

SOUTH DAKOTA DEPARTMENT OF CORRECTIONS 2023 ANNUAL PRISON RAPE ELIMINATION ACT REPORT



2023

Overview

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

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

Staffing

Protecting Offenders and Youth from Sexual Assault and Harassment. Compliance with the PREA standards is the top priority for SDDOC. All SDDOC staff have been involved in achieving and maintaining these goals.

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

DOC PREA Coordinator

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

DOC PREA Compliance Manager

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

Juvenile PREA Compliance Manager

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

PREA Investigator

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

Adult Division Staffing Plan

Each adult facility developed a PREA compliant staffing plan. The staffing plan outlined the minimum staffing levels, facility layout review, and video camera coverage. In 2023, staffing levels were maintained with documentation of staff shortage.

Training

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

Pre-service Training

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

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

PREA Annual Training

All staff that has regular contact with offenders complete annual training. The in-service training for all facility staff for fiscal year 2023 was a review of Pre-service training. Topics discussed during training included: zero tolerance, PREA definitions, procedures, and practices, and professional boundaries. Staff discussed LGBTI offenders and some of the accommodations that are made.

Juvenile staff Annual re-training for 2023 addressed: zero tolerance, PREA definitions, PREA in confinement settings, staff/student interactions, sexual violence symptoms, and staff responsibilities.

PREA Specialized Training

Adult and Juvenile Division specialized training to select groups to cover training, policy and procedures. Adult investigators completed various trainings including PREA: Your Role in Responding to Sexual Abuse, PREA: Investigating Sexual Abuse in Confinement Setting, PREA First Responder Training, and PREA: Academy Investigations training. Juvenile specialized training included: Partnering with Community Sexual Assault advocacy Centers. Compass Center presented to staff and students in February 2023 about victim advocacy and their role in PREA. Call to Freedom presented to staff and students throughout the year on the topics of Social Media Safety, Healthy Relationships, and Sex Trafficking.

PREA Policies

In 2023 for the Adult SDDOC there were PREA impacted policies issued by the SDDOC. 1100-01 Prison Rape Elimination Act (PREA) was signed effective in September 2023, 1200-08 Juvenile Division Staff PREA Reporting Guidelines was signed and effective in June 2023.

Supportive Services

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

Support Services MOU's

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

Audits

The adult division contracted with a private PREA auditing company, AJF Correctional Consulting & Auditing, to conduct the audit of the South Dakota Women's Prison in June of 2023. SDWP was found compliant with PREA Standards after a corrective action review period.

The Mike Durfee State Prison Facilities are scheduled to be audited in April 2024.

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

General Definitions:

Incident Determinations

Substantiated allegation: An allegation that was investigated and determined to have occurred.

Unfounded allegation: An allegation that was investigated and determined not to have occurred.

Unsubstantiated allegation: An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

Sexual Abuse: Sexual abuse includes sexual assault, sexual harassment, and sexual misconduct.

Sexual Assault/Rape: The act of unwanted sexual intrusion, touching, or penetration however slight, by a hand, finger, object, other instrument or contact of the anal, oral, or genital opening of another person or touching of the breast or other body part however slight, by hand, finger, object, or other instrument. This also includes contact, by any person on another by force, overt or implied threat, coercion, intimidation, compulsion, inducement, or impairment of one's faculties (see SDCL §§ 22-22 and 24-1-26.1).

Sexual Harassment: Includes any non-contact behavior or act that subjects another person to verbal or written statements or gestures of sexual or romantic nature; creating or encouraging an atmosphere of intimidations, hostility, or offensiveness as perceived by the individual who observes the sexually offensive behavior or act including but not limited to the following:

1. Any repeated and/or unwelcome sexual advances, requests for sexual favors, obscene or profane language or verbal comments or actions of a derogatory or offensive sexual nature, including demeaning reference to gender, inappropriate, sexually suggestive, or derogatory comments about body or clothing, or obscene language or sexually harassing gestures, or written statements of a sexual or romantic nature.
2. Indecent exposure or any intentional or unwanted displays of anus, genitals, breasts, or other body parts to sexually harass another person or masturbation in the presence or direct vision of another person.
3. Taking or soliciting photographs or images of a person's nude breast's, genitals, buttocks, or naked body while performing bodily functions.
4. Any repeated unwelcome sexual advances, requests for sexual favors, unequal treatment, or other unwelcome verbal and physical conduct based on sex when:
 - a. Submission to such conduct is made either explicit or implicit as a term or condition of an individual's employment; or
 - b. Submission to or rejections of such conduct is used as the basis for employment decisions about a person; or
 - c. Such conduct has the purpose or effect of substantially and unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive or educational environment.

Adult Aggregated Data Review:

In 2023 the total number of reportable incidents increased 6.47% with a total of 148 compared to 2022 total incidents of 139. The 2023 data is above the five-year average of 126 total incidents. SDDOC had an increase in reporting and investigated allegations in 2023.

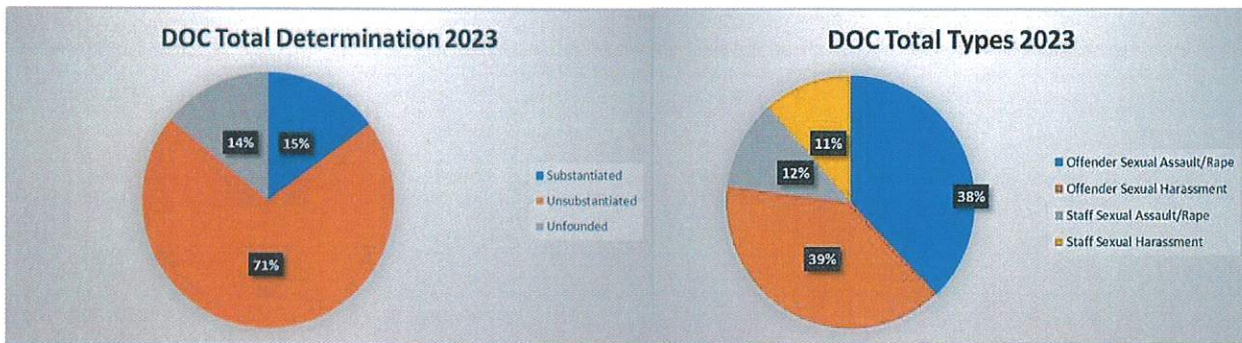
Trends over the one-year period:

The 2023 data for substantiated cases has increased to 22 incidents from the 2022 of 19 incidents. The percentage of substantiated cases from 2022 to 2023 remained the same at 14% in 2022 and 14% in 2023. Unsubstantiated cases for 2023 increased from 101 in 2022 to 105 cases. The percentage of unsubstantiated cases decreased from 72% in 2022 to 70% in 2023. There was an increase in unfounded cases in 2023 from 19 in 2022 to 21 cases. The percentage of unfounded cases increased from 13% in 2022 to 14% in 2023.

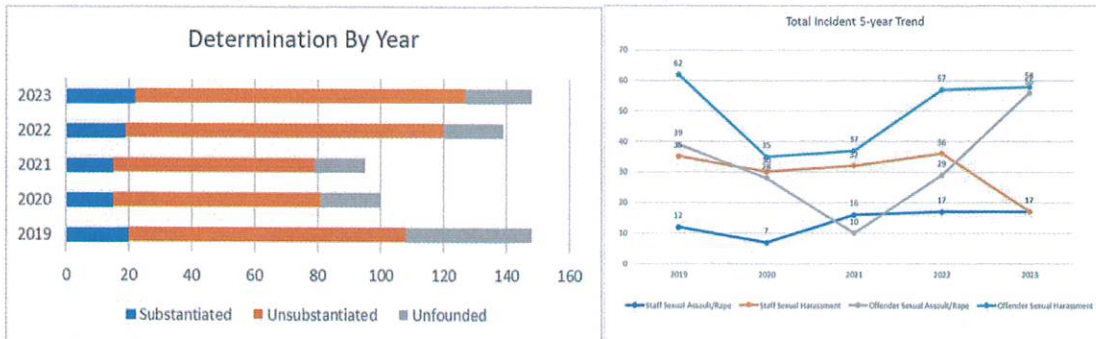
There was an increase of Offender Sexual Assault/Rape cases from 29 in 2022 to 56 in 2023 a 93% increase. There was an increase of Offender Sexual Harassment cases from 57 in 2022 to 58 in 2023 an increase of 1.7%. Staff Sexual Assault/Rape cases maintained the same with 17 in 2022 and 17 in 2023. Staff Sexual Harassment cases decreased from 36 in 2022 to 17 in 2023 a 52.7% decrease.

2023 SDDOC Determination Chart

TYPE	Offender Sexual Assault/Rape	Offender Sexual Harassment	Staff Sexual Assault/Rape	Staff Sexual Harassment	Grand Total
Substantiated	8	9	4	1	22
Unsubstantiated	40	44	8	13	105
Unfounded	8	5	5	3	21
Grand Total	56	58	17	17	148



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



Adult Division – Reported Incidents and Administrative Responses:

Reporting Period: January 1, 2023 to December 31, 2023

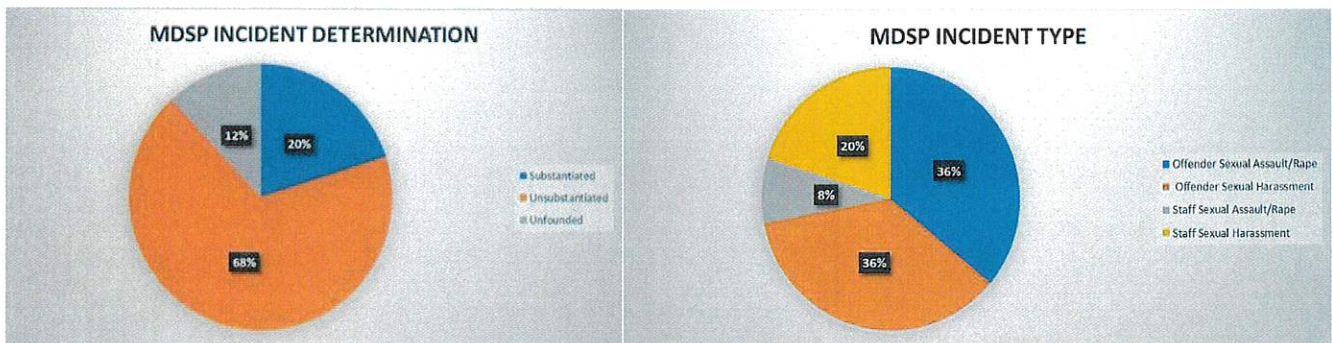
Mike Durfee State Prison

MDSP total allegations increased from 15 in 2022 to 25 in 2023. The reportable incidents were higher than the 5-year total average of 19 incidents. There were 9 Offender Sexual Assault/Rape cases investigated in 2023 which is an increase from 2022 where there was 1 case investigated. Offender Sexual Harassment included 9 investigations in 2023 compared to 4 in 2022. There were 2 Staff Sexual Assault/Rape cases in 2023 compared to 5 in 2022. Finally there were 5 Staff Sexual Harassment cases in both 2023 and 2022. Based on the cases completed there is an decrease in the amount of staff cases. Of the 25 allegations there were 7 staff incidents which is 28% of the cases.

The determinations from 2022 to 2023 had an increase. In 2022 there were 2 substantiated case, in 2023 there were 5 substantiated cases. There were 8 unsubstantiated cases in 2022 and 17 in 2023. In 2022 there was 5 unfounded case and 3 in 2023. Substantiated cases make up 20% of the total cases. Unsubstantiated consist of 68% of the cases. Unfounded cases include 12% of the cases.

The 5-year trend is lower than the PREA reportable cases. The average is 19 for the five-year trend and MDSP cases are at 25 in 2023.

DETERMINATION AND TYPE	Offender Sexual Assault/Rape	Offender Sexual Harassment	Staff Sexual Assault/Rape	Staff Sexual Harassment	Grand Total
Substantiated	1	3	1	0	5
Unsubstantiated	6	6	1	4	17
Unfounded	2	0	0	1	3
Total	9	9	2	5	25



***Administrative response to substantiated staff involved incidents:** There was one staff-involved substantiated case at Mike Durfee State Prison. The one case was a staff sexual assault/rape, where the staff member quit prior to the investigation.

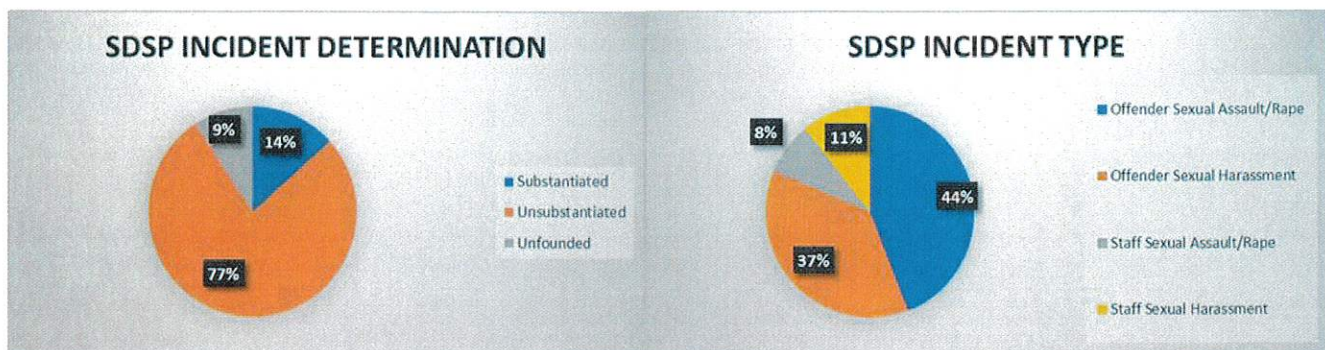
South Dakota State Penitentiary

SDSP total allegations increased from 73 in 2022 to 75 in 2023. The reportable incidents are equal to the 5-year total average of 75 incidents. There were 33 Offender Sexual Assault/Rape cases investigated compared to the 13 cases in 2022. Offender Sexual Harassment reduced from 32 incidents in 2022 to 28 incidents in 2023. There was a reduction of Staff Sexual Assault/Rape cases investigated in 2023 with 6, whereas in 2022 there were 10 cases. There was a large decrease of Staff Sexual Harassment cases reported and investigated in 2023 with 8 cases compared to 18 in 2022. This continues a downward trend from 2021 where 27 incidents were investigated. Of the 75 reportable incidents investigated in 2023, 18.6% were staff related incidents. 2022, 38.4% of the cases were staff related. This welcoming trend, measured over the last 5 years hit its peak in 2019 with 38 staff related incidents out of 98, making up 38.8% of total incidents.

The determination from 2022 to 2023 remained consistent. In 2022 there were 10 substantiated cases, in 2023 there were again 10. There were 54 unsubstantiated cases in 2022 compared to 58 cases in 2023. The determination of unfounded decreased from 9 in 2022 to 7 in 2023. 2023 Substantiated cases consist of 13.3% of the cases. Unsubstantiated cases consist of 77.3% of the cases. Unfounded consist of 9.3% of the cases.

The 5-year trend matches 2023's PREA reportable cases both equaling 71.

Determination and Type	Offender Sexual Assault/Rape	Offender Sexual Harassment	Staff Sexual Assault/Rape	Staff Sexual Harassment	Grand Total
Substantiated	4	4	2	0	10
Unsubstantiated	26	22	3	7	58
Unfounded	3	2	1	1	7
SDSP Facilities Total	33	28	6	8	75



***Administrative response to substantiated staff involved incidents:** There were two staff involved substantiated cases at South Dakota State Penitentiary. In the first incident, the staff member quit employment during the investigation. In the second incident, the staff member was terminated as a result. DOC worked with DCI in one of the cases, where as the other did not meet the South Dakota codified laws for criminal behavior.

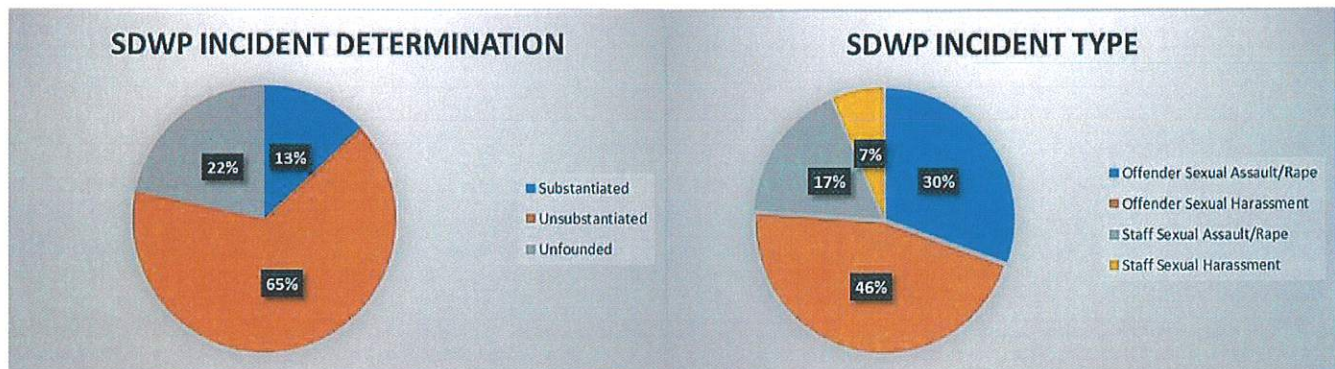
South Dakota Women’s Prison

SDWP total allegations decreased from 51 in 2022 to 46 in 2023. The reportable incidents in 2023 are much higher than the 5-year total average of 31.6. There was large change in totals from 2022 to 2023 with the types of cases that were investigated. There were 14 Offender Sexual Assault/Rape cases in 2023 which is a decrease from 2022 where there were 15 cases investigated. There were 21 cases of Offender Sexual Harassment investigated in both 2022 and 2023. Staff Sexual Assault/Rape cases increased in 2023 to 8 cases investigated compared to 2 in 2022. There was a decrease of Staff Sexual Harassment cases investigated in 2023 of 3 cases compared to 13 cases in 2022. 2023 Staff cases made up 23.9% of the cases investigated which is a decrease from 2022 which was 29.4% of the cases.

The determinations from 2022 to 2023 were similar. In 2022, there were 7 substantiated cases, in 2023 there were 6. There were 39 unsubstantiated cases in 2022, with 30 in 2023. There were 5 unfounded cases in 2022, with 10 in 2023. Substantiated cases consist of 13.0% of the cases. Unsubstantiated cases consist of 65.2% of the cases. Unfounded consist of 21.7% of the case.

The 5-year trend is an average of 31.6 cases compared to the 46 cases for SDWP in 2023.

DETERMINATION AND TYPE	Offender Sexual Assault/Rape	Offender Sexual Harassment	Staff Sexual Assault/Rape	Staff Sexual Harassment	Grand Total
Substantiated	3	2	1	0	6
Unsubstantiated	8	16	4	2	30
Unfounded	3	3	3	1	10
SDWP Facilities Total	14	21	8	3	46



***Administrative response to substantiated staff involved incidents:** There was one staff involved substantiated case at the South Dakota Women’s Prison. The incident type was a Sexual Assault/Rape type. The staff member was terminated from employment. DOC reached out to DCI in this case but it did not meet criteria with South Dakota codified laws for criminal behavior.

Juvenile Aggregated Data Review

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

Based on the data collecting for the year 2023, there was a decrease in reporting from 5 in 2022 to 3 in 2023. In 2023, there was 1 substantiated case compared to 4 in 2022. There were 2 unsubstantiated cases in 2023 and 1 in 2022. Both years had 0 unfounded cases.

DETERMINATION AND TYPE	Youth Sexual Assault/Rape	Youth Sexual Harassment	Staff Sexual Assault/Rape	Staff Sexual Harassment	Grand Total
Substantiated	1	0	0	0	1
Unsubstantiated	2	0	0	0	2
Unfounded	0	0	0	0	0
Juvenile Total	3	0	0	0	3

2024 Prospectus

In 2023, the South Dakota Women’s Prison audit was conducted in June for the year 4 cycle 1. The audit was finalized in October of 2023. This report was received and SDWP was requested to work on corrective action within the 180-day timeframe. SDWP corrections included: Clarifying policy’s, updating the Coordinated Response Plan, staff training and updates to training records system. The Mike Durfee State Prison Facilities are scheduled for the audit Cycle 4 Year 2 in April 2024.

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

Reviewed and approved:


Signature

Kellie Wasko
Printed Name

Department Secretary
Title

9/30/24
Date