

**South Dakota Department of Corrections
2016 Annual Prison Rape Elimination Act Report**



October 2017

**SOUTH DAKOTA DEPARTMENT OF CORRECTIONS
2016 ANNUAL PRISON RAPE ELIMINATION ACT REPORT**

In September of 2003, President Bush signed the Prison Rape Elimination Act. In August 2012, the PREA standards promulgated by the United States Department of Justice went into effect. Since then, staff throughout the Department has 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.

The South Dakota Department of Corrections (SDDOC) is pleased to publish its 2016 Annual Report.

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

STAFFING

Protecting inmates and youth from sexual assault and harassment and compliance with PREA standards is a top priority for the SDDOC and all staff from throughout the Department has been involved in achieving these goals.

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

In November of 2016 the Adult and Juvenile PREA positions were combined into the one DOC PREA Coordinator position. Each of the three main adult facilities has a PREA Compliance Manager to oversee facility level compliance with the PREA Standards. The juvenile division has assigned a Juvenile Corrections Specialist as the Juvenile PREA Compliance Manager to monitor PREA compliance of contracted facilities.

Adult Division

In 2016, each adult facility designated a primary PREA investigator and trained two additional staff as back-up PREA Investigators. In addition, each facility developed a PREA compliant staffing plan. The staffing plan outlined the minimum staffing levels, facility layout review, and video camera coverage. In 2016, staffing levels were maintained and the video camera system continued with planned updates at all of the adult facilities.

Juvenile Division

On March 8, 2016 the STAR Academy, the states only juvenile correctional facility was closed due to a greater emphasis on community-based treatment options and a declining placement.

The SDDOC assigned a Juvenile Corrections Specialist as a Juvenile PREA Compliance Manager to assist and monitor the community placement facilities under contract for compliance to the National PREA Standards.

TRAINING

Adult Division 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 include new PREA related updates and policies. In addition there were a number of specialty training programs/events for PREA Investigators and PREA Compliance Managers.

Pre-Service PREA Training - Training all staff must attend prior to contact with offenders:

This training was reviewed and updated to include all of staff training requirements in the PREA Standards.

In-Service PREA Training - Annual training for all staff that has regular contact with offenders.

The in-service training for 2016 was specialized into two categories:

Security/Unit Staff: Guidance on Cross Gender and Transgender Pat Searches:
 Staff's training on how to conduct cross gender and
 transgender pat searches based upon National PREA
 Resource Center, Bureau of Justice Assistance and the Moss
 Group training information.

Support Staff: Correctional Boundaries: A guide for establishing boundaries
 with offenders

Specialty Training – Specialized training to select groups to cover training and policy reviews.

South Dakota Women's Prison (SDWP) PREA Investigator Refresher Training was held at the SDWP training facility on June 22, 2016.

Juvenile Division Training

Due to the closing of the STAR Academy on March 8th, 2016 and the following staff restructuring, no PREA related training was scheduled for staff or private contractors.

POLICIES

Adult Division Policy Updates

In 2016 there were not any new PREA impacted policies issued by the DOC.

The following policies / policy subsection were reviewed and had the noted updates:

1.3.E.5 PREA Compliance with Prison Rape Elimination Act Standards	Updated: June 2016
7. Gender Non-Conforming Inmates::	

The update to the gender review procedure was added to address the status of transgender and intersex inmates in the custody of the DOC. The primary consideration of this procedure was to establish a safe and secure housing environment for transgender/intersex offenders. The committee considers the safety and security of the facility, its staff and other inmates as well as medical and mental health history, inmate self-identification and the inmate's own views on their safe placement.

SUPPORT SERVICES

Pursuant to PREA Standards 115.21 (115.321) Evidence Protocol and Forensic Examinations and 115.53 (115.353) Access to Outside Confidential Support Services; the SD DOC has maintained Memorandums of Understanding (MOU) with the following local victim advocates groups' to provide services to DOC offenders who were victims of sexual abuse.

Adult Division MOU's

The Compass Center in Sioux Falls

- Covering the Sioux Falls Campus: South Dakota State Penitentiary, Jameson Annex, and Sioux Falls Community Work Center.

Missouri Shores Domestic Violence Center in Pierre, SD

- Covering the South Dakota Women's Prison and Pierre Community Work Center.

Working Against Violence, Inc in Rapid City, SD

- Covering Rapid City Community Work Center.

River City Domestic Violence Center in Yankton, SD

- Covering Mike Durfee State Prison in Springfield and the Yankton Community Work Center.

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AUDITS

Adult Division Audits:

The adult division contracted with a private PREA auditing company, The Nakamoto Group, to conduct audits of South Dakota State Prison (SDSP) in May, 2016. The SDSP facility consists of the Penitentiary, Jameson Annex and the Sioux Falls Community Work Center.

The on-site visit to conduct a PREA compliance audit of SDSP was conducted from May 3rd thru May 5th, 2016. The final PREA compliance report was issued on May 25th, 2016. The report found SDSP compliant with the PREA Standards, meeting 41 of the standards and exceeding the standards in one category.

Juvenile Division Audits:

Pursuant to Section 115.401 of the PREA Standards, private providers utilized by the SDDOC – Juvenile Division conducted PREA Audits as outlined below.

The Sequel Transition Academy completed their audit in 2015 so they were monitored for compliance by SDDOC during 2016.

The McCrossan Boys Ranch was monitored by the SDDOC for continued compliance with PREA throughout 2016. Their last audit was completed June 14, 2014. They have scheduled their 3-year audit for April 25 & 26, 2017.

The Arise (West) Youth Center was monitored by SDDOC throughout 2016. They will have a PREA audit in 2017.

The Arise (East) Youth Center opened in 2016 and was monitored for compliance by SDDOC throughout 2016.

2016 DATA REVIEW FOR CORRECTIVE ACTION AND PUBLICATION

General Definitions- Adult & Juvenile Divisions

Substantiated allegation:	An allegation that was investigated and a preponderance of the evidence determined the allegation to have occurred.
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Unfounded allegation:	An allegation that was investigated and determined not to have occurred.
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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.

Informational: An allegation or report of sexual activity, while a possible institutional rule violation, the incident was determined not to involve sexual abuse or sexual harassment.

Adult Division:

The following definitions apply to the adult divisions data:

Inmate sexual abuse:

- (1) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and
- (2) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer, includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:
 - a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - b. Contact between the mouth and the penis, vulva, or anus;
 - c. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
 - d. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

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

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (4) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (5) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;

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- (7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and
- (8) Voyeurism by a staff member, contractor, or volunteer.

- Sexual harassment includes:
- (1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and
- (2) Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures

Adult Division – Reported incidents: January 1 to December 31, 2016

SDDOC Adult Facilities (All)

DOC 2016	Inmate Sexual Abuse	Inmate Sexual Abuse -Touching	Inmate Sexual Harassment	Staff Sexual Abuse / Touching	Staff Sexual Harassment	Total Incidents - Determination
Substantiated	0	2	7	0	2	11
Unsubstantiated	10	10	61	8	11	100
Unfounded	5	7	11	8	12	43
Total Incidents - Category	15	19	79	16	25	154

Mike Durfee State Prison (MDSP)

MDSP 2016	Inmate Sexual Abuse	Inmate Sexual Abuse -Touching	Inmate Sexual Harassment	Staff Sexual Abuse / Touching	Staff Sexual Harassment	Total Incidents - Determination
Substantiated	0	1	2	0	0	3
Unsubstantiated	2	2	5	0	1	10
Unfounded	0	1	3	1	0	5
Total Incidents - Category	2	4	10	1	1	18

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South Dakota State Penitentiary (SDSP)

SDSP 2016	Inmate Sexual Abuse	Inmate Sexual Abuse -Touching	Inmate Sexual Harassment	Staff Sexual Abuse / Touching	Staff Sexual Harassment	Total Incidents - Determination
Substantiated	0	1	5	0	2	8
Unsubstantiated	8	8	55	4	8	83
Unfounded	5	6	8	6	12	37
Total Incidents - Category	13	15	68	10	22	128

South Dakota Women's Prison (SDWP)

SDWP 2016	Inmate Sexual Abuse	Inmate Sexual Abuse -Touching	Inmate Sexual Harassment	Staff Sexual Abuse / Touching	Staff Sexual Harassment	Total Incidents - Determination
Substantiated	0	0	0	0	0	0
Unsubstantiated	0	0	1	4	2	7
Unfounded	0	0	0	1	0	1
Total Incidents - Category	0	0	1	5	2	8

Adult Aggregate Data Review

Changes over the previous years:

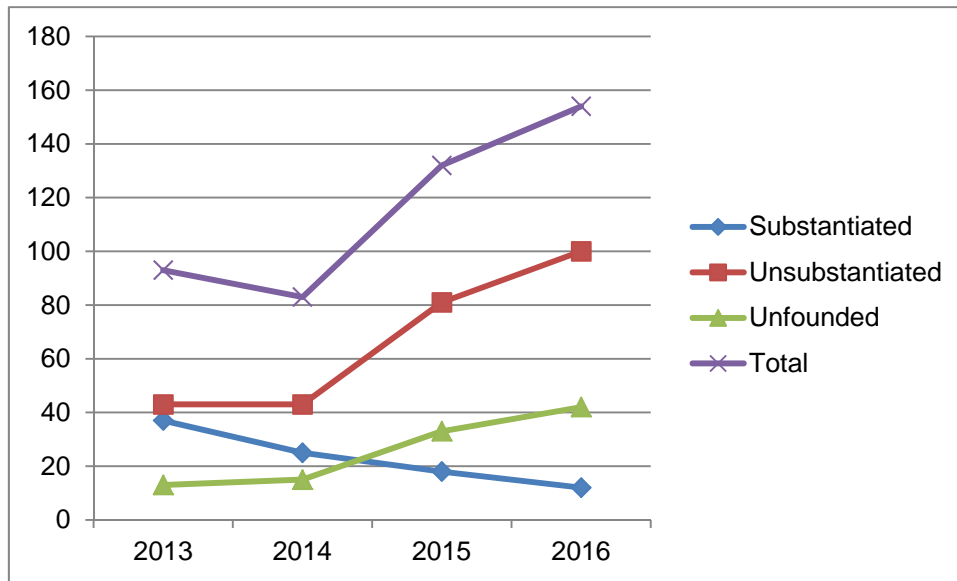
The total number of PREA reportable incidents continued with an average three-year growth rate of 22% per year.

This increase in totals is being driven by an increase in Unsubstantiated and Unfounded reports. This has been a continuing trend for the previous three years. For the last three years, unsubstantiated reports increased by an average of 37% per year and unfounded reports by 55% per year.

For the third year in a row, substantiated incidents continues to decrease at an average rate of 33% per year.

The chart below indicates the trends over the last 4 years in each reporting category.

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Trends over 4 year period:

The total number of reported incidents at adult DOC facilities increased 17% for the reporting year 2016 over the previous year.

NOTE:

Total Reported Incidents includes Substantiated, Unsubstantiated and Unfounded Reports.

Reports that are determined to be Informational are not included because they are not considered PREA Reportable.

	2013	2014	2015	2016
Substantiated	37	25	18	11
Unsubstantiated	43	43	81	100
Unfounded	13	15	33	43
Total	93	83	132	154

Change from Previous Year

	2013	2014	2015	2016
Substantiated	Start	-32%	-28%	-39%
Unsubstantiated	Start	0%	88%	24%
Unfounded	Start	15%	120%	30%
Total	Start	-11%	59%	17%

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Adult Facility Summary and Corrective Action

Mike Durfee State Prison (MDSP)

The total number of reported incidents and accompanying investigations at MDSP is going against the DOC trend and decreased has shown a marked decrease of -40% over the previous year.

Total number of substantiated sexual incidents (abuse & harassment) also decreased from seven substantiated incidents in 2015 to three substantiated incidents in 2016 (-57%).

The distribution of substantiated sexual incidents did not indicate any specific area of concern. Of note, the Kitchen which had incidents in both 2014 and 2015 did not have any substantiated incidents reported in 2016.

No corrective action is indicated at this time.

South Dakota State Penitentiary (SDSP)

The total number of reported incidents and accompanying investigations at SDSP is in keeping with the DOC trend and increased by +39 % over the previous year.

Total number of substantiated sexual incidents (abuse & harassment) stayed the same at eight incidents for each year.

The distribution of substantiated sexual incidents did not indicate any specific area of concern. Unit A had the highest number of substantiated incidents at three.

The increase in reported incidents is due to the significant increase in unsubstantiated and unfounded reports of inmate sexual harassment and staff sexual abuse/touching.

Corrective action indicated is increasing staff continuing PREA education and awareness practices.

South Dakota Women's Prison (SDWP)

In 2016 there were no PREA reportable substantiated incidents at the SDWP housing units or contracted housing unit.

Corrective action indicated is increasing staff continuing PREA education and awareness practices.

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Juvenile Division:

The following definitions apply to the juvenile aggregated sexual abuse data.

Youth –on–Youth:	Sexual abuse of a resident by another resident. Sexual abuse of a resident by another resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:
Sexual Assault:	Contact between the penis and the vulva or the penis and the anus, including penetration, however slight; Contact between the mouth and the penis, vulva, or anus; Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument;
Sexual Touching:	Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.
Staff-on- Youth:	Sexual abuse of a resident by a staff member, contractor, or volunteer. Sexual abuse of a resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the resident:
Sexual Assault:	Contact between the penis and the vulva or the penis and the anus, including penetration, however slight; Contact between the mouth and the penis, vulva, or anus; Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire; Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
Sexual Touching:	Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire.
Voyeurism:	Invasion of privacy of a resident for reasons unrelated to official duties.

STAR Academy Reported Incidents: January 1 to March 8, 2016 (Closing Date)

STAR 2016	YOUTH- ON-YOUTH ALLEGATIONS					Total Incidents - Determination
	Sexual Abuse - Sexual Assault	Sexual Abuse - Sexual Touching	Sexual Abuse – Attempted	Sexual Abuse – Indecent Exposure	Sexual Abuse – Voyeurism	
Substantiated	0	0				0
Unsubstantiated	0	0				0
Unfounded	0	0				0
Total Incidents - Category	0	0				0

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STAR 2016	STAFF- ON-YOUTH ALLEGATIONS					Total Incidents - Determination
	Sexual Abuse - Sexual Assault	Sexual Abuse - Sexual Touching	Sexual Abuse - Attempted	Sexual Abuse - Indecent Exposure	Sexual Abuse - Voyeurism	
Substantiated	0	0	0	0	0	0
Unsubstantiated	0	0	0	0	0	0
Unfounded	0	0	0	0	0	0
Total Incidents - Category	0	0	0	0	0	0

STAR Academy Aggregate Data Review & Corrective Action

Star Academy closed on March 8, 2016. Prior to their closure they did not have any PREA incidents.

CONTRACTED FACILITIES

Adult Division

Adult Contracted Facilities – Reported incidents: January 1 to December 31, 2016

The St. Francis Halfway House in Sioux Falls house female work release offenders from the South Dakota Women’s Prison.

St. Francis House 2016	Inmate Sexual Abuse	Inmate Sexual Abuse -Touching	Inmate Sexual Harassment	Staff Sexual Abuse / Touching	Staff Sexual Harassment	Total Incidents - Determination
Substantiated	0	0	0	0	0	0
Unsubstantiated	0	0	0	1	0	1
Unfounded	0	0	0	0	0	0
Total Incidents - Category	0	0	0	1	0	0

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Juvenile Division

Juvenile Contracted Facilities – Reported incidents: January 1 to December 31, 2016

Sequel Transition Academy

SEQUEL TRANSITION ACADEMY 2016	YOUTH- ON-YOUTH ALLEGATIONS					Total Incidents - Determination
	Sexual Abuse - Sexual Assault	Sexual Abuse - Sexual Touching	Sexual Abuse - Attempted	Sexual Abuse – Indecent Exposure	Sexual Abuse - Voyeurism	
Substantiated	0	1				1
Unsubstantiated	0	0				0
Unfounded	0	0				0
Total Incidents - Category	0	1				1

SEQUEL TRANSITION ACADEMY 2016	STAFF- ON-YOUTH ALLEGATIONS					Total Incidents - Determination
	Sexual Abuse - Sexual Assault	Sexual Abuse - Sexual Touching	Sexual Abuse - Attempted	Sexual Abuse – Indecent Exposure	Sexual Abuse - Voyeurism	
Substantiated	0	1	0	0	0	1
Unsubstantiated	0	0	0	0	0	0
Unfounded	0	0	0	0	0	0
Total Incidents - Category	0	1	0	0	0	1

McCrossan Boys Ranch

McCrossan Boys Ranch 2016	YOUTH- ON-YOUTH ALLEGATIONS					Total Incidents - Determination
	Sexual Abuse - Sexual Assault	Sexual Abuse - Sexual Touching	Sexual Abuse - Attempted	Sexual Abuse – Indecent Exposure	Sexual Abuse - Voyeurism	
Substantiated	1	1				2
Unsubstantiated	2	0				2
Unfounded	0	0				0
Total Incidents - Category	3	1				4

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McCrossan Boys Ranch 2016	STAFF- ON-YOUTH ALLEGATIONS					Total Incidents - Determination
	Sexual Abuse - Sexual Assault	Sexual Abuse - Sexual Touching	Sexual Abuse - Attempted	Sexual Abuse - Indecent Exposure	Sexual Abuse - Voyeurism	
Substantiated	0	1	0	0	0	1
Unsubstantiated	0	3	0	0	0	3
Unfounded	0	0	0	0	0	0
Total Incidents - Category	0	4	0	0	0	4

Arise (East) Shelter Care

Arise Shelter Care 2016	YOUTH- ON-YOUTH ALLEGATIONS					Total Incidents - Determination
	Sexual Abuse - Sexual Assault	Sexual Abuse - Sexual Touching	Sexual Abuse - Attempted	Sexual Abuse - Indecent Exposure	Sexual Abuse - Voyeurism	
Substantiated	0	3				3
Unsubstantiated	0	0				0
Unfounded	0	0				0
Total Incidents - Category	0	3				3

Arise Shelter Care 2016	STAFF- ON-YOUTH ALLEGATIONS					Total Incidents - Determination
	Sexual Abuse - Sexual Assault	Sexual Abuse - Sexual Touching	Sexual Abuse - Attempted	Sexual Abuse - Indecent Exposure	Sexual Abuse - Voyeurism	
Substantiated	0	0	0	0	0	0
Unsubstantiated	0	0	0	0	0	0
Unfounded	0	0	0	0	0	0
Total Incidents - Category	0	0	0	0	0	0

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Arise (West) Shelter Care

Arise Shelter Care 2016	YOUTH- ON-YOUTH ALLEGATIONS					Total Incidents - Determination
	Sexual Abuse - Sexual Assault	Sexual Abuse - Sexual Touching	Sexual Abuse - Attempted	Sexual Abuse - Indecent Exposure	Sexual Abuse - Voyeurism	
Substantiated	0	0				0
Unsubstantiated	0	0				0
Unfounded	0	0				0
Total Incidents - Category	0	0				0

Arise Shelter Care 2016	STAFF- ON-YOUTH ALLEGATIONS					Total Incidents - Determination
	Sexual Abuse - Sexual Assault	Sexual Abuse - Sexual Touching	Sexual Abuse - Attempted	Sexual Abuse - Indecent Exposure	Sexual Abuse - Voyeurism	
Substantiated	0	0	0	0	0	0
Unsubstantiated	0	0	0	0	0	0
Unfounded	0	0	0	0	0	0
Total Incidents - Category	0	0	0	0	0	0

2017 PROSPECTUS

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

The first PREA 3-year audit cycle concluded in 2016 with the Juvenile facility, Star Academy and the three adult facilities; South Dakota Women’s Prison, Mike Durfee State Prison and the South Dakota State Penitentiary all achieving full compliance with the PREA Standards during this cycle.

Due to the Star Academy closing in March of 2016, there will be no additional SDDOC Juvenile PREA Audits. The SDDOC will continue monitoring contracted juvenile placements for compliance with PREA.

The second PREA 3-year audit cycle will start with a PREA audit of the South Dakota Women’s Prison in the summer of 2017. Mike Durfee State Prison is planned for the summer of 2018 and the South Dakota State Penitentiary in the summer of 2019.