

**South Dakota Department of Corrections
2014 Annual Prison Rape Elimination Act Report**



October 2015

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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 2014 Annual Report. This report reflects a tremendous amount of change in 2014 as the Department continued 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. Adult division and juvenile division PREA Coordinators have been appointed to lead their respective division's efforts in achieving compliance with PREA standards. Three PREA Compliance Managers for the three main adult facilities have also been appointed. A PREA Compliance Manager has been appointed for its juvenile facility, STAR Academy, and a Juvenile Corrections Specialist for the Department assists and monitors local facilities under contract with the agency for PREA compliance.

In 2014, these staff, and others, worked to develop new and revise existing departmental policies and facility operational memorandums to support compliance with PREA standards and protect inmates and youth from sexual assault and harassment.

Training

Throughout 2014, SDDOC staff participated in training and webinars conducted by the PREA Resource Center, the National Institute of Corrections, the Moss Group and the Department of Justice. Trainings were also conducted for PREA incident investigators, PREA policy implementation and the introduction of new PREA pre-service and annual staff training.

PREA centered training attended or conducted by staff of the adult division of SDDOC in 2014 include the following:

**National PREA Resource Center/ National Council on Crime &
Delinquency / Department of Justice Certified PREA Auditor Training, in
Columbia, South Carolina**

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- DOC Adult PREA Coordinator, January 13th – 17th

SD DOC Adult Policy: PREA Institutional Risk Screen Training

- January – February 2014
- Train DOC Unit Staff & Admissions Units at adult facilities on new PREA Risk Screen and new admissions procedures.

SD DOC Adult Annual In-Service Training, PREA Standards

- January – March, 2014
- Introduced new lesson plan for annual in-service training and new hire pre-service training in the PREA Standards at all adult facilities

SD DOC Adult PREA Investigators Training

- March 2014
- PREA Investigators Course taught for South Dakota Women's Prison new investigators and Officers in Charge

SD DOC Adult PREA Investigators Training

- September 2014
- PREA Investigators Course taught for Rapid City Minimum Unit Officers in Charge and Unit Staff

PREA Training within the juvenile division completed in 2014 include the following:

SD DOC Juvenile Annual In-Service Training, PREA Standards

- January – March, 2014
- Introduced new lesson plan for annual in-service training in the PREA Standards

PRC PREA Audit Experience – Lessons Learned

- PREA Juvenile Division Coordinator (March 10) and Community Corrections Specialist (April 17)

NIC Webinar: LGBTI Populations: Intake – Creating a Culture of Safety

- April 9 & 10
- STAR Academy managers and intake staff

SD DOC Sr. Staff – PREA Update and Progress

- May 8
- DOC Senior Staff Annual Training

SD DOC PREA Investigators Training

- June 16 & 17
- PREA Investigators Course taught for new investigator

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Policies

For most of 2014, institutional operations consistent with PREA requirements were guided by the *Prevention of Offender Sexual Assault/Rape* policy, which established zero-tolerance for sexual assault/rape of an offender. The policy requires facilities to provide offenders sexual assault/rape prevention education and reporting information, to train staff on PREA requirements and policies, and to assess offenders for risk of perpetration or victimization. The *Prevention of Offender Sexual Assault/Rape* policy also outlines institutional response and investigation requirements for reports of sexual assault or rape.

This policy was replaced in the fall of 2014 with two new policies:

Compliance with Prison Rape Elimination Standards signed in August for all institutions:

- Establishes zero-tolerance policy towards sexual abuse and sexual harassment.
- Outlines the departments overall approach to complying with the PREA Standards and the prevention and response of sexual abuse/harassment including:
 - the use of offender screening tools,
 - offender education,
 - staff training,
 - the use of victim advocates/ rape crisis centers,
 - gender non-conforming inmates,
 - general investigation, and
 - reporting and review of incidents.

Response and Investigation of Sexual Abuse / Harassment signed in October for all adult facilities.

- Reinforces the department's zero-tolerance policy towards sexual abuse/harassment. The policy focuses on the adult facility level response to an incident of sexual abuse/harassment including, 1st responder duties, medical and mental health responses, the use of victim advocates, investigative procedures, criminal referrals, reporting to victims, protection from retaliation and disciplinary responses.

Two existing adult DOC policies, *PREA Institutional Male Assessment & PREA Institutional Female Assessment* were replaced with one new policy: *PREA Institutional Risk Screens* for adult facilities, which updates the department's adult PREA screening tool with the guidelines outlined in the standards. In addition the policy also details the facilities' approach to new admissions, 72-hour screening and inmate awareness, 30-day screening and inmate PREA education, PREA Risk Screen reviews and use of the PREA Risk Screen codes in housing, education, programming and work assignments.

The *Administrative Remedy for Inmates (Adult institutions)* was updated to include the following: the facilities response to a complaint alleging a risk of imminent sexual abuse, reporting of a new sexual incident, third party reporting / filing, review by an impartial staff, and complaints go directly to the Administrative level.

In the juvenile division, the *Response and Investigation of Juvenile Sexual Abuse/Harassment* operational memorandum became effective. This policy outlines STAR Academy's response to sexual abuse reports and the investigative process.

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The *PREA Juvenile Intake Assessment* operational memorandum was created which outlines the PREA Intake Assessment Tool used by intake staff to determine a juvenile's potential vulnerability to a sexual assault or risk of sexually assaultive behavior. It also outlines the continuous evaluation of the risk of sexual abuse by or upon a youth throughout a youth's placement at STAR Academy.

The juvenile admissions process operational memorandum was updated to include PREA information provided to youth upon intake, continuing education, and the requirement to conduct an assessment.

In addition, *Staff Training Requirements* and *Volunteer Program* operational memorandums were updated to include additional training requirements related to PREA standards.

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.

Juvenile Division MOU's

- Women Escaping a Violent Environment in Custer, SD
- Covering STAR Academy

Adult Division MOU's

- The Compass Center in Sioux Falls
- Covering the Sioux Falls Campus: South Dakota State Penitentiary, Jameson Annex, Unit C

- Missouri Shores Domestic Violence Center in Pierre, SD
- Covering the South Dakota Women's Prison

- Working Against Violence, Inc in Rapid City, SD
- Covering Rapid City Minimum Unit

- Yankton Women's / Children's Center (River City Domestic Violence Center) in Yankton, SD
- Covering Mike Durfee State Prison in Springfield and the Yankton Minimum Unit.

These MOU's establishes the organizational relationships, responsibilities, and activities between the DOC and the Partner(s). It is intended to foster a closer working relationship among the partners to the MOU.

In February 2014, the Adult PREA Coordinator was invited to the statewide Sexual Assault Taskforce meeting in Pierre, SD, and is currently on the Sioux Falls-based Compass Center SART Steering Committee,

The MDSP PREA Compliance Manager is attending the Yankton area's SART meetings and is also serving on the SART Fund Raising Committee.

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Audits

STAR Academy successfully completed its PREA audit in July with the final audit report received on August 15, 2014, which was posted to the DOC website.

In 2014, the adult division was part of a midwest-PREA audit consortium. By employing circular auditing the midwest consortium will allow the member states to share Department of Justice certified PREA Auditors while avoiding any conflict of interest.

In 2014 the Midwest Consortium was composed of:

- Iowa
- Kansas
- Kentucky
- Louisiana
- Missouri
- Nebraska
- South Dakota

The PREA Audits are on a three-year cycle, with South Dakota scheduled for the 1st and 2nd audit in 2015. South Dakota will conduct two PREA audits in Kentucky during 2015.

2014 Data Review for Corrective Action and Publication

General Definitions

Substantiated allegation: An allegation that was investigated and a preponderance of the evidence determined the allegation 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.

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.

Juvenile Division – Reported incidents: January 1 to December 31, 2014

The following definitions apply to the 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;

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- 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 Data

Staff at STAR Academy investigated a total of 82 incidents. 49 were PREA reportable incidents and 33 were non-PREA reportable incidents.

Of the 49 PREA-reportable incidents 32 of those were sexual harassment incidents between youth. [13 substantiated; 11 unsubstantiated; 8 unfounded] .

There were three incidents that were reported to have occurred at other facilities. Those incidents were reported to the appropriate authorities.

There were two reported incidents of youth who retaliated on youth for reporting an incident [1 substantiated and 1 unfounded].

Of the reported 12 sexual abuse incidents, there were no substantiated abuse incidents. Eleven of those incidents were unfounded. The only unsubstantiated allegation of sexual touching was a youth who reported that another youth was pinching his nipple.

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Reported Incidents: January 1 to December 31, 2014

STAR ACADEMY

	YOUTH- ON-YOUTH ALLEGATIONS				STAFF- ON-YOUTH ALLEGATIONS			
	Reported	Substantiated	Unsubstantiated	Unfounded	Reported	Substantiated	Unsubstantiated	Unfounded
Sexual Abuse - Sexual Touching	9	0	1	8	0	0	0	0
Sexual Abuse - Sexual Assault	0	0	0	0	1	0	0	1
Sexual Abuse – Attempted					0	0	0	0
Sexual Abuse – Indecent Exposure					0	0	0	0
Sexual Abuse – Voyeurism					2	0	0	2
TOTAL INVESTIGATIONS	9	0	1	8	3	0	0	3

STAR Academy managers reviewed the aggregate and incident specific data for 2014. There were no substantiated incidents of sexual abuse of youth by other juveniles or by staff, which suggests there are not significant problems in protecting youth from sexual assault or the need for corrective actions beyond what was done throughout the year following monthly incident based reviews.

The overall change in total reported incidents increased in 2014 to 82 up from 17 reported incidents in 2013. Of the 82 incidents reported 32 were Sexual Harassment incidents and 33 were Non-PREA incidents. Non-PREA incidents were those that were reported for investigation, but through the investigatory process, were found not to meet the requirements as a sexual harassment or sexual abuse incident and thus were classified by the investigators as non-PREA reportable incident. They determined that there were two contributing factors to the increase in these types of incidents. First, the increase in PREA related training created a hyper-awareness and over-reporting by both youth and staff to ensure they were following the standards. Second, the specific traits of the youth population between February and July impacted the increase in PREA incidents during these months. In conducting incident reviews during that time frame senior staff determined there was a need for increased training to both youth and staff in managing LGBTI issues. Also, they increased the training to staff regarding the definition of sexual harassment. They provided guidance on how to conduct conflict resolution between youth, increased individual counseling, and provided group counseling to foster understanding regarding gay or bisexual youth.

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Juvenile Contract Facility Data

January 1 to December 31, 2014

SEQUEL TRANSITION ACADEMY

	YOUTH- ON-YOUTH ALLEGATIONS				STAFF- ON-YOUTH ALLEGATIONS			
	Reported	Substantiated	Unsubstantiated	Unfounded	Reported	Substantiated	Unsubstantiated	Unfounded
Sexual Abuse - Sexual Touching	1	1	0	0	0	0	0	0
Sexual Abuse - Sexual Assault	0	0	0	0	0	0	0	0
Sexual Abuse – Attempted					0	0	0	0
Sexual Abuse – Indecent Exposure					0	0	0	0
Sexual Abuse – Voyeurism					0	0	0	0
TOTAL INVESTIGATIONS	1	1	0	0	0	0	0	0

VOLUNTEERS OF AMERICA – GROUP CARE

	YOUTH- ON-YOUTH ALLEGATIONS				STAFF- ON-YOUTH ALLEGATIONS			
	Reported	Substantiated	Unsubstantiated	Unfounded	Reported	Substantiated	Unsubstantiated	Unfounded
Sexual Abuse - Sexual Touching	2	0	1	1	0	0	0	0
Sexual Abuse - Sexual Assault	0	0	0	0	0	0	0	0
Sexual Abuse – Attempted					0	0	0	0
Sexual Abuse – Indecent Exposure					0	0	0	0
Sexual Abuse – Voyeurism					0	0	0	0
TOTAL INVESTIGATIONS	2	0	1	1	0	0	0	0

McCROSSAN BOYS RANCH

	YOUTH- ON-YOUTH ALLEGATIONS				STAFF- ON-YOUTH ALLEGATIONS			
	Reported	Substantiated	Unsubstantiated	Unfounded	Reported	Substantiated	Unsubstantiated	Unfounded
Sexual Abuse - Sexual Touching	2	1	0	1	0	0	0	0
Sexual Abuse - Sexual Assault	0	0	0	0	0	0	0	0
Sexual Abuse – Attempted					0	0	0	0
Sexual Abuse – Indecent Exposure					0	0	0	0
Sexual Abuse – Voyeurism					0	0	0	0
TOTAL INVESTIGATIONS	2	1	0	1	0	0	0	0

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ARISE SHELTER CARE

	YOUTH- ON-YOUTH ALLEGATIONS				STAFF- ON-YOUTH ALLEGATIONS			
	Reported	Substantiated	Unsubstantiated	Unfounded	Reported	Substantiated	Unsubstantiated	Unfounded
Sexual Abuse - Sexual Touching	3	0	0	3	0	0	0	0
Sexual Abuse - Sexual Assault	0	0	0	0	1	0	0	1
Sexual Abuse – Attempted					0	0	0	0
Sexual Abuse – Indecent Exposure					0	0	0	0
Sexual Abuse – Voyeurism					1	0	1*	0
TOTAL INVESTIGATIONS	3	0	0	3	2	0	1	1

*The staff was monitoring a youth toileting as part of assigned staff supervision duties as the youth was on suicide observation

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Adult Division Data

The following definitions apply to the adult divisions data:

Sexual Contact includes: Physical contact for the purpose of sexual gratification of one or more of the parties involved.

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;
- (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

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Adult Division – Reported incidents: January 1 to December 31, 2014

SDDOC Adult Facilities

	Inmate Sexual Abuse	Inmate Sexual Abuse Touching	Inmate Sexual Harassment	Staff Sexual Abuse / Touching	Staff Sexual Harassment	Total
Substantiated	0	4	19	2	0	25
Unsubstantiated	4	8	24	1	6	43
Unfounded	5	0	6	2	2	15
Total	9	12	49	5	8	83

Mike Durfee State Prison (MDSP)

	Inmate Sexual Abuse	Inmate Sexual Abuse Touching	Inmate Sexual Harassment	Staff Sexual Abuse / Touching	Staff Sexual Harassment	Total
Substantiated	0	0	5	1	0	6
Unsubstantiated	0	3	1	0	1	5
Unfounded	1	0	1	1	0	3
Total	1	3	7	2	1	14

South Dakota State Penitentiary (SDSP)

	Inmate Sexual Abuse	Inmate Sexual Abuse Touching	Inmate Sexual Harassment	Staff Sexual Abuse / Touching	Staff Sexual Harassment	Total
Substantiated	0	3	13	1	0	17
Unsubstantiated	3	5	23	0	4	35
Unfounded	4	0	5	1	2	12
Total	7	8	41	2	6	64

South Dakota Women's Prison (SDWP)

	Inmate Sexual Abuse	Inmate Sexual Abuse Touching	Inmate Sexual Harassment	Staff Sexual Abuse / Touching	Staff Sexual Harassment	Total
Substantiated	0	1	1	0	0	2
Unsubstantiated	1	0	0	1	1	3
Unfounded	0	0	0	0	0	0
Total	1	1	1	1	1	5

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Adult Aggregate Data Review

An adult facility review of aggregate and incident specific data for 2014 was conducted by the Department Secretary, Deputy Secretary, facility administrators, senior staff and the PREA Coordinator. Additionally, the review compared the 2013 aggregate data with the 2014 aggregate data.

The overall change in *total reported incidents* decreased in 2014 by 11% (-10 incidents).

- Total substantiated incidents dropped 32% (-12 incidents). Unsubstantiated incidents remained the same at 43 incidents, and unfounded incidents increased 15% (+2 incidents).

Leading this decrease was a drop in *Inmate Sexual Abuse* (all) incidents, down by 64% (-16 incidents).

- Substantiated inmate sexual abuse (abuse & abuse-touching) decreased by 64% (-7 incidents). Unsubstantiated was down 33% (-6 incidents) and unfounded incidents decreased 38% (-3 incidents).

Inmate Sexual Harassment incidents was an area that increased, up by 14% (+6 incidents).

- Substantiated inmate sexual harassment decreased by 10% (-2 incidents). Unsubstantiated incidents increased by 26% (+5 incidents) and unfounded incidents increased 100% (+3 incidents).

Staff involved incidents remained the same in both categories of reported incidents; *Staff Sexual Abuse /Touching* at 5 incidents and *Staff Sexual Harassment* at 8 incidents.

- Substantiated staff sexual abuse (abuse & abuse-touching) decreased by 60% (-3 incidents). Unsubstantiated was up 17% (+1 incident) and unfounded incidents increased 100% (+2 incidents).

Adult Corrective Action

In 2013 West Hall of SDSP has the highest number of sexual abuse and sexual harassment allegations per housing unit with a total of 23. The Department of Corrections focused on reducing PREA incidents in West Hall through increased staff awareness through education, availability of inmate information and increased surveillance cameras. This effort appears to have had an impact, with the number of PREA incidents decreasing in 2014.

2013 - 2014 SDP West Hall Incident Comparison

2013 SDSP Substantiated Sexual Incidents				2014 SDSP Substantiated Sexual Incidents				2013-2014 SDSP Unit Difference	
	Sexual Abuse	Sexual Harassment	Total		Sexual Abuse	Sexual Harassment	Total		Number Difference
West	8	15	23	West	1	7	8	West	-15

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From 2013 to 2014 the total number of sexual abuse and sexual harassment allegations has decreased by 65%.

In 2014 West Hall still had the highest number of sexual abuse and sexual harassment allegations with 8 incidents, but this is more in line with reporting from other SDSP housing units.

The DOC will continue to focus on staff training and awareness programs - emphasizing programs for female employees and contract staff. In addition, the surveillance camera system in West Hall will be expanded.

2015 Prospectus

The SDDOC will continue its pursuit of compliance with the PREA standards and protecting inmates and youth from sexual assault and harassments. Policies and procedures will be review updates and enhancements along with continued staff training and education for inmates. PREA Audits are planned for two adult facilities, South Dakota Women's Prison in May, 2015 and Mike Durfee State Prison in July 2015. Data collection and PREA monitoring visits of contract facilities will be conducted in 2015 as well.