes  No

### 115.15 (f)

- Does the facility/agency train security staff in how to conduct cross-gender pat down searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs?  Yes  No
- Does the facility/agency train security staff in how to conduct searches of transgender and intersex inmates in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

- Does Not Meet Standard** (*Requires Corrective Action*)

### **Instructions for Overall Compliance Determination Narrative**

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SDSP Policy 1.3.A.5, Searches—Adult Institutions and Policy 1.1.C. 2, Staff Supervision of Offenders, address this standard. Policy and procedures governing cross gender viewing and searches were reviewed during the audit visit. Policy prohibits cross-gender strip searches and cross-gender body cavity searches except in exigent circumstances or when performed by licensed medical practitioners. Staff training includes conducting cross-gender searches in a manner that is consistent with security needs. Policy and procedures, as well as the layout of the facility, allow inmates to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing inmate bodies. Policy, procedure and interviews confirm the announcement of opposite gender staff entering housing areas. Policy prohibits searches of transgender and intersex inmates for the sole purpose of determining genital status. A review of policy and documentation indicated that the facility is compliant with this standard. Staff members were aware of the policy prohibiting the search of a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. The above factors support compliance of this standard. There have not been any instances of cross gender strip or body cavity searches during the applicable audit period.

### **Standard 115.16: Inmates with disabilities and inmates who are limited English proficient**

#### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### **115.16 (a)**

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are deaf or hard of hearing?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are blind or have low vision?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect,

and respond to sexual abuse and sexual harassment, including: inmates who have intellectual disabilities?  Yes  No

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have psychiatric disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have speech disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Other (if "other," please explain in overall determination notes)?  Yes  No
- Do such steps include, when necessary, ensuring effective communication with inmates who are deaf or hard of hearing?  Yes  No
- Do such steps include, when necessary, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary?  Yes  No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Have intellectual disabilities?  Yes  No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Have limited reading skills?  Yes  No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Are blind or have low vision?  Yes  No

#### **115.16 (b)**

- Does the agency take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient?  Yes  No
- Do these steps include providing interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary?  Yes  No

#### **115.16 (c)**

- Does the agency always refrain from relying on inmate interpreters, inmate readers, or other types of inmate assistance except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under §115.64, or the investigation of the inmate's allegations?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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Policy 1.3.E.5, PREA Compliance with Prison Rape Elimination Act Standards and the Offender Handbook address the requirements of this standard. Interviews conducted with inmates, both informal and formal, indicated that the facility takes appropriate steps to ensure inmates with disabilities and those with limited English proficiency have an opportunity to participate in and benefit from the agency's efforts to prevent, detect and respond to sexual abuse and sexual harassment. PREA handouts, postings and inmate handbooks (all reviewed by auditor) are in English and Spanish. The facility uses Language Line Solutions for interpretive services when necessary. Interviewed staff members were well aware of the policy that under no circumstance are offender interpreters to be used when dealing with PREA issues. Interviews with staff and inmates and a review of documentation support compliance with the standard. There were three inmates with disabilities interviewed during this audit.

### Standard 115.17: Hiring and promotion decisions

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.17 (a)

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)?  Yes  No
- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has been convicted of engaging or attempting to engage in sexual activity in the community

facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse?  Yes  No

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above?  Yes  No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)?  Yes  No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse?  Yes  No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above?  Yes  No

#### 115.17 (b)

- Does the agency consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates?  Yes  No

#### 115.17 (c)

- Before hiring new employees, who may have contact with inmates, does the agency: perform a criminal background records check?  Yes  No
- Before hiring new employees, who may have contact with inmates, does the agency: consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse?  Yes  No

#### 115.17 (d)

- Does the agency perform a criminal background records check before enlisting the services of any contractor who may have contact with inmates?  Yes  No

#### 115.17 (e)

- Does the agency either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with inmates or have in place a system for otherwise capturing such information for current employees?  Yes  No

### 115.17 (f)

- Does the agency ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions?  Yes  No
- Does the agency ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in any interviews or written self-evaluations conducted as part of reviews of current employees?  Yes  No
- Does the agency impose upon employees a continuing affirmative duty to disclose any such misconduct?  Yes  No

### 115.17 (g)

- Does the agency consider material omissions regarding such misconduct, or the provision of materially false information, grounds for termination?  Yes  No

### 115.17 (h)

- Does the agency provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work? (N/A if providing information on substantiated allegations of sexual abuse or sexual harassment involving a former employee is prohibited by law.)  Yes  No  NA

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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Policy 1.1.C.13, Screening of Staff, Volunteers and Contractors for Prior Sexual Abuse, addresses the mandates of this standard. All employees, contractors and volunteers who have regular contact with inmates have criminal background checks completed by the SDSP prior to having contact with inmates. An interview with the Human Resources Manager and review of



random personnel files of employees confirm the agency performs criminal background records checks before hiring new employees. A tracking system is in place to ensure that updated background checks are conducted every five years. The agency will not hire or promote a staff member or enlist the services of any contractor or volunteer who may have contact with inmates, who has engaged in sexual abuse in institutions or the community or has been civilly or administratively adjudicated to engage in sexual abuse in institutions or the community. All incidents of sexual harassment are considered in the hiring or promoting of staff. The agency makes its best efforts to contact all prior institution employers for information on substantiated allegations of sexual abuse or resignations occurring during a pending investigation of sexual abuse. All applicants are asked about prior misconduct during the pre-employment interview. Material omissions regarding misconduct are grounds for termination. The agency also provides information on substantiated allegations of sexual abuse/sexual harassment involving former employees, when requested by a potential institutional employer. Appropriate licensing and certifying agencies are notified, when professional employees are terminated for substantiated allegations of sexual abuse/sexual harassment. The law and agency policy allow for information sharing with other institutions upon employment. Interviews with human resource staff and a review of policy and documentation confirmed compliance with this standard.

## Standard 115.18: Upgrades to facilities and technologies

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.18 (a)

- If the agency designed or acquired any new facility or planned any substantial expansion or modification of existing facilities, did the agency consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not acquired a new facility or made a substantial expansion to existing facilities since August 20, 2012, or since the last PREA audit, whichever is later.)  
 Yes  No  NA

#### 115.18 (b)

- If the agency installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology, did the agency consider how such technology may enhance the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012, or since the last PREA audit, whichever is later.)  
 Yes  No  NA

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)



- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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Policy 1.3.E.5, PREA Compliance with Prison Rape Elimination Act Standards, requires that, when installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the agency considers how such technology will enhance the agency's ability to protect inmates from sexual abuse. Since the last audit, some of the projects included installing a sliding gate to limit access to the bathroom on Unit b hallway, installing a magnetic lock to the exterior door of the JPA Health Services inmate waiting area and adding a security mirror in the entry way to the JPA visiting room. There have been no substantial expansions/modifications to the facility, since the last audit. There are plans to add cameras throughout the facility, while taking into consideration how to enhance the agency's ability to protect inmates from sexual abuse. In addition, the plans and designs for the new Health Services building will include the same considerations relative to the protection of inmates from sexual abuse.

## RESPONSIVE PLANNING

### Standard 115.21: Evidence protocol and forensic medical examinations

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.21 (a)

- If the agency is responsible for investigating allegations of sexual abuse, does the agency follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)  
 Yes  No  NA

#### 115.21 (b)

- Is this protocol developmentally appropriate for youth where applicable? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)  Yes  No  NA
- Is this protocol, as appropriate, adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National

Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,” or similarly comprehensive and authoritative protocols developed after 2011? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)  Yes  No  NA

#### 115.21 (c)

- Does the agency offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate?  Yes  No
- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible?  Yes  No
- If SAFEs or SANEs cannot be made available, is the examination performed by other qualified medical practitioners (they must have been specifically trained to conduct sexual assault forensic exams)?  Yes  No
- Has the agency documented its efforts to provide SAFEs or SANEs?  Yes  No

#### 115.21 (d)

- Does the agency attempt to make available to the victim a victim advocate from a rape crisis center?  Yes  No
- If a rape crisis center is not available to provide victim advocate services, does the agency make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member?  Yes  No
- Has the agency documented its efforts to secure services from rape crisis centers?  Yes  No

#### 115.21 (e)

- As requested by the victim, does the victim advocate, qualified agency staff member, or qualified community-based organization staff member accompany and support the victim through the forensic medical examination process and investigatory interviews?  Yes  No
- As requested by the victim, does this person provide emotional support, crisis intervention, information, and referrals?  Yes  No

#### 115.21 (f)

- If the agency itself is not responsible for investigating allegations of sexual abuse, has the agency requested that the investigating entity follow the requirements of paragraphs (a) through (e) of this section? (N/A if the agency/facility is responsible for conducting criminal AND administrative sexual abuse investigations.)  Yes  No  NA

#### 115.21 (g)

- Auditor is not required to audit this provision.

### 115.21 (h)

- If the agency uses a qualified agency staff member or a qualified community-based staff member for the purposes of this section, has the individual been screened for appropriateness to serve in this role and received education concerning sexual assault and forensic examination issues in general? [N/A if agency attempts to make a victim advocate from a rape crisis center available to victims per 115.21(d) above.]  Yes  No  NA

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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Policy 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment, addresses the requirements of this standard. The Special Investigations Unit (SIU) conducts administrative investigations and collaborates with the South Dakota Division of Criminal Investigation (DCI) for criminal investigations. This policy outlines the mandatory use of the Corrections Protocol for Response to Sexual Abuse for facility staff. All investigators have been trained to conduct PREA investigations. In addition to Investigative staff; other correctional and health service staff were interviewed concerning this standard and all were knowledgeable of the procedures required to secure and obtain usable physical evidence when sexual abuse is alleged. Staff members were aware the SIU and DCI investigators conduct investigations relative to sexual abuse allegations. Specific actions and clinical decisions are required to determine if an inmate is to be transported to the local hospital to receive a SAFE/SANE examination. The facility has contracted with McKennan Hospital in Sioux Falls, SD to provide these services and the inmate will not be charged for any services related to PREA compliance. The facility has a Memorandum of Understanding (MOU) with the local rape crisis center, The Compass Center, to provide treatment services, when needed. There were no forensic medical examinations (SAFE/SANE) conducted during the past twelve months. The victim advocate from the rape crisis center was interviewed and indicated that they have a good working relationship with the facility. They are available to accompany a victim to the emergency room. There is a Sexual Incident Protocol and Reference Book available for staff, as well as the PREA Response to

Sexual Incidents handbook and First Responder pocket card. Interviews with staff and the victim advocate and a review of documentation support compliance with the standard.

## Standard 115.22: Policies to ensure referrals of allegations for investigations

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.22 (a)

- Does the agency ensure an administrative or criminal investigation is completed for all allegations of sexual abuse?  Yes  No
- Does the agency ensure an administrative or criminal investigation is completed for all allegations of sexual harassment?  Yes  No

#### 115.22 (b)

- Does the agency have a policy and practice in place to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior?  Yes  No
- Has the agency published such policy on its website or, if it does not have one, made the policy available through other means?  Yes  No
- Does the agency document all such referrals?  Yes  No

#### 115.22 (c)

- If a separate entity is responsible for conducting criminal investigations, does such publication describe the responsibilities of both the agency and the investigating entity? [N/A if the agency/facility is responsible for criminal investigations. See 115.21(a).]  Yes  No  NA

#### 115.22 (d)

- Auditor is not required to audit this provision.

#### 115.22 (e)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

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Policy 1.3.E. 6, PREA Response & Investigation of Sexual Abuse/Harassment, addresses the requirements of this standard. Administrative or criminal investigations are completed on all allegations of sexual abuse and sexual harassment. The facility's SIU completes all administrative investigations. If, during the course of an investigation, evidence surfaces indicating criminal misconduct, the investigation would be referred to the agency's Division of Criminal Investigation. Interviews with SIU investigators indicated a comprehensive understanding of their responsibilities under the PREA. There were thirty-seven allegations of sexual abuse during the last twelve months. All resulted in administrative investigations, with four allegations being referred for criminal investigation. The documentation related to the investigations was contained in the SIU files and was reviewed by the auditor. The facility utilizes a Sexual Incident Tracking Log to ensure all required steps of the investigation are completed and are timely. The tracking form is maintained by the SIU. A review of training documents confirmed that all investigators received instruction in conducting sexual assault investigations in confined spaces/prisons. Interviews with staff and investigators, as well as an examination of support documentation, confirm the facility's compliance with this standard.

### TRAINING AND EDUCATION

#### Standard 115.31: Employee training

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

##### 115.31 (a)

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures?  Yes  No
- Does the agency train all employees who may have contact with inmates on inmates' right to be free from sexual abuse and sexual harassment?  Yes  No

- Does the agency train all employees who may have contact with inmates on the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment?  Yes  No
- Does the agency train all employees who may have contact with inmates on the dynamics of sexual abuse and sexual harassment in confinement?  Yes  No
- Does the agency train all employees who may have contact with inmates on the common reactions of sexual abuse and sexual harassment victims?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to detect and respond to signs of threatened and actual sexual abuse?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to avoid inappropriate relationships with inmates?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities?  Yes  No

#### 115.31 (b)

- Is such training tailored to the gender of the inmates at the employee's facility?  Yes  No
- Have employees received additional training if reassigned from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa?  Yes  No

#### 115.31 (c)

- Have all current employees who may have contact with inmates received such training?  Yes  No
- Does the agency provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures?  Yes  No
- In years in which an employee does not receive refresher training, does the agency provide refresher information on current sexual abuse and sexual harassment policies?  Yes  No

#### 115.31 (d)

- Does the agency document, through employee signature or electronic verification, that employees understand the training they have received?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### **Instructions for Overall Compliance Determination Narrative**

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Policy 1.1.D, Staff Training Requirements, addresses all training required by this standard. All employees at the SDSP receive training on the agency's zero tolerance policy 1.3.E.5, PREA Compliance with Prison Rape Elimination Act Standards, for sexual abuse and sexual harassment at pre-service and annual refresher training sessions. Employees are required to sign an acknowledgement form indicating they understand the training they have received. All staff members carry an embossed reference card detailing their duties and responsibilities related to the PREA. All staff interviewed indicated that they received the required PREA training. Staff training files were reviewed and contained documentation supporting compliance with this standard. Informational bulletins are provided daily to staff by the Warden and include any revisions to policy and/or procedures. In addition to reviewing the training curriculum, training sign-in sheets and other related documentation, the chief training officer, correctional staff and contractual/volunteer staff were interviewed. They indicated they were required to acknowledge, in writing, not only that they received PREA training, but that they understood it as well. A review of documentation and interviews with staff indicate the facility is compliant with this standard. All employees carry a PREA First Responder reference card in the event of a reported PREA incident.

### **Standard 115.32: Volunteer and contractor training**

#### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

##### **115.32 (a)**

- Has the agency ensured that all volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures?  Yes  No

##### **115.32 (b)**



- Have all volunteers and contractors who have contact with inmates been notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents (the level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with inmates)?  Yes  No

### 115.32 (c)

- Does the agency maintain documentation confirming that volunteers and contractors understand the training they have received?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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SDSP Policy 1.1.D.1, Staff Training Requirements addresses the requirements of this standard. The training provided ensures that all volunteers and contractors who have contact with inmates have been trained on their responsibilities as outlined in policy. All contractors and volunteers have received training related to their responsibilities concerning the PREA (zero-tolerance, detection, prevention, response and reporting requirements). All training is documented. Copies of training sign-in sheets and other related documents were reviewed by the auditor. One contract staff member and one volunteer were interviewed and indicated they received the training and were able to discuss what they learned during the training. Compliance was confirmed by interviews with the chief training officer and contractors/volunteers, as well as the review of the volunteer and contractor files.

### Standard 115.33: Inmate education

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

### 115.33 (a)



- During intake, do inmates receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment?  Yes  No
- During intake, do inmates receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment?  Yes  No

#### 115.33 (b)

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Their rights to be free from sexual abuse and sexual harassment?  Yes  No
- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Their rights to be free from retaliation for reporting such incidents?  Yes  No
- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Agency policies and procedures for responding to such incidents?  Yes  No

#### 115.33 (c)

- Have all inmates received such education?  Yes  No
- Do inmates receive education upon transfer to a different facility to the extent that the policies and procedures of the inmate's new facility differ from those of the previous facility?  Yes  No

#### 115.33 (d)

- Does the agency provide inmate education in formats accessible to all inmates including those who are limited English proficient?  Yes  No
- Does the agency provide inmate education in formats accessible to all inmates including those who are deaf?  Yes  No
- Does the agency provide inmate education in formats accessible to all inmates including those who are visually impaired?  Yes  No
- Does the agency provide inmate education in formats accessible to all inmates including those who are otherwise disabled?  Yes  No
- Does the agency provide inmate education in formats accessible to all inmates including those who have limited reading skills?  Yes  No

#### 115.33 (e)

- Does the agency maintain documentation of inmate participation in these education sessions?  
 Yes  No

### 115.33 (f)

- In addition to providing such education, does the agency ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

SDSP Policies 1.3.C.1, Offender Living Guide; 1.4.B.16, PREA Institutional Risk Screens; and 1.4.A.2, Inmate Admission, address the requirements of this standard. Inmates receive information at the time of intake processing verbally, via a video presentation and a PREA pamphlet. Additional information is also provided in the inmate handbook (provided at the time of intake in English/Spanish and Braille). Inmates are required to sign a form acknowledging receipt of the handbook. The form acknowledging receipt is documented in the Comprehensive Offender Management System (COMS) and the inmate's institutional file. Provisions are in place to meet the needs of all disabled inmates. The facility also provides brochures in Braille as well as interpretive services such as Language Line Solutions. There are posters throughout the facility, and the "hotline" phone number to call to report sexual abuse or sexual harassment is in each housing unit. Since SDSP is the Admission and Orientation unit for the Department, they do a lot of intakes. During the past twelve months, 1085 inmates were given PREA information during the intake process. The PREA intake screening is done the day they arrive by either a Unit Coordinator or Case Manager. A staff member conducts an in-depth education program regarding the PREA for all inmates within 30 days of their arrival at the facility. A review of a random sampling of intake checklists and screening documentation verified that inmates have received sexual assault/assault prevention & intervention education and other relevant written materials. All inmates were required to acknowledge, in writing, they completed the PREA education. During the interview process, randomly selected inmates

indicated they received information about the facility's rules against sexual abuse/sexual harassment, when they arrived at the facility. They further indicated they were advised about their right not to be sexually abused/sexually harassed, how to report sexual abuse/sexual harassment and their right not be punished for reporting sexual abuse/sexual harassment. Inmates were aware of available services outside of the facility for dealing with sexual abuse.

### **Standard 115.34: Specialized training: Investigations**

#### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

##### **115.34 (a)**

- In addition to the general training provided to all employees pursuant to §115.31, does the agency ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).)  Yes  No  NA

##### **115.34 (b)**

- Does this specialized training include techniques for interviewing sexual abuse victims? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).]  Yes  No  NA
- Does this specialized training include proper use of Miranda and Garrity warnings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).]  Yes  No  NA
- Does this specialized training include sexual abuse evidence collection in confinement settings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).]  Yes  No  NA
- Does this specialized training include the criteria and evidence required to substantiate a case for administrative action or prosecution referral? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).]  Yes  No  NA

##### **115.34 (c)**

- Does the agency maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).]  Yes  No  NA

##### **115.34 (d)**

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

SDSP Policy 1.3.E.5, PREA Compliance with Prison Rape Elimination Act Standards, addresses the requirements of this standard. The SIU and DCI investigators have received training relevant to the PREA. The investigators were interviewed and able to explain in detail the process and procedures required during a PREA-related investigation. A review of the training records confirmed completion of the required PREA training. A review of documentation and staff interviews confirmed compliance with this standard.

### Standard 115.35: Specialized training: Medical and mental health care

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.35 (a)

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to detect and assess signs of sexual abuse and sexual harassment?  Yes  No
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to preserve physical evidence of sexual abuse?  Yes  No
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to respond effectively and professionally to victims of sexual abuse and sexual harassment?  Yes  No

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how and to whom to report allegations or suspicions of sexual abuse and sexual harassment?  Yes  No

#### 115.35 (b)

- If medical staff employed by the agency conduct forensic examinations, do such medical staff receive appropriate training to conduct such examinations? (N/A if agency medical staff at the facility do not conduct forensic exams.)  Yes  No  NA

#### 115.35 (c)

- Does the agency maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere?  Yes  No

#### 115.35 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.31?  Yes  No
- Do medical and mental health care practitioners contracted by and volunteering for the agency also receive training mandated for contractors and volunteers by §115.32?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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SDSP Policy 1.3.E.5, PREA Compliance with Prison Rape Elimination Act Standards, addresses this standard. Specialized training for medical and mental health staff is provided and documented. A review of training records indicated 100% of the 68 medical and mental health care practitioners have received the training required by agency policy and PREA standards. All mental health and medical staff have received the required specialized training on victim

identification, interviewing, reporting and clinical interventions. Employees receive training annually and support documentation is on file. Medical and mental health care staff acknowledged, in writing, that they both received and understood the training, as it relates to the PREA. Medical personnel employed by the agency do not conduct forensic examinations. All SAFE/SANE examinations occur at a local hospital. A review of documentation and staff interviews confirmed compliance with this standard.

## SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

### Standard 115.41: Screening for risk of victimization and abusiveness

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

##### 115.41 (a)

- Are all inmates assessed during an intake screening for their risk of being sexually abused by other inmates or sexually abusive toward other inmates?  Yes  No
- Are all inmates assessed upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates?  Yes  No

##### 115.41 (b)

- Do intake screenings ordinarily take place within 72 hours of arrival at the facility?  Yes  No

##### 115.41 (c)

- Are all PREA screening assessments conducted using an objective screening instrument?  Yes  No

##### 115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated?  Yes  No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes?  Yes  No

#### 115.41 (e)

- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: prior acts of sexual abuse?  Yes  No
- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: prior convictions for violent offenses?  Yes  No
- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: history of prior institutional violence or sexual abuse?  Yes  No

#### 115.41 (f)

- Within a set time period not more than 30 days from the inmate's arrival at the facility, does the facility reassess the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening?  Yes  No

#### 115.41 (g)

- Does the facility reassess an inmate's risk level when warranted due to a: Referral?  
 Yes  No
- Does the facility reassess an inmate's risk level when warranted due to a: Request?  
 Yes  No
- Does the facility reassess an inmate's risk level when warranted due to a: Incident of sexual abuse?  Yes  No
- Does the facility reassess an inmate's risk level when warranted due to a: Receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness?  
 Yes  No

#### 115.41 (h)

- Is it the case that inmates are not ever disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (d)(1), (d)(7), (d)(8), or (d)(9) of this section?  Yes  No

#### 115.41 (i)

- Has the agency implemented appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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SDSP Policy 1.4.B.16, PREA Institutional Risk Screens, addresses this standard. The facility uses the PREA Inmate Admission Screen and the PREA Admission Review Screen to determine an inmate's potential vulnerability to a sexual assault or risk of sexually abusive behavior. All inmates admitted to SDSP have an Initial PREA Risk Screen Assessment completed by unit staff trained to administer the screen within 72 hours of their arrival at the



facility. The admission screen includes the inmate's demographics, results of a NCIC background check, sentencing and PSI information (if available), classification and assessment information, any documented/known institutional behavior or other relevant information. Inmates identified as high risk for sexual victimization or at risk of sexually abusing other inmates would be referred to a mental health professional for further assessment. Within 30 days of arrival, the facility reassesses the inmate's risk of victimization or abusiveness based upon any additional relevant information received by the facility since the intake screening. Inmates are not disciplined for refusing to answer any questions or for not disclosing complete information. Copies of all intake-screening forms are forwarded to the appropriate medical/mental health practitioner and the original forms are secured in inmate records with only designated staff allowed access to the files. Housing and program assignments are made on a case-by-case basis and inmates are not placed in housing units based solely on their sexual identification or status. A review of the screening form used and interviews with staff performing the screening indicate the facility is compliant with the standard.

#### **Standard 115.42: Use of screening information**

#### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

##### **115.42 (a)**

- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Housing Assignments?  Yes  No
- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Bed assignments?  Yes  No
- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Work Assignments?  Yes  No
- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Education Assignments?  Yes  No
- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Program Assignments?  Yes  No

##### **115.42 (b)**

- Does the agency make individualized determinations about how to ensure the safety of each inmate?  Yes  No

#### 115.42 (c)

- When deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems (NOTE: if an agency by policy or practice assigns inmates to a male or female facility on the basis of anatomy alone, that agency is not in compliance with this standard)?  Yes  No
- When making housing or other program assignments for transgender or intersex inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems?  Yes  No

#### 115.42 (d)

- Are placement and programming assignments for each transgender or intersex inmate reassessed at least twice each year to review any threats to safety experienced by the inmate?  Yes  No

#### 115.42 (e)

- Are each transgender or intersex inmate's own views with respect to his or her own safety given serious consideration when making facility and housing placement decisions and programming assignments?  Yes  No

#### 115.42 (f)

- Are transgender and intersex inmates given the opportunity to shower separately from other inmates?  Yes  No

#### 115.42 (g)

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: lesbian, gay, and bisexual inmates in dedicated facilities, units, or wings solely on the basis of such identification or status?  Yes  No
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: transgender inmates in dedicated facilities, units, or wings solely on the basis of such identification or status?  Yes  No
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing:

intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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SDSP Policies 1.4.B.16, PREA Institutional Risk Screens and 1.3.E.5, PREA Compliance with Prison Rape Elimination Act Standards, address the requirements of this standard. Policy requires the use of a screening instrument (reviewed by auditor) to determine proper housing, bed assignment, work assignment, education and other program assignments, with the goal of keeping inmates at high risk of being sexually abused/sexually harassed separate from those inmates who are at a high risk of being sexually abusive. Housing and program assignments are made on a case-by-case basis and inmates are not placed in housing units based solely on their sexual identification or status. Interviews with intake unit staff also support the finding that the facility complies with this standard. When determining whether to assign a transgender or intersex offender to a facility for male inmates, and in making other housing and programming assignments, the agency considers whether a placement would ensure the offender's health and safety, and whether the placement would present management or security problems. All reviews are done on a case-by-case basis. Placement and programming assignments for each transgender or intersex offender are reassessed at least twice each year. Transgender and intersex offender's own views with respect to their safety are given serious consideration. By policy, transgender and intersex inmates are given the opportunity to shower separately from other inmates. A review of the six-month transgender reviews and interviews with staff and five inmates who self-identified as being transgender confirmed compliance with this standard.

### Standard 115.43: Protective Custody

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.43 (a)

- Does the facility always refrain from placing inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers?  Yes  No
- If a facility cannot conduct such an assessment immediately, does the facility hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment?  Yes  No

#### 115.43 (b)

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible?  Yes  No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Privileges to the extent possible?  Yes  No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Education to the extent possible?  Yes  No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Work opportunities to the extent possible?  Yes  No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The opportunities that have been limited?  Yes  No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The duration of the limitation?  Yes  No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The reasons for such limitations?  Yes  No

#### 115.43 (c)

- Does the facility assign inmates at high risk of sexual victimization to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged?  Yes  No
- Does such an assignment not ordinarily exceed a period of 30 days?  Yes  No

#### 115.43 (d)

- If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, does the facility clearly document: The basis for the facility's concern for the inmate's safety?  Yes  No
- If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, does the facility clearly document: The reason why no alternative means of separation can be arranged?  Yes  No

### 115.43 (e)

- In the case of each inmate who is placed in involuntary segregation because he/she is at high risk of sexual victimization, does the facility afford a review to determine whether there is a continuing need for separation from the general population EVERY 30 DAYS?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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SDSP Policy 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment, requires that inmates at high risk for sexual victimization or who are alleged to suffer from sexual abuse, will not be placed in involuntary administrative segregation/protective custody unless an assessment of all available alternatives has been made and a determination made that there are no available alternatives for separation from likely abusers. Operational Memo Protective Custody 2.3.D.1 outlines the procedures for the use of Protective Custody. If an assessment cannot be done immediately, the facility may hold the inmate in involuntary segregation for less than 24 hours while completing the assessment. Policy requires inmates placed in segregation for this purpose will have access to programs, privileges, and education and work opportunities. If it is necessary to restrict such activities, the reasons for restrictions and duration will be documented. If an involuntary segregated housing assignment is made, the inmate is reassessed at least once every 30 days to determine if there is a continuing need for separation from the general population. Interviews with staff indicated there have been no inmates placed in this status within the previous year. Interviews with staff assigned to the SHU and other employees, an examination of the SHU operations and an examination of policy/documentation confirm the facility's compliance with this standard.

## REPORTING

### Standard 115.51: Inmate reporting

## All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

### 115.51 (a)

- Does the agency provide multiple internal ways for inmates to privately report: Sexual abuse and sexual harassment?  Yes  No
- Does the agency provide multiple internal ways for inmates to privately report: Retaliation by other inmates or staff for reporting sexual abuse and sexual harassment?  Yes  No
- Does the agency provide multiple internal ways for inmates to privately report: Staff neglect or violation of responsibilities that may have contributed to such incidents?  Yes  No

### 115.51 (b)

- Does the agency also provide at least one way for inmates to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency?  Yes  No
- Is that private entity or office able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials?  Yes  No
- Does that private entity or office allow the inmate to remain anonymous upon request?  Yes  No
- Are inmates detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security?  Yes  No

### 115.51 (c)

- Does staff accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties?  Yes  No
- Does staff promptly document any verbal reports of sexual abuse and sexual harassment?  Yes  No

### 115.51 (d)

- Does the agency provide a method for staff to privately report sexual abuse and sexual harassment of inmates?  Yes  No

## Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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SDSP Policies 1.3.E.5, PREA Compliance with Prison Rape Elimination Act Standards and 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment, as well as PREA pamphlets and the Inmate Living Guide, address this standard. A review of documentation indicated that there are multiple ways (including verbally, in writing, from a third party and anonymously) for inmates to report sexual abuse or sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment and staff neglect or violation of responsibilities that may contribute to such incidents. Inmates interviewed also were aware of multiple reporting methods. Staff members are trained to immediately report and document any sexual abuse or sexual harassment allegation. Posters and other documents explaining the reporting methods were observed on display throughout the facility. All inmates interviewed indicated they had been advised of the multiple ways to report sexual abuse and sexual harassment and had access to a variety of reading materials that contained the PREA information. Inmates at the South Dakota State Penitentiary are not detained solely for civil immigration purposes. Staff and offender interviews and an examination of policy, brochures and postings confirmed compliance with this standard.

### Standard 115.52: Exhaustion of administrative remedies

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

##### 115.52 (a)

- Is the agency exempt from this standard? NOTE: The agency is exempt ONLY if it does not have administrative procedures to address inmate grievances regarding sexual abuse. This does not mean the agency is exempt simply because an inmate does not have to or is not ordinarily expected to submit a grievance to report sexual abuse. This means that as a matter of explicit policy, the agency does not have an administrative remedies process to address sexual abuse.  Yes  No  NA

##### 115.52 (b)

- Does the agency permit inmates to submit a grievance regarding an allegation of sexual abuse without any type of time limits? (The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.) (N/A if agency is exempt from this standard.)  Yes  No  NA



- Does the agency always refrain from requiring an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA

#### 115.52 (c)

- Does the agency ensure that: An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the agency ensure that: Such grievance is not referred to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.)  
 Yes  No  NA

#### 115.52 (d)

- Does the agency issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance? (Computation of the 90-day time period does not include time consumed by inmates in preparing any administrative appeal.) (N/A if agency is exempt from this standard.)  
 Yes  No  NA
- If the agency claims the maximum allowable extension of time to respond of up to 70 days per 115.52(d)(3) when the normal time period for response is insufficient to make an appropriate decision, does the agency notify the inmate in writing of any such extension and provide a date by which a decision will be made? (N/A if agency is exempt from this standard.)  Yes  No  NA
- At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, may an inmate consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.)  Yes  No  NA

#### 115.52 (e)

- Are third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Are those third parties also permitted to file such requests on behalf of inmates? (If a third-party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue



any subsequent steps in the administrative remedy process.) (N/A if agency is exempt from this standard.)  Yes  No  NA

- If the inmate declines to have the request processed on his or her behalf, does the agency document the inmate's decision? (N/A if agency is exempt from this standard.)  Yes  No  NA

#### 115.52 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA
- After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, does the agency immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken? (N/A if agency is exempt from this standard.)  Yes  No  NA
- After receiving an emergency grievance described above, does the agency provide an initial response within 48 hours? (N/A if agency is exempt from this standard.)  Yes  No  NA
- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes  No  NA

#### 115.52 (g)

- If the agency disciplines an inmate for filing a grievance related to alleged sexual abuse, does it do so ONLY where the agency demonstrates that the inmate filed the grievance in bad faith? (N/A if agency is exempt from this standard.)  Yes  No  NA

## Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

## Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

SDSP Policies 1.3.E.2, Administrative Remedy for Inmates and 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment, address this standard. The agency has an administrative procedure for dealing with inmate grievances regarding sexual abuse. Inmates are not required to use an informal grievance process or otherwise attempt to resolve an alleged incident of sexual abuse with staff. All claims alleging an inmate is at substantial risk of imminent sexual abuse will be forwarded to the shift commander for immediate response. Such claims will be addressed through the sexual abuse and/or sexual harassment investigative process and not the administrative remedy process. There are no time limits when sexual abuse allegations can be made. Inmates are able to submit grievances without giving it to the staff person involved. The standard requires a decision be made on the merits of any grievance alleging sexual abuse within 90 days. This agency's policy requires a response time of 30 days. Policy and procedures permit third parties to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse and are permitted to file such requests on behalf of an inmate. The facility may discipline an offender for filing a grievance related to alleged sexual abuse only where the facility demonstrates that the offender filed the grievance in bad faith. Inmates may file a regular or emergency grievance at any time and may seek assistance from others to file a grievance. All response/reporting time limits concerning grievance processing are required by policy. There were four grievances filed involving a PREA related issue during the past twelve months. Policy and procedures are in place that allows an inmate to file an emergency grievance alleging that there is substantial risk of imminent sexual abuse. Any grievance received by staff alleging an inmate is subject to a substantial risk of imminent sexual abuse will be reported to the OIC at which point immediate corrective action may be taken. The initial response is completed before the end of the shift that the incident was reported and the final agency decision within five days. There have been no emergency grievances alleging substantiated risk of imminent sexual abuse filed in the last twelve months. A review of documentation and staff and inmates' interviews confirmed compliance with the standard. There was no disciplinary action in the past 12 months by the agency against an inmate who had filed a grievance in bad faith.

## Standard 115.53: Inmate access to outside confidential support services

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.53 (a)

- Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations?  Yes  No
- Does the facility provide persons detained solely for civil immigration purposes mailing addresses and telephone numbers, including toll-free hotline numbers where available of local, State, or national immigrant services agencies?  Yes  No
- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible?  Yes  No

#### 115.53 (b)

- Does the facility inform inmates, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws?  Yes  No

#### 115.53 (c)

- Does the agency maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide inmates with confidential emotional support services related to sexual abuse?  Yes  No
- Does the agency maintain copies of agreements or documentation showing attempts to enter into such agreements?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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*reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

SDSP Policy 1.3.E.5, PREA Compliance with Prison Rape Elimination Act Standards, addresses the requirements of this standard. Inmates have access to victim advocate/rape crisis centers for emotional support services related to sexual abuse. The facility has entered into an MOU agreement with The Compass Center, a local rape crisis center, to provide services relevant to this standard, including confidential emotional support services related to sexual abuse. The facility has placards by the telephones that provide instructions for the toll free, speed dial telephone number to the crisis centers and crime-stopper hot lines, in addition to mailing addresses for these organizations. Information regarding the level of confidentiality is given to all inmates during their orientation to the SDSP. The facility provides training to the victim advocates regarding responsibilities under the agency's sexual abuse and sexual harassment prevention, detection and response. The Inmate Living Guide outlines the steps of how to report, who to report to and where to report, along with the PREA Report Line telephone number. Contact with The Compass Center staff, interviews with facility staff and inmates, as well as document review, confirmed compliance with this standard.

## **Standard 115.54: Third-party reporting**

### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### **115.54 (a)**

- Has the agency established a method to receive third-party reports of sexual abuse and sexual harassment?  Yes  No
- Has the agency distributed publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate?  Yes  No

#### **Auditor Overall Compliance Determination**

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### **Instructions for Overall Compliance Determination Narrative**

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*must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

SDSP provides a method to receive third-party reports of inmate sexual abuse or harassment. They have developed a brochure for visitors entitled “A Family and Friends Guide to Sexual Abuse/Sexual Harassment Awareness”. They are available in the visiting room and describe the reporting procedures. Third parties are informed of reporting procedures on the agency website, in pamphlets and on posters. Interviews with both staff and inmates revealed they were aware of the procedures for third party reporting.

## OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

### Standard 115.61: Staff and agency reporting duties

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

##### 115.61 (a)

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency?  Yes  No
- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding retaliation against inmates or staff who reported an incident of sexual abuse or sexual harassment?  Yes  No
- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment or retaliation?  Yes  No

##### 115.61 (b)

- Apart from reporting to designated supervisors or officials, does staff always refrain from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions?  Yes  No

##### 115.61 (c)

- Unless otherwise precluded by Federal, State, or local law, are medical and mental health practitioners required to report sexual abuse pursuant to paragraph (a) of this section?  Yes  No
- Are medical and mental health practitioners required to inform inmates of the practitioner’s duty to report, and the limitations of confidentiality, at the initiation of services?  Yes  No

##### 115.61 (d)

- If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, does the agency report the allegation to the designated State or local services agency under applicable mandatory reporting laws?  Yes  No

#### 115.61 (e)

- Does the facility report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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SDSP Policies 1.3.E.5, PREA Compliance with Prison Rape Elimination Act Standards and 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment, outline staff and agency reporting steps. All staff members are required to report immediately and, in accordance with policy, any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred at a facility whether or not it is part of the agency. Policy requires the information concerning the identity of the alleged inmate victim and the specific facts of the case to be shared with staff on a need-to-know basis, because of their involvement with the victim's welfare and/or the investigation of the incident. The facility does not house inmates under the age of 18. Interviews with staff revealed an awareness of procedures to follow concerning the reporting of sexual abuse and sexual harassment incidents. A review of training documentation indicates that staff received the required training regarding this standard.

#### Standard 115.62: Agency protection duties

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.62 (a)

- When the agency learns that an inmate is subject to a substantial risk of imminent sexual abuse, does it take immediate action to protect the inmate?  Yes  No

## Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

## Instructions for Overall Compliance Determination Narrative

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SDSP Policy 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment, states, under the zero-tolerance section, that when the agency learns an inmate is subject to substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate. Interviews with staff indicated a comprehensive understanding of their duties and responsibilities if they became aware of an inmate being in imminent risk for abuse (first-responder or otherwise) and that certain immediate, mandatory actions to protect the inmate would take effect. All staff members are issued a PREA card outlining all actions to be taken by staff that became aware of sexual abuse or sexual harassment. All staff indicated they would act immediately to protect the inmate, to include separating the victim/predator, securing the scene to protect possible evidence, preventing the destruction of potential evidence and contacting the Operations Supervisor and medical staff. A review of documentation indicated there have been no incidents of an inmate being subject to substantial risk of imminent sexual abuse during the past twelve months. Interviews with staff indicated appropriate immediate action would be taken in all cases and confirmed compliance with this standard.

## Standard 115.63: Reporting to other confinement facilities

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.63 (a)

- Upon receiving an allegation that an inmate was sexually abused while confined at another facility, does the head of the facility that received the allegation notify the head of the facility or appropriate office of the agency where the alleged abuse occurred?  Yes  No

#### 115.63 (b)

- Is such notification provided as soon as possible, but no later than 72 hours after receiving the allegation?  Yes  No

#### 115.63 (c)

- Does the agency document that it has provided such notification?  Yes  No

#### 115.63 (d)

- Does the facility head or agency office that receives such notification ensure that the allegation is investigated in accordance with these standards?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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SDSP Policy 1.3.E.5, PREA Compliance with Prison Rape Elimination Act Standards, requires that upon receiving an allegation that an inmate was sexually abused while confined at another facility, the Warden will notify the Head of the facility or appropriate office of the agency or facility where the sexual abuse allegedly occurred. Policy requires such notification will occur as soon as possible and no later than 72 hours after receiving the allegation. Documentation is required of any such notification. There has been one allegation of an inmate being sexually abused while confined at another facility, during the past twelve months. Policy 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment, requires that an allegation of sexual abuse received from other facilities is investigated in accordance with the PREA standard. This was confirmed by interviewing the investigators, PCM and Warden. There have been two allegations of sexual abuse that were claimed to have occurred at SDSP from an inmate housed at another facility in the last twelve months. A review of documentation and staff interviews confirmed compliance with this standard.

#### Standard 115.64: Staff first responder duties

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report



#### 115.64 (a)

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Separate the alleged victim and abuser?  
 Yes  No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence?  Yes  No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence?  Yes  No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence?  Yes  No

#### 115.64 (b)

- If the first staff responder is not a security staff member, is the responder required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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SDSP Policy 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment, details duties, procedures and action for first responders to an allegation of sexual abuse. The PREA training lesson plan outlines the duties and responsibilities for first responders and medical

staff in the event an inmate is sexually abused. Inmates may report acts of sexual assault, sexual abuse, or sexual harassment to any employee, contract employee, or volunteer. Upon learning of an allegation that an inmate was sexually abused, if the responder is a correctional officer, they would separate the inmates, secure the scene, prevent the destruction of any evidence and contact the shift supervisor and medical staff. . All interviewed staff members were knowledgeable concerning their first responder duties and responsibilities, upon learning of an allegation of sexual abuse or sexual harassment. Non-security staff indicated they would separate the inmates, secure the scene, would not allow inmates to destroy any evidence, contact the shift supervisor and refer the offender to medical and mental health staff. First responders interviewed were knowledgeable about their duties and responsibilities. All staff members were carrying an embossed reference card which listed their first responder responsibilities in the event of a PREA related incident. There have been thirty-seven allegations of sexual abuse within the past twelve months. Of these allegations, the first security staff member to respond to the report separated the alleged victim and alleged abuser twenty-nine times. Only one of these alleged incidents of abuse occurred within a time period that still allowed for the collection of physical evidence. A review of policy and staff interviews confirmed compliance with this standard.

## Standard 115.65: Coordinated response

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.65 (a)

- Has the facility developed a written institutional plan to coordinate actions among staff first responders, medical and mental health practitioners, investigators, and facility leadership taken in response to an incident of sexual abuse?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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SDSP's Sexual Abuse Incident Protocol and Reference Book and Policy 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment, address the duties of the first responder, medical and mental health staff and facility leadership in coordinating actions taken in response to an incident of sexual abuse. Policy provides detailed guidance to employees regarding the expected coordinated actions to take place in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators and facility leadership. Interviews with staff confirmed that they were knowledgeable regarding their required duties in the coordinated response process.

## **Standard 115.66: Preservation of ability to protect inmates from contact with abusers**

### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### **115.66 (a)**

- Are both the agency and any other governmental entities responsible for collective bargaining on the agency's behalf prohibited from entering into or renewing any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted?  Yes  No

#### **115.66 (b)**

- Auditor is not required to audit this provision.

### **Auditor Overall Compliance Determination**

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### **Instructions for Overall Compliance Determination Narrative**

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Interviews with the agency PREA Coordinator indicated that there have been no collective bargaining agreements entered into or renewed since August 2012. The South Dakota Department of Corrections is non-union. Interviews confirmed any agreements that may be entered into would not hamper the agency's commitment to protect inmates through any

disciplinary action of a staff member, including reprimand, suspension, demotion and discharge, or otherwise discipline employees with proper cause.

## Standard 115.67: Agency protection against retaliation

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.67 (a)

- Has the agency established a policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff?  Yes  No
- Has the agency designated which staff members or departments are charged with monitoring retaliation?  Yes  No

#### 115.67 (b)

- Does the agency employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations?  Yes  No

#### 115.67 (c)

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of inmates or staff who reported the sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Act promptly to remedy any such retaliation?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor any inmate disciplinary reports?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate housing changes?  Yes  No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate program changes?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff?  Yes  No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need?  Yes  No

#### 115.67 (d)

- In the case of inmates, does such monitoring also include periodic status checks?  
 Yes  No

#### 115.67 (e)

- If any other individual who cooperates with an investigation expresses a fear of retaliation, does the agency take appropriate measures to protect that individual against retaliation?  
 Yes  No

#### 115.67 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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SDSP Policies 1.3.E.5, PREA Compliance with Prison Rape Elimination Act Standards and 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment, specifically prohibits any type of retaliation against any inmate or staff member who has reported sexual abuse, sexual harassment or has cooperated with such investigations. The PREA Compliance Manager/Unit Manager is the designated staff member that monitors the conduct or treatment of inmates and/or staff members who have reported sexual abuse to ensure any type of retaliation does not occur. The monitoring of any type of retaliation will be done for at least 90 days. Policy outlines the protection measures available and requires the prompt remediation of any type of retaliation. This follow-up may also extend without limit, if necessary. There have been four incidents of retaliation alleged within the previous twelve months. Staff interviews and an examination of policy and retaliation monitoring documents confirmed compliance with this standard.

### Standard 115.68: Post-allegation protective custody

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

##### 115.68 (a)

- Is any and all use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse subject to the requirements of § 115.43?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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SDSP Policy 1.3.E.5, PREA Compliance with Prison Rape Elimination Act Standards, prohibits the placement of inmates, who allege to have suffered sexual abuse, in involuntary segregation housing unless an assessment of all available alternatives has been made and none are available. The use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse shall be subject to the requirements of §115.43. There were no inmates who alleged to have suffered sexual abuse held in involuntary segregation during the past

twelve months. Staff interviews and an examination of policy confirmed compliance with this standard.

## INVESTIGATIONS

### Standard 115.71: Criminal and administrative agency investigations

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

##### 115.71 (a)

- When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, does it do so promptly, thoroughly, and objectively? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.21(a).]  Yes  No  NA
- Does the agency conduct such investigations for all allegations, including third party and anonymous reports? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.21(a).]  Yes  No  NA

##### 115.71 (b)

- Where sexual abuse is alleged, does the agency use investigators who have received specialized training in sexual abuse investigations as required by 115.34?  Yes  No

##### 115.71 (c)

- Do investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data?  Yes  No
- Do investigators interview alleged victims, suspected perpetrators, and witnesses?  
 Yes  No
- Do investigators review prior reports and complaints of sexual abuse involving the suspected perpetrator?  Yes  No

##### 115.71 (d)

- When the quality of evidence appears to support criminal prosecution, does the agency conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution?  Yes  No

##### 115.71 (e)

- Do agency investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and not on the basis of that individual's status as inmate or staff?  Yes  No

- Does the agency investigate allegations of sexual abuse without requiring an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding?  Yes  No

#### 115.71 (f)

- Do administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse?  Yes  No
- Are administrative investigations documented in written reports that include a description of the physical evidence and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings?  Yes  No

#### 115.71 (g)

- Are criminal investigations documented in a written report that contains a thorough description of the physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible?  Yes  No

#### 115.71 (h)

- Are all substantiated allegations of conduct that appears to be criminal referred for prosecution?  Yes  No

#### 115.71 (i)

- Does the agency retain all written reports referenced in 115.71(f) and (g) for as long as the alleged abuser is incarcerated or employed by the agency, plus five years?  Yes  No

#### 115.71 (j)

- Does the agency ensure that the departure of an alleged abuser or victim from the employment or control of the agency does not provide a basis for terminating an investigation?  Yes  No

#### 115.71 (k)

- Auditor is not required to audit this provision.

#### 115.71 (l)

- When an outside entity investigates sexual abuse, does the facility cooperate with outside investigators and endeavor to remain informed about the progress of the investigation? (N/A if an outside agency does not conduct administrative or criminal sexual abuse investigations. See 115.21(a).)  Yes  No  NA

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)



**Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

**Does Not Meet Standard** (*Requires Corrective Action*)

### **Instructions for Overall Compliance Determination Narrative**

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

SDSP Policies 1.3.E.5, PREA Compliance with Prison Rape Elimination Act Standards and 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment, outline the procedures for administrative and criminal investigations. All allegations of sexual abuse and sexual harassment, including third party and anonymous reports, are promptly, thoroughly and objectively investigated. Substantiated allegations of conduct that appear to be criminal are referred for prosecution. As confirmed by the review of investigation documents, the facility promptly, thoroughly and objectively conducts its own investigations into allegations of sexual abuse and sexual harassment, including third party and anonymous reports. Facility investigators have received the necessary special training in sexual abuse investigations. Investigators gather and preserve direct and circumstantial evidence, including any available physical or DNA evidence, and any available electronic monitoring data. Interviews are conducted with the alleged victim, suspected perpetrator and potential witnesses. The trained investigators also review prior complaints and reports of sexual abuse involving the suspected perpetrator. When the quality of evidence appears to support criminal prosecution, the investigators refer the investigations to the DCI to complete the investigation. The credibility of an alleged victim, suspect, or witness is assessed on an individual basis and is not determined by the person's status as offender or staff. The facility does not require an offender who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation. The agency retains all written reports for as long as the alleged abuser is incarcerated, or a staff member is employed by the agency, plus five years. If the staff member alleged to have committed sexual abuse terminates employment prior to the investigation being completed or the victim/alleged abuser leaves the facility prior to the completion of the investigation, the investigation is not terminated, but pursued until a finding is obtained. A review of the sexual abuse allegations indicated that four incidents were referred for possible criminal prosecution. Compliance with this standard was determined by a review of policy/documentation and investigation case files, as well as interviews with the Retaliation Monitor and investigative staff that completed the investigations.

### **Standard 115.72: Evidentiary standard for administrative investigations**

### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

### 115.72 (a)

- Is it true that the agency does not impose a standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

SDSP Policy 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment, addresses this standard and states, "there shall not be any standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated". Interviews with the SIU lieutenant confirmed this standard of evidence is followed. The evidence standard was utilized in the cases reviewed by the auditor.

### Standard 115.73: Reporting to inmates

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.73 (a)

- Following an investigation into an inmate's allegation that he or she suffered sexual abuse in an agency facility, does the agency inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded?  Yes  No

#### 115.73 (b)

- If the agency did not conduct the investigation into an inmate's allegation of sexual abuse in an agency facility, does the agency request the relevant information from the investigative agency in order to inform the inmate? (N/A if the agency/facility is responsible for conducting administrative and criminal investigations.)  Yes  No  NA

#### 115.73 (c)

- Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, unless the agency has determined that the allegation is unfounded, or unless the inmate has been released from custody, does the agency subsequently inform the inmate whenever: The staff member is no longer posted within the inmate's unit?  Yes  No
- Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, unless the agency has determined that the allegation is unfounded, or unless the inmate has been released from custody, does the agency subsequently inform the inmate whenever: The staff member is no longer employed at the facility?  Yes  No
- Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, unless the agency has determined that the allegation is unfounded, or unless the inmate has been released from custody, does the agency subsequently inform the inmate whenever: The agency learns that the staff member has been indicted on a charge related to sexual abuse in the facility?  Yes  No
- Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, unless the agency has determined that the allegation is unfounded, or unless the inmate has been released from custody, does the agency subsequently inform the inmate whenever: The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility?  Yes  No

#### 115.73 (d)

- Following an inmate's allegation that he or she has been sexually abused by another inmate, does the agency subsequently inform the alleged victim whenever: The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility?  Yes  No
- Following an inmate's allegation that he or she has been sexually abused by another inmate, does the agency subsequently inform the alleged victim whenever: The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility?  Yes  No

#### 115.73 (e)

- Does the agency document all such notifications or attempted notifications?  Yes  No

#### 115.73 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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SDSP Policy 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment, requires the agency to inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded, following an investigation into an inmate's allegation that they suffered sexual abuse in a SDDOC facility. If it is a staff member, the facility Head or Designee will inform the inmate victim whenever a staff member is no longer posted, employed, or has been indicted or has been convicted, unless the investigation determines the allegation is unfounded. All notifications are documented in the incident file. The review of the investigative packets for allegations of sexual abuse confirmed notification of the outcome of each allegation was made to all inmates. There was one substantiated complaint of sexual abuse committed by a staff member against an inmate in the past twelve months. Documentation is maintained in the investigative file. Compliance with this standard was determined by a review of policy, an examination of the written notifications and staff interviews.

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

##### 115.76 (a)

- Are staff subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies?  Yes  No

##### 115.76 (b)

- Is termination the presumptive disciplinary sanction for staff who have engaged in sexual abuse?  Yes  No

##### 115.76 (c)

- Are disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) commensurate with the nature and

circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories?  Yes  No

#### 115.76 (d)

- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Law enforcement agencies (unless the activity was clearly not criminal)?  Yes  No
- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Relevant licensing bodies?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

Disciplinary sanctions for violations of the agency's policy relating to sexual abuse or sexual harassment are commensurate with the nature and circumstances of acts committed per SDSP Policies 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment and 1.1.C.2, Staff Supervision of Offenders. Disciplinary sanctions for violations of South Dakota State Penitentiary policies relating to sexual abuse or sexual harassment are commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. Staff members are subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation are reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies. Policy requires reporting to relevant licensing bodies, if applicable. There has been one substantiated complaint of sexual abuse committed by a staff member against an inmate in the past twelve months. The employee was initially re-trained, but eventually was terminated. A review of policy and documentation, as well as staff interviews, support the finding that the facility complies with this standard.

## Standard 115.77: Corrective action for contractors and volunteers

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.77 (a)

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with inmates?  Yes  No
- Is any contractor or volunteer who engages in sexual abuse reported to: Law enforcement agencies (unless the activity was clearly not criminal)?  Yes  No
- Is any contractor or volunteer who engages in sexual abuse reported to: Relevant licensing bodies?  Yes  No

#### 115.77 (b)

- In the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer, does the facility take appropriate remedial measures, and consider whether to prohibit further contact with inmates?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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SDSP Policy 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment, addresses the mandates of this standard. Policy requires that any contractor or volunteer who engages in sexual abuse of an inmate will be reported to law enforcement agencies (unless the activity was clearly not criminal) and to relevant licensing bodies. Policy requires that appropriate remedial measures are taken, and that the facility take into consideration as to whether to prohibit contractors/volunteers from further contact with inmates in the case of any other violation of agency sexual abuse or sexual harassment. Volunteers and contractors have all been trained and are aware of these policies. In the past twelve months, there were two

contractors reported to have engaged in an act of sexual abuse or sexual harassment with an offender. One was referred to DCI, but criminal charges were declined. They were both barred from the facility. Compliance with this standard was determined by a review of policy, volunteer/contractor training files and investigative files, as well as volunteer/contractor and staff interviews.

## **Standard 115.78: Disciplinary sanctions for inmates**

### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### **115.78 (a)**

- Following an administrative finding that an inmate engaged in inmate-on-inmate sexual abuse, or following a criminal finding of guilt for inmate-on-inmate sexual abuse, are inmates subject to disciplinary sanctions pursuant to a formal disciplinary process?  Yes  No

#### **115.78 (b)**

- Are sanctions commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories?  Yes  No

#### **115.78 (c)**

- When determining what types of sanction, if any, should be imposed, does the disciplinary process consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior?  Yes  No

#### **115.78 (d)**

- If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, does the facility consider whether to require the offending inmate to participate in such interventions as a condition of access to programming and other benefits?  Yes  No

#### **115.78 (e)**

- Does the agency discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact?  Yes  No

#### **115.78 (f)**

- For the purpose of disciplinary action does a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred NOT constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation?  Yes  No

#### **115.78 (g)**



- Does the agency always refrain from considering non-coercive sexual activity between inmates to be sexual abuse? (N/A if the agency does not prohibit all sexual activity between inmates.)  
 Yes    No    NA

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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SDSP Policy 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment, addresses the mandates of this standard. Inmates found guilty of an administrative finding or criminal finding of offender-on-offender sexual abuse are subject to disciplinary sanctions pursuant to a formal disciplinary process. Disciplinary sanctions are commensurate with the nature and circumstances of the abuse committed, the offender’s disciplinary history and the sanctions imposed for comparable offenses by other inmates with similar histories. The disciplinary process considers whether an offender’s mental disabilities or mental illness contributed to the offender’s behavior when determining what type of sanction, if any, should be imposed. If mental disabilities or mental illness is a factor, the facility considers the offer of therapy, counseling or other interventions designed to address and correct underlying reasons or motivations for the abuse. The agency may discipline an offender for sexual contact with staff only upon a finding that the staff member did not consent to such contact. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred does not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation. The agency prohibits all sexual activity between inmates and disciplines inmates for such activity. Compliance with this standard was determined by a review of policy/documentation, a review of the inmate discipline process and staff and inmate interviews.

## MEDICAL AND MENTAL CARE

### Standard 115.81: Medical and mental health screenings; history of sexual abuse



## All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

### 115.81 (a)

- If the screening pursuant to § 115.41 indicates that a prison inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening? (N/A if the facility is not a prison.)  
 Yes  No  NA

### 115.81 (b)

- If the screening pursuant to § 115.41 indicates that a prison inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening? (N/A if the facility is not a prison.)  Yes  No  NA

### 115.81 (c)

- If the screening pursuant to § 115.41 indicates that a jail inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening?  Yes  No

### 115.81 (d)

- Is any information related to sexual victimization or abusiveness that occurred in an institutional setting strictly limited to medical and mental health practitioners and other staff as necessary to inform treatment plans and security management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law?  
 Yes  No

### 115.81 (e)

- Do medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18?  Yes  No

## Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

## Instructions for Overall Compliance Determination Narrative

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SDSP Policies 1.4.B.1 and 1.3.E.5, PREA Compliance with Prison Rape Elimination Act Standards, address the mandates of this standard. Observation and a review of intake screening documents support the finding that screening for prior sexual victimization in any setting is conducted by mental health professionals during in-processing procedures. If the screening indicates the offender experienced prior sexual victimization, staff members ensure that the offender is offered a follow-up meeting with a medical or mental health practitioner within 14 days. Follow-up meetings with mental health providers routinely occur within 72 hours of the initial screening. Screening for prior sexual victimization in any setting is conducted by unit team staff during in-processing procedures. In-processing procedures also screen for previous sexually assaultive behavior in an institutional setting or in the community. Information related to sexual victimization or abusiveness is limited to medical and mental health practitioners and other staff on a need-to-know-basis for treatment plans, security, housing, work, program assignments and management decisions. Medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting. The facility does not house inmates under the age of 18. All information is handled confidentially and interviews with staff support a finding that the facility complies with this standard. Compliance was confirmed by the review of policies and intake screening documents, as well as interviews with inmates identified as experiencing prior victimization during intake screening.

## **Standard 115.82: Access to emergency medical and mental health services**

### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### **115.82 (a)**

- Do inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment?  
 Yes  No

#### **115.82 (b)**

- If no qualified medical or mental health practitioners are on duty at the time a report of recent sexual abuse is made, do security staff first responders take preliminary steps to protect the victim pursuant to § 115.62?  Yes  No
- Do security staff first responders immediately notify the appropriate medical and mental health practitioners?  Yes  No

### 115.82 (c)

- Are inmate victims of sexual abuse offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate?  Yes  No

### 115.82 (d)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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SDSP Policy 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment, mandates that inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services within the facility or are transported to a medical facility in the community when health care needs exceed the level of care available at the SDSP. There is no financial cost to the offender for any sexual abuse/sexual harassment incident related medical or mental health care, regardless of whether the victim names the abuser or cooperates with the incident investigation. Offender victims of sexual abuse, while incarcerated, are offered timely information about sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. Policy requires medical and mental health departments to maintain secondary information, documenting time of service, emergency medical treatment and crisis intervention services that were provided. Interviews with the medical and mental health practitioners confirmed the requirements of this standard are in place. SDSP has a Memorandum of Understanding with a local hospital and rape crisis center to provide emergency care and crisis intervention services. There are no female inmates housed at this facility. Compliance with this standard was determined by a review of policy/documentation and interviews with medical and mental health staff.

## Standard 115.83: Ongoing medical and mental health care for sexual abuse victims and abusers

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.83 (a)

- Does the facility offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility?  Yes  No

#### 115.83 (b)

- Does the evaluation and treatment of such victims include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody?  Yes  No

#### 115.83 (c)

- Does the facility provide such victims with medical and mental health services consistent with the community level of care?  Yes  No

#### 115.83 (d)

- Are inmate victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests? (N/A if all-male facility.)  Yes  No  NA

#### 115.83 (e)

- If pregnancy results from the conduct described in paragraph § 115.83(d), do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services? (N/A if all-male facility.)  Yes  No  NA

#### 115.83 (f)

- Are inmate victims of sexual abuse while incarcerated offered tests for sexually transmitted infections as medically appropriate?  Yes  No

#### 115.83 (g)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident?  Yes  No

#### 115.83 (h)

- If the facility is a prison, does it attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment

when deemed appropriate by mental health practitioners? (NA if the facility is a jail.)

Yes  No  NA

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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SDSP Policy 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment, addresses the mandates of this standard. The facility offers medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility. The evaluation and treatment of such victims includes appropriate evaluation, treatment and follow-up services. The facility would arrange for referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. The facility has fully staffed medical and mental health departments and offers sexual abuse/sexual harassment victims with medical and mental health services consistent with the community standard of care. Offender victims of sexual abuse, while incarcerated, are offered testing for sexually transmitted infections as medically appropriate. Treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. Mental health evaluations are conducted on all known offender-on-offender abusers within 30 days of learning of such abuse history. Treatment is offered for abusers when deemed appropriate by mental health practitioners. The facility has an intensive Sexual Offender Management Program for abusers. The facility does not house youthful or female inmates. A review of documentation and interviews with medical/mental health staff support the finding that the facility complies with this standard.

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### 115.86 (a)

- Does the facility conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded?  Yes  No

#### 115.86 (b)

- Does such review ordinarily occur within 30 days of the conclusion of the investigation?  Yes  No

#### 115.86 (c)

- Does the review team include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners?  Yes  No

#### 115.86 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse?  Yes  No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility?  Yes  No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse?  Yes  No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts?  Yes  No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff?  Yes  No
- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager?  Yes  No

#### 115.86 (e)

- Does the facility implement the recommendations for improvement, or document its reasons for not doing so?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

- Does Not Meet Standard** (*Requires Corrective Action*)

### **Instructions for Overall Compliance Determination Narrative**

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

SDSP Policy 1.3.E.5, PREA Compliance with Prison Rape Elimination Act Standards, addresses the mandates of this standard. The Warden has designated the facility PREA Compliance Manager/Unit Manager, Associate Warden, Security Supervisor, Medial Services Representative, Mental Health Representative and the Investigative Lieutenant to be members of the Incident Review Team. The facility conducts a sexual abuse incident review at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded. The incident review occurs within thirty days of the conclusion of the investigation. The review team addresses all items identified in the standard and a report is prepared by the PREA Compliance Manager for the Warden. The review team takes into consideration as to whether the incident was motivated by race, ethnicity, gender identity, status, perceived status or gang affiliation. The facility implements the recommendations for improvement or documents its reasons for not doing so. Documentation for any recommendation not implemented is maintained. There were twenty-four incident reviews completed in the past 12 months. A review of incident review meeting minutes and interviews with staff support the finding that the facility complies with this standard.

### **Standard 115.87: Data collection**

#### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

##### **115.87 (a)**

- Does the agency collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions?  Yes  No

##### **115.87 (b)**

- Does the agency aggregate the incident-based sexual abuse data at least annually?  Yes  No

##### **115.87 (c)**

- Does the incident-based data 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?  Yes  No



#### 115.87 (d)

- Does the agency maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews?  
 Yes  No

#### 115.87 (e)

- Does the agency also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates? (N/A if agency does not contract for the confinement of its inmates.)  Yes  No  NA

#### 115.87 (f)

- Does the agency, upon request, provide all such data from the previous calendar year to the Department of Justice no later than June 30? (N/A if DOJ has not requested agency data.)  
 Yes  No  NA

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

SDSP Policies 1.3.E.5, PREA Compliance with Prison Rape Elimination Act Standards and 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment, address the mandates of this standard. According to interviews with the PREA Coordinator and a review of documentation, information on allegations of sexual abuse is electronically recorded by each facility on the Sexual Incident Review Form. The PREA Coordinator obtains and reviews information on all incidents from each facility, including facilities with which it contracts for the confinement of its inmates and aggregates that data annually. Upon request or no later than June 30th, the agency provides this information for the previous calendar year to the Department of Justice (DOJ). The report includes the aggregated data necessary to answer all of the questions on the Survey of Sexual Violence conducted by the Department of Justice. A review of documentation supports the finding the SDDOC has collected accurate, uniform data for every allegation of sexual abuse at facilities under its direct control, using a standardized instrument and set of definitions.



## Standard 115.88: Data review for corrective action

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.88 (a)

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas?  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis?  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole?  Yes  No

#### 115.88 (b)

- Does the agency's annual report include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse?  Yes  No

#### 115.88 (c)

- Is the agency's annual report approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means?  Yes  No

#### 115.88 (d)

- Does the agency indicate the nature of the material redacted where it redacts specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility?  Yes  No

### Auditor Overall Compliance Determination

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- Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

SDSP Policies 1.3.E.5, PREA Compliance with Prison Rape Elimination Act Standards and 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment address the mandates of this standard. The PREA Coordinator is responsible for reviewing all of the data collected from the agency's facilities and aggregates that data annually to assess and improve the effectiveness of its sexual abuse program and practices. The PREA Coordinator prepares an annual report that provides general comments, with plans to enhance this information in future reports. Information that needs to be redacted is not included in the annual report that is forwarded to the State's Secretary of Corrections for approval. This information is available to the public on the South Dakota Department of Corrections website and can be accessed at <http://doc.sd.gov/about/PrisonRapeEliminationAct.aspx>. A review of documentation and interviews with the PREA Coordinator indicated the facility complies with the standard.

### **Standard 115.89: Data storage, publication, and destruction**

#### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

##### **115.89 (a)**

- Does the agency ensure that data collected pursuant to § 115.87 are securely retained?  
 Yes  No

##### **115.89 (b)**

- Does the agency make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means?  Yes  No

##### **115.89 (c)**

- Does the agency remove all personal identifiers before making aggregated sexual abuse data publicly available?  Yes  No

##### **115.89 (d)**

- Does the agency maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection, unless Federal, State, or local law requires otherwise?  Yes  No

#### **Auditor Overall Compliance Determination**

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### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

The agency, through its Policy 1.3.E.6, PREA Response & Investigation of Sexual Abuse/Harassment, ensures that all aggregated sexual abuse data from facilities under its direct control is available to the public and securely retained. The agency maintains a sexual abuse data collection pursuant standard §115.87 for at least 10 years after the initial date of collection, unless federal, state or local law requires otherwise. The SDDOC Office of Grants and Research, PREA section, is responsible for gathering and maintaining this information. Public access to data is available on the SDDOC website. The reports cover all data required in the elements of this standard.

<b>AUDITING AND CORRECTIVE ACTION</b>
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### Standard 115.401: Frequency and scope of audits

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.401 (a)

- During the prior three-year audit period, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (*Note: The response here is purely informational. A "no" response does not impact overall compliance with this standard.*)  Yes  No

#### 115.401 (b)

- Is this the first year of the current audit cycle? (*Note: a "no" response does not impact overall compliance with this standard.*)  Yes  No
- If this is the second year of the current audit cycle, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited during the first year of the current audit cycle? (*N/A if this is not the second year of the current audit cycle.*)  Yes  No  NA

- If this is the third year of the current audit cycle, did the agency ensure that at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency, were audited during the first two years of the current audit cycle? (N/A if this is **not** the *third* year of the current audit cycle.)  Yes  No  NA

#### 115.401 (h)

- Did the auditor have access to, and the ability to observe, all areas of the audited facility?  Yes  No

#### 115.401 (i)

- Was the auditor permitted to request and receive copies of any relevant documents (including electronically stored information)?  Yes  No

#### 115.401 (m)

- Was the auditor permitted to conduct private interviews with inmates, residents, and detainees?  Yes  No

#### 115.401 (n)

- Were inmates permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel?  Yes  No

#### Auditor Overall Compliance Determination

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#### Instructions for Overall Compliance Determination Narrative

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This is the second PREA audit of this facility. The previous PREA audit was in May 2016. The auditor was allowed access to all areas of the facility and had access to all required support documentation. The auditor was able to conduct private interviews with both inmates and staff. All SDDOC facilities have received at least one PREA audit since August 20, 2012. The auditor was provided supporting documentation before and during the audit. Notifications of

the audit (posted throughout the facility) allowed inmates to send confidential letters to the auditor prior to the audit. Four letters from inmates were received by the auditor.

### Standard 115.403: Audit contents and findings

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports within 90 days of issuance by auditor. The review period is for prior audits completed during the past three years PRECEDING THIS AGENCY AUDIT. In the case of single facility agencies, the auditor shall ensure that the facility's last audit report was published. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.)  Yes  No  NA

#### Auditor Overall Compliance Determination

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South Dakota DOC has fully implemented all policies, practices and procedures outlined in the PREA standards. The auditor reviewed applicable standards and, through the review of support documentation, interviews with staff and inmates and the observation of physical evidence, concluded that this facility fully meets and substantially complies in all material ways with the PREA standards for the relevant review period. South Dakota DOC policies are directly tied to the PREA standards and staff expectations. The facility's leadership is fully committed to eliminating sexual abuse/sexual harassment, as evidenced in the realistic staffing analysis and the recommendations for enhanced supervision techniques. Substantiated allegations of abuse are processed in accordance with the standards, to include incident reviews, disciplinary actions, if required, and outcome notifications. PREA training for staff and inmates is documented and all stakeholders receive the appropriate level of training and are

knowledgeable of the intent of the PREA and the tools available to ensure prevention, detection, reporting and response to sexual abuse incidents. Sexual abuse and victimization propensity screening is well established and tracked in an organized fashion. Referrals for mental health counseling are integrated in the intake and allegations of sexual abuse processes. Medical networks for the inmates are established in the community. The public has access to reporting mechanisms and South Dakota DOC PREA trends data via the website. South Dakota State Prison currently meets all applicable PREA standards and no corrective actions are required.

## AUDITOR CERTIFICATION

I certify that:

- The contents of this report are accurate to the best of my knowledge.
- No conflict of interest exists with respect to my ability to conduct an audit of the agency under review, and
- I have not included in the final report any personally identifiable information (PII) about any inmate or staff member, except where the names of administrative personnel are specifically requested in the report template.

### **Auditor Instructions:**

Type your full name in the text box below for Auditor Signature. This will function as your official electronic signature. Auditors must deliver their final report to the PREA Resource Center as a searchable PDF format to ensure accessibility to people with disabilities. Save this report document into a PDF format prior to submission.<sup>1</sup> Auditors are not permitted to submit audit reports that have been scanned.<sup>2</sup> See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

Diane Lee

May 9, 2019

**Auditor Signature**

**Date**

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<sup>1</sup> See additional instructions here: <https://support.office.com/en-us/article/Save-or-convert-to-PDF-d85416c5-7d77-4fd6-a216-6f4bf7c7c110>.

<sup>2</sup> See *PREA Auditor Handbook*, Version 1.0, August 2017; Pages 68-69.