

# PREA AUDIT: AUDITOR'S SUMMARY REPORT

## ADULT PRISONS & JAILS



**[Following information to be populated automatically from pre-audit questionnaire]**

<b>Name of facility:</b>	South Dakota Women's Prison		
<b>Physical address:</b>	3200 East Highway 34 Pierre, SD 57501		
<b>Date report submitted:</b>	05/27/2015		
<b>Auditor Information Philip Bradshaw – The Nakamoto Group</b>			
<b>Address:</b>	11820 Parklawn Drive, Suite 240 Rockville, MD 20852		
<b>Email:</b>	Phil.Bradshaw@nakamotogroup.com		
<b>Telephone number:</b>	417.425.0564		
<b>Date of facility visit:</b>	May 5-7, 2015		
<b>Facility Information</b>			
<b>Facility mailing address: (if different from above)</b>			
<b>Telephone number:</b>	605.773.6636		
<b>The facility is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> County	<input type="checkbox"/> Federal
	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Municipal	<input checked="" type="checkbox"/> State
	<input type="checkbox"/> Private not for profit		
<b>Facility Type:</b>	<input type="checkbox"/> Jail	<input checked="" type="checkbox"/> Prison	
<b>Name of PREA Compliance Manager:</b>	Steve Allard	<b>Title:</b>	Deputy Warden/PREA Compliance Manager
<b>Email address</b>	Stephen.Allard@state.sd.us	<b>Telephone number:</b>	605.773.3516
<b>Agency Information</b>			
<b>Name of agency:</b>	South Dakota Department of Corrections		
<b>Governing authority or parent agency: (if applicable)</b>			
<b>Physical address:</b>	3200 East Highway 34, Pierre, SD 57501		

<b>Mailing address:</b> <i>(if different from above)</i>			
<b>Telephone number:</b>		605.773.3478	
<b>Agency Chief Executive Officer</b>			
<b>Name:</b>	Denny Kaemingk	<b>Title:</b>	Secretary of Corrections
<b>Email address:</b>	Denny.Kaemingk@state.sd.us	<b>Telephone number:</b>	605.367.6136
<b>Agency-Wide PREA Coordinator</b>			
<b>Name:</b>	Kenneth VanMeveren	<b>Title:</b>	PREA Coordinator
<b>Email address:</b>	Ken.VanMeveren@state.sd.us	<b>Telephone number:</b>	605.367.4496

## AUDIT FINDINGS

### NARRATIVE:

The on-site visit to conduct a Prison Rape Elimination Act (PREA) compliance audit of the South Dakota Women's Prison (SDWP) was conducted May 5-7, 2015 using the PREA standards finalized August 2012. The auditor discussed the data contained in the Pre-Audit Questionnaire with the PREA Coordinator and the Deputy Warden/PREA Compliance Manager prior to the on-site visit. When the auditor first arrived at the facility, an in-briefing was held with the Warden, the Deputy Warden/PREA Compliance Manager and the agency's PREA Coordinator to explain the audit process.

A tour of the facility was conducted on Tuesday, May 5, 2015. Following the tour, interviews with inmates and staff were scheduled. All required facility staff and inmate interviews were conducted on site. Fifteen randomly selected inmates were interviewed that included inmates from each housing unit, the segregation unit, inmates who were identified as being in a designated group (e.g. disabled, limited English proficiency, LGBTI or who had reported sexual abuse) and one inmate that had reported an allegation of sexual harassment. Interviews with 22 staff members were also conducted and included random selected staff as well specialized staff. The specialized staff included; SDDOC Agency Head designee, Warden, Deputy Warden/PREA Compliance Manager, SDDOC PREA Coordinator, investigative staff, first responders, medical and mental health care professionals, incident review team members, intake/screening staff, administrative staff, intermediate and higher level facility staff as well as volunteers, contractors and director of the local crisis center. Investigative records, training records and personnel records were reviewed. Intake PREA screenings and PREA training was observed as well as testing of the inmate phone systems for reporting allegations to outside sources.

A review of the five investigative files opened during the past 12 months alleging sexual abuse or sexual harassment was conducted. Of the five allegations investigated, two were inmate-

inmate sexual abuse (both unsubstantiated) two inmate-inmate sexual harassment (one substantiated, one unsubstantiated) and one staff-inmate sexual harassment (unsubstantiated).

## **DESCRIPTION OF FACILITY CHARACTERISTICS:**

The South Dakota Women's Prison is located in Pierre, South Dakota and is part of the Solem Public Safety Center, a unique facility that houses a prison, state corrections offices, and law enforcement agencies of the state, county and city governments. The South Dakota Women's Prison opened in 1997. The women's prison portion of the facility constitutes the majority of the 78,000 square foot building. The facility consists of three separate housing units, two within the secure perimeter and one minimum security camp outside the secure perimeter. The prison is a 460 bed facility housing minimum, medium and maximum security female inmates. The average daily population during the audit was 335. The average length of stay is 8.3 years. A total of 103 staff is employed at the facility.

The mission of the South Dakota Department of Corrections is to protect the citizens of South Dakota by providing safe secure facilities for offenders committed to its custody by the courts, to provide effective community supervision to offenders upon release and to utilize evidence-based practices to maximize opportunities for rehabilitation. The vision statement of the agency is to be a national leader in corrections that enhances public safety by employing evidence based practices to maximize the rehabilitation of offenders.

Prison Industries at SDWP includes data entry for state government agencies. Inmates not assigned to prison industries are provided other work assignments or are assigned to Education. Work assignments include Food Service, Mechanical Services, Health Services, and Education/Recreation, Laundry and unit orderlies. Inmates can take classes for literacy, Adult Basic Education and GED as well as receive treatment for chemical dependency and for sex offenses. Inmates are also provided the opportunity to participate in the practice of their faith, access to leisure and law libraries as well as a wide variety of recreational programs.

The State Department of Health provides medical, dental and optometric services for SDWP and SDDOC adult corrections system and is accredited by the National Commission on Correctional Health Care (NCCHC). Medical care is provided 24 hours a day, seven days per week. Outside medical and emergency care is available at St. Mary's Hospital, located approximately one mile from the facility. The State Department of Social Services provides mental health and chemical dependency services. The program contracts with licensed psychiatrists to provide psychiatric consultations, diagnosis and treatment plan services. Food service operations are provided through a contract with CBM Correctional Food Service.

The auditor concluded, through interviews and the examination of policy and documentation, that all staff was knowledgeable concerning their responsibilities involving PREA. Staff was 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. During the interviews, inmates stated that staff was respectful and that they felt safe at the facility. Staff was observed to be interacting with inmates in a positive and helpful manner.

## **SUMMARY OF AUDIT FINDINGS:**

The site visit was completed on May 7, 2015 and an "out-brief" meeting was held with the following individuals;

Secretary of Corrections, Denny Kaemingk (via phone)

Deputy Sec. of Corrections, Laurie Feiler

Director of Research & Grants, Kevin McLain

SDWP Warden, Brenda Hyde

Deputy Warden, Steve Allard (PREA Compliance Manager)

PIR Unit Manager, Jon Degreeef

SDWP PREA Investigator, Bill Schied

DOC PREA Coordinator, Ken VanMeveren

The auditor was provided with comprehensive files of documentation prior to the audit for review to support a conclusion of compliance with the PREA. During the course of the on-site visit, staff was found to be cooperative, courteous and professional. All areas of the facilities toured were observed to be clean and well maintained. At the conclusion of the audit the auditor thanked the SDWP staff for their hard work and commitment to the Prison Rape Elimination Act and the processes that have been incorporated into the daily operations of the facility.

Number of standards exceeded:	1
Number of standards met:	41
Number of standards not met:	0
Not Applicable:	1

### **§115.11 - Zero tolerance of sexual abuse and sexual harassment; PREA coordinator**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The South Dakota Women's Prison's (SDWP) policies 1.3.E.5 and 1.3.E.6 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) has a designated agency-wide PREA Coordinator. The Deputy Warden at SDWP serves as the PREA Compliance Manager for the facility. Interviews with the PREA Coordinator and Deputy Warden/PREA Compliance Manager 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 Deputy Warden/PREA Compliance Manager reports directly to the Warden, which indicates proper authority.

### **§115.12 - Contracting with other entities for the confinement of inmates**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The SDDOC has established policy and compliance requirements when contracting with other entities for the supervision of, and confinement of inmates, to include PREA law compliance and its Zero Tolerance Policy. Policy 1.3.E.6 addresses this standard. A review of contracts with Community Education Centers, Minnehaha County Jail and North Dakota Department of Corrections confirmed that these documents include the required PREA language. The contracts require that the agency monitor's the contractor's compliance with PREA standards.

### **§115.13 – Supervision and Monitoring**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

SDDOC Policy 1.3.E.5 addresses this standard. Interviews with the Warden, Deputy Warden/PREA Compliance Manager and the Bureau of Human Resources designee, indicated that reviews of the staffing plan, recruitment policy and institutional needs are conducted routinely to assure the safety of staff and inmates. Intermediate and higher level staff conduct unannounced rounds to identify any deviation from policy or procedure. Staff compliance is monitored through these unannounced rounds. Electronic logs as well as manual logs, incident reviews and reports are maintained in accordance to the standard. SDWP has also implemented a Staffing Plan Deviation form to document deviations from the staffing plan and the reason for such deviations. 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 and that staff and inmates both felt safe.

### **§115.14 – Youthful Inmates**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)
- Not Applicable

Not Applicable – This facility does not house youthful offenders.

### **§115.15 – Limits to Cross-Gender Viewing and Searches**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Policy 1.3.A.5 addresses 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. While cross-gender pat searches of females are not permitted except in exigent circumstances, policy requires these searches to be documented. 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 for inmates to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gendering 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.

## **§115.16 – Inmates with Disabilities and Inmates who are Limited English Proficient**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Policy 1.3.E.5 addresses the requirements of this standard. It was confirmed through informal and formal interviews with inmates 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. In the past 12 months, there have been no instances where inmate interpreters, readers or other types of inmate assistants have been used that could compromise an inmate's safety or the performance of first responder duties for the investigation of an inmate's allegations.

## **§115.17 – Hiring and Promotion Decisions**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Hiring and promotion decisions are made according to policy 1.1.C.13. All employees, contractors and volunteers have had their background checks completed. 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 have engaged in sexual abuse in institutions or the community. All incidents of sexual harassment are considered in the hiring or promoting of staff. Contact with prior institutional employers is attempted. All applicants are asked about prior misconduct. Material omissions regarding misconduct are grounds for termination. State law and agency policy allow for the information sharing with other institutions upon employment.

## **§115.18 – Upgrades to Facilities and Technology**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Does Not Meet Standard (requires corrective action)

There has been no substantial expansion or modifications to the facility since August 20, 2012. Policy 1.3.E.5 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. During the past 12 months, four new cameras have been installed in the visiting room and one in a hallway leading to an exit. There are a total of 166 cameras installed at the facility.

### **§115.21 – Evidence Protocol and Forensic Medical Examinations**

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

Policy 1.3.E.6 addresses the requirements of this standard. The facility's Special Investigations Unit (SIU) conducts administrative investigations, and collaborates with the South Dakota Division of Criminal Investigation (DCI) for criminal investigations. Policy 1.3.E.6 outlines the mandatory use of the Corrections Protocol for Response to Sexual Abuse for facility staff. Interviews with medical, mental health and correctional staff indicated an understanding of the protocol and procedures to follow to obtain usable physical evidence if sexual abuse is alleged. Staff was aware that the SIU conducts all sexual abuse investigations. Specific actions and clinical decisions are required to determine if an inmate is to be transported to the local hospital to receive an S.A.F.E. examination. The facility has contracted with a local hospital to provide these services (the inmate will not be charged for any services related to PREA compliance). No S.A.F.E. examinations were conducted within the last year. Forensic medical exams are conducted by qualified and trained medical practitioners at St Mary's Hospital in Pierre, South Dakota. The facility also utilizes the Missouri Shores Crisis Center for victim advocacy and counseling. There is a signed MOU between the facility and the crisis center.

### **§115.22 – Policies to Ensure Referrals of Allegations for Investigations**

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

Policy 1.3.E. 6 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 and DCI investigators indicated a comprehensive understanding of their responsibilities under the PREA. There were five allegations of sexual abuse or sexual harassment during the last year. All five resulted in administrative investigations. Appropriate documentation, referrals, and follow up was reviewed and found to be in compliance with this standard.

### **§115.31 – Employee Training**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Policy 1.1.D.1 addresses all training required by this standard. All employees of the SDWP receive training on the agency's zero tolerance policy 1.3.E.5 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 carries 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 to this standard. Informational bulletins are provided daily to staff by the warden and include any revisions to policy and/or procedures.

### **§115.32– Volunteer and Contractor Training**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Policy 1.1.D.1 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. There are 37 contractors and volunteers who have received training related to their responsibilities concerning the PREA (zero-tolerance, detection, prevention, response, and reporting requirements). All training is documented. Interviews with contractors and volunteers, and an examination of training files, confirm compliance to this standard.

### **§115.33 – Inmate Education**

- Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

Policies 1.3.C.1 and 1.31.4.B.16 address the requirements of this standard. Inmates receive information at the time of intake processing verbally, via video presentation and a PREA pamphlet. Additional information is also provided in the inmate handbook (provided at the time of intake in English/Spanish). 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. Housing unit meetings between inmates and staff are conducted which allows ample opportunity for inmates to ask questions to discuss PREA. There are posters throughout the facility, and the "hotline" phone number to call to report abuse or harassment is in each housing unit. During the past 12 months, 194 inmates were given PREA information during the intake process. All orientation was provided within 30 days of intake.

### **§115.34 – Specialized Training: Investigations**

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

Policy 1.3.E.5 addresses the requirements of this standard. The SIU and DCI investigators have received training relevant to 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.

### **§115.35 – Specialized training: Medical and mental health care**

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

Policy 1.3.E.5 addresses this standard. Specialized training for medical and mental health staff is provided and documented. A review of training records indicated 100% of the 13 medical and mental care practitioners have received the training required by agency policy and PREA standards. Medical staff employed by the agency does not conduct forensic examinations. All such exams would occur at the local hospital.

## **§115.41 – Screening for Risk of Victimization and Abusiveness**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Policy 1.4.B.16 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 SDWP have an Initial PREA Risk Screen Assessment completed by unit staff trained to administer the screen within 72 hours of arrival at the facility. The admission screen includes the inmate's demographics, results of a NCIC background, 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.

## **§115.42 – Use of Screening Information**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Policies 1.4.B.16 and 1.3.E.5 address the requirements of this standard. A review of the risk screening form indicated the facility uses the information from the form to determine housing, cell, work, education, and program assignments. The facility's goal is to keep inmates at high risk of being sexually victimized separate from those who are at a high risk of being sexually abusive. Guidelines on housing and program assignments and for the management of transgender and intersex inmates are outlined in this policy. At the present time, the facility does not have any transgender or intersex inmates. All housing and program assignments are made on a case by case basis. Interviews with staff and inmates confirmed compliance with this standard.

### **§115.43 – Protective Custody**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Policy 1.3.E.6 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 assessment of all available alternatives has been made and a determination made that there are no available alternatives for separation from likely abusers. 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. 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 facility affords the inmate a review 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.

### **§115.51 – Inmate Reporting**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Policies 1.3.E.5 and 1.3.E.6 as well as the PREA pamphlet, and the Inmate Living Guide (Inmate Handbook) address this standard. A review of documentation indicated that there are multiple ways (including verbally, in writing, privately, 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 is trained to immediately report and document any sexual abuse or sexual harassment allegation. Posters and other documents were observed throughout the facility. Reporting procedures are also provided.

### **§115.52 – Exhaustion of Administrative Remedies**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

Does Not Meet Standard (requires corrective action)

Policies 1.3.E.2 and 1.3.E.6 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. There are no time limits when sexual abuse allegations can be made. Inmates are able to submit grievances without giving 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 permits third parties to assist inmates in filling request for administrative remedies relating to allegations of sexual abuse and are also permitted to file such requests on behalf of an inmate.

Policy and procedures are in place that allow for an inmate to file an emergency grievances 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 are reported to the OIC at which point immediate corrective action is taken. The initial response is completed before the end of the shift of when the incident was reported and the final facility/agency decision within five days. There have been no emergency grievances alleging substantiated risk of imminent sexual abuse filed in the last 12 months.

### **§115.53 – Inmate Access to Outside Confidential Support Services**

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

Policy 1.3.E.5 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 Missouri Shores Domestic Violence Center to provide services relevant to this standard including confidential emotional support services related to sexual abuse. Representatives from the crisis center have partnered with the facility to provide sexual abuse awareness classes at the facility. Inmates are free to sign up and attend the classes. The facility has placards by the telephones that provide instructions for the toll free, speed dial telephone number to the crisis center 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 SDWP. The facility provides training to the victim advocates regarding responsibilities under the agency's sexual abuse and sexual harassment prevention, detection and response policies and procedures, including the zero-tolerance policy and how to report such incidents. Interviews with the director of the crisis center indicated there had been no calls from the facility in the last 12 months.

### **§115.54 – Third-Party Reporting**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The agency provides a method to receive third-party reports of inmate sexual abuse or harassment. The agency pamphlet entitled “Sexual Abuse & Sexual Harassment Awareness” addresses the requirements of this standard. Third-parties are informed of reporting procedures on the agency website, pamphlets and posters in the lobby.

### **§115.61 – Staff and Agency Reporting Duties**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Policies 1.3.E.5 and 1.3.E.6 outline staff and agency reporting steps. All staff is 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. Interviews with staff revealed an awareness of procedure to take concerning reporting incidences of sexual harassment and sexual abuse. A review of training documentation indicates that staff receives the required training regarding this subject.

### **§115.62 – Agency Protection Duties**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Policy 1.3.E.6 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 is issued a PREA card outlining all actions to be taken by staff that became aware of sexual abuse or harassment. The Warden indicated

there have been no reported incidents of an inmate being subject to substantial risk of imminent sexual abuse during the past 12 months.

### **§115.63 – Reporting to Other Confinement Facilities**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Policy 1.3.E.5 requires that upon receiving an allegation that an inmate was sexually abused while confined at another facility, the Warden will notify the head had 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 of receiving the allegation. Documentation is required of any such notification. There have been no allegations of an inmate being sexually abused while confined at another facility during the past 12 months. Policy 1.3.E.6 requires that an allegations of sexual abuse received from other facilities are investigated in accordance with the PREA standard. There has been one allegation of sexual abuse that was claimed to have occurred at SDWP from an inmate housed at another facility in the last 12 months. The allegation was investigated in accordance with facility policy and PREA standards and found to be unsubstantiated.

### **§115.64 – Staff First Responder Duties**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Policy 1.3.E.6 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, abuse, or 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: 1) separate; 2) preserve and protect the crime scene; 3) if the time allows for the collection of physical evidence, make appropriate request for it; 4) if the abuse occurred within a time period that allows for physical evidence, ensure the alleged abuser does not destroy evidence.

First responders interviewed were very knowledgeable about their duties and responsibilities. All staff, including the Warden, were carrying an embossed card as reference to direct them as to their responsibilities as a first responder to an allegation of a PREA incident. There have been two allegations of sexual abuse within the previous year requiring first responder

actions, both of which were responded to by non-security staff. The allegations were received after a time period that would have allowed for the collection of physical evidence.

### **§115.65 – Coordinated Response**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The agency's Corrections Protocol for Responses to Sexual Abuse and policy 1.3.E.6 addresses 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.

### **§115.66 – Preservation of ability to protect inmates from contact with abusers**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Interviews with the agency PREA Coordinator indicated that there have been no collective bargaining agreements entered into or renewed since August 2012. 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, discharge or otherwise discipline employees with proper cause.

### **§115.67 – Agency protection against retaliation**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

SDDOC policies 1.3.E.5 and 1.3.E.6 specifically prohibits any type of retaliation to any inmate or staff member who has reported sexual abuse, sexual harassment or has cooperated with such investigations. The PREA Compliance Manager is the designated staff member that monitors the conduct or treatment of inmates and/or staff members who has reported sexual abuse to insure 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 no incidents of retaliation occurring within the previous 12 months.

### **§115.68 – Post-Allegation Protective Custody**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Policy 1.3.E.5 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. Any 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 have been no inmates who allege to have suffered sexual abuse, held in involuntary segregation during the past 12 months.

### **§115.71 – Criminal and Administrative Agency Investigations**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Policies 1.3.E.5 and 1.3.E.6 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. There have been no substantiated allegations of conduct that appeared to be criminal that were referred for prosecution since August 20, 2012.

SDDOC retains all written reports pertaining to the administrative or criminal investigation of alleged sexual assault or sexual harassment for as long as the alleged abuser is incarcerated or employed by SDDOC plus five years.

### **§115.72 – Evidentiary Standard for Administrative Investigations**

- Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

Policy 1.3.E.6 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.

### **§115.73 – Reporting to Inmate**

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

Policy 1.3.E.6 requires that following an investigation into an inmate's allegation that they suffered sexual abuse in an SDDOC facility; the agency will inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. 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 notification is documented in the incident file. In review of two investigative packets for allegations of sexual abuse, notification was made to one inmate informing them of the outcome of the allegation. The other inmate was released from an out of state facility and was not able to be contacted to be notified. There have been no substantiated, unsubstantiated or unfounded complaints of sexual abuse committed by a staff member against an inmate in the past 12 months.

### **§115.76 – Disciplinary sanctions for staff**

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

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 policies 1.3.E.6 and 1.1.C.2. Staff is subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. Termination is the presumptive disciplinary action for staff who engages in sexual abuse. Interviews with the Warden and Deputy Warden/PREA Compliance Manager indicated any termination for violations of agency sexual abuse or sexual harassment policies, or resignation by staff that

would have been terminated if not for their resignation, would be reported to law enforcement agencies and to relevant licensing bodies. There have been no staff disciplinary actions, resignations or terminations for violation of this standard in the past 12 months.

### **§115.77 – Corrective action for contractors and volunteers**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Policy 1.3.E.6 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 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 policies. Volunteers and contractors have all been trained and are aware of these policies. Documentation is maintained. In the past 12 months, there have been no contractors or volunteers reported to law enforcement for engaging in sexual abuse of inmates.

### **§115.78 – Disciplinary sanctions for inmates**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Policy 1.3.E.6 addresses this standard. Inmates are subject to disciplinary sanctions pursuant to policy following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse. Information on inmate disciplinary sanctions is provided as part of the facility orientation process upon entry into the facility. SDWP prohibits all sexual activity between inmates. Sanctions are commensurate with the nature and circumstances, subject's prior history, and sanctions imposed for comparable offenses. The inmates' mental health is also considered. Inmates may be disciplined for sexual contact with staff only upon a finding that the staff member did not consent to such contact. SDWP does not discipline inmates who make an allegation in good faith, even if an investigation does not establish evidence sufficient to substantiate the allegation. Interviews with the SIU investigator confirm compliance with this standard. There have been no substantiated cases of inmate-on-inmate sexual abuse during the past 12 months.

## **§115.81 – Medical and mental health screenings; history of sexual abuse**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Policies 1.4.B.1, 1.3.E.5 and P.B.4 address this standard. Through interviews with medical and mental health staff, and review of the intake risk screening processes, it was determined that the facility has a thorough system for collecting medical and mental health information and has the capacity to provide continued re-assessment and follow-up services if needed. All inmates at this facility who have experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, pursuant to standard §115.41,-Screening for Risk of Victimization and Abusiveness, are offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening. If the screening indicates that an inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, the inmate is referred to a mental health practitioner within 14 days of arrival for possible inclusion in the Sex Offender Management Program (SOMP) and Special Treatment of Perpetrators (STOP) program. Any information related to sexual victimization or abusiveness that occurred in an institutional setting is strictly limited to medical and mental health practitioner and other staff as necessary for treatment plans and security and management decision such as housing, bed, work, education and program assignments. Informed consent is obtained from inmate before reporting about prior sexual victimization that did not occur in an institutional setting.

## **§115.82 – Access to emergency medical and mental health services**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Policies 1.3.E.6, P.B.4 and P.B.5 mandate that inmates who are victims of sexual abuse are offered immediate, unimpeded access to emergency treatment and crisis intervention services, the nature and scope of which are determined by the medical and mental health practitioners, according to their professional judgement. 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 and adhered to. SDWP has a memorandum of understanding with St. Mary's Hospital and Missouri Shores Crisis Center to provide emergency care and crisis intervention service.

### **§115.83 – Ongoing medical and mental health care for sexual abuse victims and abusers**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Policies 1.3.E.6, P.B.4 and P.B.5 address this standard. SDWP offers medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse and to abusers. Interviews with medical/mental health staff and the director of the local crisis center confirmed ongoing medical/mental health treatment is available to all victims and includes all follow-up services, treatments and referrals. These services are consistent with the community level of care. Pregnancy and STD testing is offered as requested or pursuant to a practitioners order. If pregnancy results from sexual abuse while incarcerated, victims receive timely, comprehensive information regarding all lawful pregnancy related medical services. Treatment services are offered at no cost to victims. An agreement with St. Mary's Hospital in Pierre, South Dakota provides S.A.N.E. and S.A.F.E. services.

### **§115.86 – Sexual abuse incident reviews**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Agency policy 1.3.E.5 requires each facility conduct a sexual abuse incident review at the conclusion of every criminal or administrative sexual abuse investigation, unless the allegation has been determined to be unfounded. The review is conducted within 30 days of the conclusion of the sexual abuse investigation. The SDWP review team consists of the PREA Coordinator, Deputy Warden/PREA Compliance Manager, Special Investigative Unit Lieutenant, Medical/Mental Health professionals and line supervisors. The review team considers whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse. In review of documentation, all requirements of the standard are considered in the review and recommendations for improvements are made. In the past 12 months there have been two allegations of sexual abuse that have been investigated and reviewed by the Incident Review Team.

### **§115.87 – Data Collection**

- Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

Based on policies 1.3.E.5 and 1.3.E.6 and on interview with the PREA Coordinator and 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 aggregate data necessary to answer all of the questions on the Survey of Sexual Violence conducted by the DOJ.

### **§115.88 – Data Review for Corrective Action**

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

Based on policies 1.3.E.5 and 1.3.E.6 and on interview with the PREA Coordinator, 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 this 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>.

### **§§115.89 – Data Storage, Publication, and Destruction**

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

The agency, through its policy 1.3.E.6, 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 to standard §115.87 for at least 10 years after the initial date of collection, unless federal, state or local law requires otherwise. The South Dakota Department of Corrections, 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.

**AUDITOR CERTIFICATION:**

The auditor certifies that the contents of the report are accurate to the best of his knowledge and no conflict of interest exists with respect to his ability to conduct an audit of the agency under review.



---

Philip Bradshaw

Certified PREA Auditor

05/27/2015

Date