

1.3. E.6 PREA Response & Investigation of Sexual Abuse/Harassment

I Policy Index:



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II Policy:

The South Dakota Department of Corrections (DOC) has a zero-tolerance policy relating to sexual abuse/harassment of an inmate. The DOC will cooperate in the investigation and prosecution of anyone involved in a sexual abuse of an inmate in DOC custody, including those housed in a DOC facility or other placement. This policy will be followed in conjunction with DOC policy 1.1.C.3 [Reporting Abuse or Neglect](#) and mandatory reporting requirements. This policy is not intended to govern incidents of sexual abuse by an inmate against an employee, visitor, volunteer or any other individual who has business with the DOC.

III Definitions:

Facility:

For the purpose of this policy, facility refers to individual inmate housing locations and campuses within the South Dakota DOC. The facilities are:

- South Dakota State Penitentiary (including Jameson Prison Annex),
- Sioux Falls Community Work Center
- Mike Durfee State Prison,
- Yankton Community Work Center
- Rapid City Community Work Center
- South Dakota Women's Prison (including E)
- Pierre Community Work Center

PREA:

The Prison Rape Elimination Act of 2003 was enacted by Congress to insure people in the custody of correctional agencies in the United States are protected from sexual abuse and sexual harassment perpetrated by other inmates and agency staff.

Consensual Sexual Act:

All of the participants of the sexual act are inmates and consented to participate without being coerced, under any type of threat or force, or in fear of retaliation.

Non-Consensual Sexual Act:

The inmate sexual contact was unwanted, coerced, or under threat of any type of force or retaliation by another inmate or any sexual contact with staff.

Rape Crisis Center

For the purpose of this policy, a rape crisis center refers to an entity that provides intervention and related assistance, such as:

- (1) 24 hour hotline services providing crisis intervention services and referral;
- (2) Accompaniment and advocacy through medical, criminal justice, and institutional support systems, including medical facilities, investigative and court proceedings;
- (3) Crisis intervention, short-term individual and comprehensive service coordination and supervision to assist sexual abuse victims;
- (4) Information and referral to assist the sexual abuse victim;
- (5) Development and distribution of materials on issues related to services available.

Sexual Abuse-Inmate on Inmate:

Sexual abuse of an inmate by another inmate; which 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:

- (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) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- (4) 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.

Sexual Abuse-Staff on Inmate:

Sexual abuse of an inmate by a staff member, volunteer or contractor, which includes any of the following acts, with or without consent of the inmate:

- (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, and
- (8) Voyeurism by a staff member, contractor, or volunteer.

Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his

or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions, either physically or via security cameras.

Sexual penetration by any person employed by the State of South Dakota or employed within any DOC facility with an inmate who is housed at a DOC facility (See SDCL § [24-1-26.1](#) and SDCL § [22-22-7.6](#)).

Sexual Harassment-Inmate on Inmate:

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 directed toward another inmate.

Sexual Harassment-Staff on Inmate:

Repeated verbal comments or gestures of a sexual nature to an inmate 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.

Staff Member:

For the purposes of this policy, a staff member is any person employed by the DOC, full or part time, including an individual under contract assigned to the DOC, an employee of another State agency assigned to the DOC, authorized volunteers and student interns.

Note:

The terms "Sexual Abuse or Sexual Harassment does not include:

- Custodial or medical personnel gathering physical evidence, or engaging in other legitimate medical treatment, in the course of investigating a sexual assault/rape.
- The use of a health care provider's hands or fingers, or the use of medical devices in the course of appropriate medical treatment unrelated to a sexual assault/rape.
- The use of a health care provider's hands or fingers and the use of instruments to perform body cavity searches in order to maintain security and safety within a facility. This exemption is contingent upon the search being conducted in a manner consistent with constitutional requirements and DOC policies 1.3.A.5 [Searches – All Institutions](#).
- Consensual sexual contact/activity between inmates. Although this type of behavior is prohibited (See Prohibited Act 4-3 in the [South Dakota Department of Corrections Inmate Living Guide](#) and Prohibited Act 5.

IV Procedures:

1. Response:

A. First responder duties.

1. Inmates with a complaint alleging a substantial risk of imminent sexual abuse require immediate response by staff receiving the complaint (See DOC policy 1.3.E.2 [Administrative Remedy for Inmates](#)).
2. Upon learning of an allegation an inmate was threatened with sexual abuse or was sexually abused, the staff member will immediately report the incident directly to the Officer in Charge (OIC). If a staff member witnesses a sexual act or an attempted sexual act involving an inmate, he/she will directly report the incident to the OIC. Report directly means the reporting person must speak directly to the designated staff at the facility by radio, telephone or in person.
 - a. The staff member will separate the alleged victim and abuser.

- b. The OIC will document the incident on the *Sexual Incident Checklist: Officer in Charge* form (See [Attachment 1](#)) and report the incident directly to the Special Investigation Unit (SIU) or SIU staff person on call.
 - 1) The form will be completed and forwarded to the Special Investigations Unit along with all relevant reports by the end of the shift when the incident was reported.
 - 2) The Special Investigations Unit will be responsible for the preliminary investigative response.
 3. Staff will preserve and protect any potential crime scene until appropriate steps can be taken to collect any evidence.
 - a. The chain of custody of the evidence will be recorded and preserved in accordance with all applicable DOC policies, institutional operational memorandums and correctional best practices.
 - b. If the alleged sexual abuse occurred within a time period that allows for the collection of physical evidence, the alleged victim will be instructed not to take any actions that could destroy physical evidence; including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, drinking or eating.
 - c. If the alleged sexual abuse occurred within a time period that allows for the collection of physical evidence, staff will ensure the alleged abuser does not take any actions that could destroy physical evidence; including as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.
 - d. If the first staff responder is not a security staff member, the responder will instruct the alleged victim not to take any actions that could destroy physical evidence, and then notify security staff.
 4. The inmate participants in the alleged sexual abuse incident may be placed on segregation for Investigative Purposes (See DOC policy 1.3.C.2 [Inmate Discipline System](#)).
 - a. The inmate making the complaint of immediate sexual abuse shall be notified within 5 calendar days of the agency's decision. Some examples of decisions include, but are not limited to:
 - 1) Proceeding with a Sexual Incident Investigation.
 - 2) Continuing with separation or monitoring.
 - 3) Finding there is insufficient information provided to continue.
 - b. Inmates may be subject to disciplinary proceedings for filing a false complaint alleging sexual abuse.
 5. All staff involved will document all relevant information in COMS: Incident Report.
- B. Medical Response.
1. Initial Staff Response.
 - a. Inmate victims of sexual abuse will receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment (See DOH policy P-B-05 [Procedure in the Event of Sexual Assault New Standard](#) and DOC policy 1.4.E.1 [Health Care Services for Offenders](#)).

- b. Health Service staff will examine and provide for emergent medical needs of all alleged victims of sexual abuse. SD DOH staff will not participate in evidence collection (See DOH policy P-I-03 *Forensic Information*).
2. When not contraindicated by the inmate's welfare, preservation and collection of forensic evidence shall be maintained.
 - a. If Health Service staff believe the alleged sexual abuse occurred less than one hundred and twenty hours prior to being reported to staff, and there is reason/evidence to suggest the alleged sexual activity was not consensual:
 - 1) With consent from the victim, Special Investigations Unit staff will make arrangements to immediately transport the inmate/victim to the nearest hospital or emergency room equipped to administer a sexual assault forensic exam (rape kit).
 - b. If Health Service staff believe the alleged sexual abuse occurred more than one hundred and twenty hours prior to being reported to staff, and there is reason/evidence to suggest the alleged sexual activity was not consensual:
 - 1) Special Investigations Unit staff will determine if the victim will be provided the opportunity to consent to the administration of a sexual assault forensic exam.
 - c. Sexual assault examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The DOC will document its efforts to provide SAFEs or SANEs.
3. Examination services will be provided without financial cost (including medical co-payments) to the inmate (See DOC policy 1.4.E.10 *Inmate Medical Co-Pay, Fees and Billing for Health Care Services*). If convicted, the defendant may be assessed the cost of the examination, as set by the physician, hospital or clinic (See SDCL § 22-22-26).
4. Ongoing Care:
 - a. The facility will offer medical and mental health evaluations and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.
 - b. The evaluation and treatment of such victims will include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following transfer to, or placement in, other facilities, or release from custody.
 - c. The facility shall provide such victims with medical and mental health services consistent with the community level of care.
 - d. Inmate victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.
 - e. If pregnancy results from the conduct described in paragraph (d) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.

- f. Inmate victims of sexual abuse while incarcerated will be offered tests for sexually transmitted infections as medically appropriate and in accordance with state statutes regarding the rights of victims and the alleged perpetrator (See SDCL § [23A-35B-4](#))
- g. Treatment services and follow-up care will be provided to the victim by Health Service staff without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
- h. As deemed appropriate by Sex Offender Management Program staff, a mental health evaluation will be offered to all known inmate-on-inmate abusers within 60 days of staff learning of such abuse history. Programming and treatment may be offered, depending on the inmate's release date.

C. Victim Advocates.

1. The facility will attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the facility will work to ensure a qualified staff member from a community-based organization or agency is available to provide victim advocate services to inmates. The facility will document efforts to secure services from rape crisis centers.
2. As requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member may accompany and support the victim through the forensic medical examination process and investigatory interviews and provide emotional support, crisis intervention, information, and referrals.

2. Investigations:

A. Allegations.

1. All allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, will be promptly, thoroughly, and objectively investigated.
2. After notification of an allegation of possible sexual abuse or sexual harassment, the Special Investigations Unit will start the *Sexual Incident Report: Investigator* form (See [Attachment 2](#)) and use it to track progress of the investigation.
3. If the alleged victim chooses not to provide information or participate in the investigation and/or prosecution of the suspected abuser, the Special Investigations Unit will document this information of the *Sexual Abuse Victim Preference* form (See [Attachment 4](#)).
4. If a staff member is the alleged perpetrator of a sexual abuse against an inmate, the respective Warden will be notified immediately.
 - a. The Warden or his/her designee may notify the Bureau of Human Resources.
 - b. The Warden, at his/her discretion, may take any or all of the following action(s) against a staff member accused of a sexual abuse against an inmate:
 - 1) Suspend the person or place him/her on paid/unpaid leave.
 - 2) Ban the person from being on the premises of any DOC facility.
 - 3) Ban the person from having any telephone contact or written correspondence with the reported victim.
 - 4) Ban the person from having any telephone contact or written correspondence with DOC personnel.

B. Corrections Protocol for Responding to Sexual Abuse.

1. Trained security staff will gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data (evidence obtained through the telephone system). Staff will interview alleged victims, suspected perpetrators, and witnesses and review prior complaints and reports of sexual abuse involving the suspected perpetrator.
2. In accordance with state law, if the sexual assault kit evidence is released to the DOC by the health care facility performing the examination, Special Investigation Unit staff will follow standard protocol for handling evidence and ensure the evidence is submitted to the DCI within fourteen days of receiving the evidence.
3. The credibility of an alleged victim, suspect or witness will be assessed on an individual basis and shall not be determined by the person's status as inmate or staff. Inmates alleging sexual abuse are not required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the initial investigation of such an allegation.
4. The DOC staff will follow the *Corrections Protocol for Response to Sexual Abuse* form (See [Attachment 6](#)) when responding to and coordinate actions taken in response to an incident of sexual abuse.

C. Administrative investigations.

1. The Special Investigations Unit will investigate all reported sexual incidents to determine (See [Attachment 2](#)):
 - a. If a reported sexual incident was an act of sexual abuse or sexual harassment.
 - b. If the reported act was a consensual inmate-with-inmate act – it is a violation of institutional rules but not a case of sexual abuse.
 - c. If the reported act was non-consensual inmate-with-inmate act – it is a violation of institutional rules and may be a case of sexual abuse. These cases shall be referred to DCI for a criminal investigation.
 - d. Any sexual act between staff and inmates is non-consensual. These cases shall be referred to DCI for criminal investigation.
2. In addition, the Special Investigations Unit or the DCI will also determine if the reported sexual act was:
 - a. Substantiated – The investigation & evidence indicated that the incident did happen.
 - b. Unsubstantiated – Insufficient evidence to determine outcome.
 - c. Unfounded – The investigation and evidence indicate the act did not happen.
 - d. Informational – Information does not contain identified victim and/or abuser or the incident was determined to be a consensual act.
3. Special Investigations Unit will impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.
4. The Special Investigations Unit will refer incidents involving possible criminal violations to DCI.

5. The Special Investigations Unit will enter the investigation information, summaries, reports, and conclusions on the COMS database – *Reportable Incidents* (See [Attachment 5](#)) within three (3) working days of the conclusion of the sexual incident investigation.
 - a. In addition, the Special Investigations Unit will attach a scanned copy of the completed *Sexual Incident Report Form: Investigators* form (See [Attachment 2](#)), *Sexual Incident Checklist* (See [Attachment 1](#)) and other reporting or informational documents not recorded in COMS) to COMS- *Reportable Incidents*.
 6. Within seven (7) calendar days of the conclusion of all sexual abuse investigations, the Special Investigations Unit will send copies of the completed *Sexual Incident Report: Investigators* form, (See [Attachment 2](#)), COMS Incident and disciplinary reports to the facility PREA Compliance Manager and DOC PREA Coordinator.
 - a. The Special Investigations Unit will maintain documentation that agency investigators have concluded all sexual abuse investigations including consensual, unfounded and those with informational.
 - 1) Documentation shall include efforts to determine whether staff actions or failures to act contributed to the abuse; and
 - 2) Written reports that includes a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
 7. The facility will retain all written reports for as long as the alleged abuser is incarcerated or employed by the DOC, plus five years.
 8. The sharing of information pertaining to the alleged sexual assault/rape and identity of the victim(s) should be limited to those who must know. Sharing information regarding the victim and/or incident shall be conducted in a manner that is in accordance with all applicable policies, state statutes, and professional licensure and ethics standards.
 9. The departure of the alleged abuser or victim from the employment or custody of the DOC will not provide a basis for terminating an investigation.
- D. Criminal Referrals.
1. The DCI will oversee the investigation of all reported sexual abuse determined by staff to possibly include criminal conduct occurring at a DOC facility. The chain of custody of the evidence shall be recorded and preserved.
 - a. The DCI, in consultation with the respective Warden will determine if criminal charges will be filed.
 - 1) Substantiated allegations of conduct that appear to be criminal will be referred for prosecution.
 - b. If criminal charges are filed, DCI will coordinate the prosecution with the Attorney General's Office and/or local county States Attorney office.
 - c. Staff members will fully cooperate with the investigation.
 - 1) When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with DCI or prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
 - 2) The facility shall cooperate with DCI investigators and shall endeavor to remain informed about the progress of the investigation.
 - 3) Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.

3. Reaction to Incidents:

A. Protective Custody.

1. Inmates at high risk for sexual victimization or who are alleged to suffer from sexual abuse will not be placed in involuntary protective custody unless an assessment of all available alternatives has been made and a determination has been made that there is no available alternative means of separation from likely abusers. If such an assessment cannot be conducted immediately, the inmate may be held in involuntary segregated housing for a period not to exceed 24 hours while the assessment is completed.
2. Inmates placed in protective custody shall have access to approved programs, privileges, education, and work opportunities. If the inmate's access to approved programs, privileges, education, or work opportunities are restricted, staff shall document:
 - a. The opportunities that have been limited;
 - b. The duration of the limitation; and
 - c. The reasons for such limitations.
3. Inmates shall be assigned to involuntary protective custody status only until an alternative means of separation from likely abusers can be arranged. Such assignment shall not ordinarily exceed a period of 30 days.
4. If an inmate is assigned to involuntary protective custody status pursuant to paragraph (a) of this section, staff shall clearly document:
 - a. The basis for staff's concern for the inmate's safety; and
 - b. The reason why no alternative means of separation can be arranged.
5. At a minimum, staff shall afford each inmate on involuntary protective custody status a review every 30 days. The purpose of the review is to determine whether there is a continuing need for the inmate's separation from the general population. Each facility with protective custody status inmates shall maintain an operational memorandum that includes documentation requirements, hearing procedures and will identify staff who will direct the review.
 - a. The inmate may appeal the findings of the review/decision of the Protective Custody Hearing Board through the Administrative Remedy process (See DOC policy 1.3.E.2 [Administrative Remedy for Inmates](#)).

B. Reporting to Inmates.

1. Following an investigation into an inmate's allegation he or she suffered sexual abuse in a facility, the Special Investigations Unit shall inform the inmate as to results of the investigation into the allegation.
2. If the Special Investigations Unit did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate.
3. If the incident involves a staff member committing sexual abuse against an inmate, staff will inform the inmate whenever:
 - a. The staff member is no longer posted on the inmates unit.
 - b. The staff member is no longer employed at the facility.

- c. The staff member has been indicted on a charge related to sexual abuse within the facility.
 - d. The staff member has been convicted of a charge related to sexual abuse within the facility.
4. If another inmate committed the sexual abuse against an inmate and the inmate victim is in DOC custody/housed in a DOC facility, staff shall inform the abused inmate whenever:
 - a. Staff learns the alleged abuser has been indicted on a charge related to sexual abuse within the facility.
 - b. Staff learns the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
 5. All such notifications or attempted notifications shall be conducted in a timely manner and documented in the COMS database by the Special Investigations Unit.

C. Protection Against Retaliation.

1. At the completion of the investigation, the Special Investigations Unit will complete the initial protection measures and contact appropriate staff for information and follow-up. All such monitoring and status checks will be documented in the COMS database by the Special Investigations Unit (See [Attachment 2](#)).
 - a. The monitoring shall begin immediately after an allegation is made and will terminate if the allegation is determined by investigation to be unfounded.
2. For a minimum of 90 days following the report of the alleged sexual abuse, the facility PREA Compliance Manager shall monitor inmates or staff who report sexual abuse (See [Attachment 3](#)).
 - a. Special Investigations Unit will investigate and respond to all reports of retaliation.
 - b. Staff shall take appropriate measures to protect inmates against retaliation.

D. Disciplinary Sanctions for Inmates.

1. Inmates shall be subject to disciplinary sanctions, pursuant to DOC policy 1.3.C.2 *Inmate Discipline System*, following an administrative finding the inmate engaged in inmate-on-inmate sexual abuse, an administrative finding the inmate engaged in a consensual sexual act or following a criminal finding of guilt for inmate-on-inmate sexual abuse.
2. Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history and the sanctions imposed for comparable offenses by other inmates with similar histories.
3. The disciplinary process shall consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. Behavioral Health staff shall be consulted as deemed necessary.
4. If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to require the offending inmate to participate in such interventions as a condition of access to programming or other benefits.
5. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying and shall not result in the inmate being charged with Prohibited Act L-46 or L-42).

6. A report of sexual abuse made in bad faith, falsified information or lying may result in disciplinary action.

E. Disciplinary Sanctions for Staff, Volunteers or Contractors.

1. If a staff member employed by the state or employed with a DOC facility knowingly engages in an act of sexual penetration with an inmate (See SDCL [§ 24-1-26.1](#)), they are guilty of a Class 6 felony, which is punishable by a maximum term of imprisonment of up to two (2) years in the state penitentiary or a fine of four thousand dollars (\$4000) or both (See SDCL [§ 22-6-1](#)).
2. Staff who commit sexual abuse of sexual harassment against any inmate in violation of DOC policy 1.1.C.10 [Staff Anti-Harassment and Discrimination Policy](#), DOC policy 1.1.C.1 [Staff Code of Ethics](#) or DOC policy 1.1.C.2 [Staff Supervision of Offenders](#) or applicable state statutes, is subject to disciplinary actions, up to and including termination of employment.
 - a. Termination shall be the presumptive disciplinary sanction for staff found to have engaged in sexual abuse.
3. Disciplinary sanctions for violations of DOC policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories (See DOC policy 1.1.C.1 [Code of Ethics](#)).
4. All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.
5. Any staff member or contractor or volunteer who engages in:
 - a. Sexual abuse shall be prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to the relevant licensing bodies.
 - b. Sexual harassment or any other violation of the DOC's sexual abuse or sexual harassment policy shall take remedial measures and shall consider prohibiting any further contact with inmates.

V Related Directives:

SDCL §§ [22-6-1](#), [22-22-7.6](#), [22-22-26](#), [23A-35B-4](#) and [24-1-26.1](#).

DOC policy 1.1.C.1 -- [Code of Ethics](#)

DOC policy 1.1.C.2 -- [Staff Supervision of Offenders](#)

DOC policy 1.1.C.3 -- [Reporting Abuse or Neglect](#)

DOC policy 1.1.C.10-- [Staff Anti-Harassment and Discrimination Policy](#)

Doc policy 1.3.A.5 – [Searches, Adult Institutions](#)

DOC policy 1.3.C.2 -- [Inmate Discipline System](#)

DOC policy 1.3.E.2 -- [Administrative Remedy for Inmates](#)

DOC policy 1.4.E.1 -- [Health Care Services for Offenders](#)

DOC policy 1.4.E.10 -- [Inmate Medical Co-Pay, Fees and Billing for Health Care Services](#)

DOH policy P-B-05 -- [Procedure in the Event of Sexual Assault](#)

DOH policy P-I-03 [Forensic Information](#)

*South Dakota DOC Inmate Living Guide***VI Revision Log:**

September 2014: New policy.

April 2014: **Deleted** reference to Special Security and **Replaced** with Special Investigations Unit.
Deleted reference to Administrative Segregation.

April 2016: **Added** definition of "Inmate". **Added** "with consent from the victim" and **Added** "equipped to administer" in Section 1 B. 2. a.1. **Deleted** "it is necessary to transport the inmate/victim to a hospital or emergency room" and **Replaced** with "the victim will be provided to opportunity to consent to the administration of" in Section 1 B. 2. b. 1. **Added** "If convicted, the defendant may be assessed the cost of the examination, as set by the physician, hospital or clinic" in Section 1 B. 3. **Added** new 2. in Section 2 B. **Added** "evidence obtained through the telephone system" in Section 2 B. 1. **Deleted** "may be" and **Replaced** with "shall be" in Section 2 C. 1. c. **Added** "inmate with inmate" in Section 2 C. 2. d. **Added** "determined by staff to possibly include criminal conduct" in Section 2 D. 1. **Added** "approved" in Section 3.A.2. **Added** "and the inmate victim is in DOC custody/housed in a DOC facility" in Section 3 B. 4. **Added** "at a minimum" and **Added** "The purpose of the review is to determine whether there is a continuing need for separation from the general population. Each facility with protective custody status inmates shall maintain an operational memorandum that includes documentation requirements, hearing procedures and identify staff who will direct the review" in Section 3 B. 5. **Added** B. to Section 3 B. 5. **Added** "Behavioral Health staff shall be consulted as deemed necessary" in Section 3 D. 3. **Deleted** 5.in Section 3 D. **Added** "shall not result in the inmate being charged with Prohibited Acts L-46 or L-42 in Section 3. D. 5.

Denny Kaemingk (original signature on file)

Denny Kaemingk, Secretary of Corrections

05/24/2016

Date

Attachment 1: PREA Sexual Incident Checklist: Officer in Charge

The PREA **Sexual Incident Checklist: Officer in Charge** form is located on the WAN. Click [here](#) to access the form.

Sexual Incident Checklist OFFICER IN CHARGE

• The Sexual Incident Report is to be used in the reporting, recording, and investigation of all alleged sexual abuse and sexual harassment incidents involving inmates, for each and every incident reported.

OFFICER IN CHARGE		DATE / TIME	
Click here to go to my Post.		Drop down date	Enter time

INCIDENT RESPONSE CHECKLIST *CLICK ON BOX*

Type of Incident		Involvement	Note: click here.
Third Party Report (if applicable)		Type of Report	
Name (if available)		Choose drop down	
Status	Participants	ID	Location (if applicable)
Click here	Name	ID	Current housing
Click here	Name	ID	Current housing
Click here	Name	ID	Current housing
Click here	Name	ID	Current housing
Click here	Name	ID	Current housing
Click here	Name	ID	Current housing
Click here	Name	ID	Current housing
Click here	Name	ID	Current housing
Brief description of incident: Click here.			

Have the alleged victim(s) been separated from the alleged abuser(s)?		Has Special Security been contacted?	
Options	Notes	Options	Notes
Has more than 120 hours (if days) elapsed since the incident occurred?		Has Health Services been contacted?	
Options	Notes	Options	Notes
Are there any injuries?		Has Mental Health been contacted?	
Options	Notes	Options	Notes
Were weapons used to hurt / injure / threaten?		All of the inmate / witness reports written / collected / and attached?	
Options	Notes	Options	Notes
Has the crime scene been secured?		All of the staff reports written / collected / and attached?	
Options	Notes	Options	Notes

OIC COMPLETE 8 PAGE 1 AND FORWARDS INFORMATION PACKET TO SPECIAL SECURITY INVESTIGATOR.

Attachment 2: PREA Sexual Incident Report Form: Investigator- Part 1 & 2

The **PREA Sexual Incident Report Form: Investigator Part 1-2** form is located on the WAN. Click [here](#) to access the form from the WAN.



South Dakota Department of Corrections

Sexual Incident Report Form

INVESTIGATOR

PART 1

FACILITY <small>Choose drop down.</small>	LOCATION OF INCIDENT <small>Enter area</small>	DATE OF INCIDENT <small>Date drop down</small>	TIME OF INCIDENT <small>Time</small>
STAFF RECEIVING INITIAL INFORMATION <small>DOC / Reporting staff</small>		STAFF ASSIGNMENT <small>Reporting staff title/position</small>	
DATE AND TIME STAFF RECEIVED INFORMATION <small>Date drop down Time</small>		INCIDENT NUMBER <small>Choose an item.</small>	

SOURCE OF INFORMATION: Click here to enter text.

3 rd Party Reporter(s) or method					
NAME	NUMBER	PREA	HOUSING	WORK	
<small>Click here to enter text.</small>					
<small>Click here to enter text.</small>					

IDENTIFIED VICTIM(S)					
NAME	NUMBER	GENDER	PREA	HOUSING	WORK
<small>Click here to enter text.</small>		Choose			
<small>Click here to enter text.</small>		Choose			
<small>Click here to enter text.</small>		Choose			

IDENTIFIED ABUSER(S)					
TYPE	NAME	NUMBER	GENDER	PREA	WORK
Choose.	<small>Click here to enter text.</small>		Choose		
Choose.	<small>Click here to enter text.</small>		Choose		
Choose.	<small>Click here to enter text.</small>		Choose		
Choose.	<small>Click here to enter text.</small>		Choose		

INITIAL DESCRIPTION OF INCIDENT
Click here to enter text.

INVESTIGATOR RESPONSE CHECKLIST

DOC INVESTIGATOR <small>Click here to enter text.</small>	DATE DOC INVESTIGATOR NOTIFIED <small>Click here to enter a date.</small>
Was a victim advocate contacted?	<input style="width: 100px;" type="text" value="Choose one."/> <small>Not (who contacted):</small>
Did the victim have a sexual assault forensic exam?	<input style="width: 100px;" type="text" value="Choose one."/> <small>Not:</small>

Attachment 3: PREA Retaliation Status Checklist

The **PREA Retaliation Status Checklist** form is located on the WAN.
Click [here](#) to access the form from the WAN.

South Dakota Department of Corrections
RETALIATION STATUS CHECKLIST

Facility PREA Compliance Manager

- Completed on all incidents of Substantiated or Unsubstantiated incidents of Sexual Abuse
- Shall complete 30 / 60 / 90 / additional checks, and enter into COMS Reportable Incidents.
- Once completed keep for file and send copy to DOC PREA Coordinator.

Inmate: Enter inmate name Inmate ID: Enter Inmate ID

Incident Date: [Click here to enter a date.](#)

Match to Completed Sexual Incident Report Form – Investigator completed on incident.

30 day Reporter / Victim Check Click here to enter a date.
<u>Note date and type:</u> Click here to enter text.

60 day Reporter / Victim Check Click here to enter a date.
<u>Note date and type:</u> Click here to enter text.

90 day Reporter / Victim Check Click here to enter a date.
<u>Note date and type:</u> Click here to enter text.

Additional Reporter / Victim Check Click here to enter a date.
<u>Note date and type:</u> Click here to enter text.

PREA Compliance Manager
<u>Summary:</u> Click here to enter text.

+

Click here to enter text.	Click here to enter a date.
Facility PREA Compliance Manager	Date

□
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Attachment 5: COMS Reportable Incident Procedures

The *COMS Reportable Incident Procedure* document is located in COMS.

COMS Reportable Incident Procedures

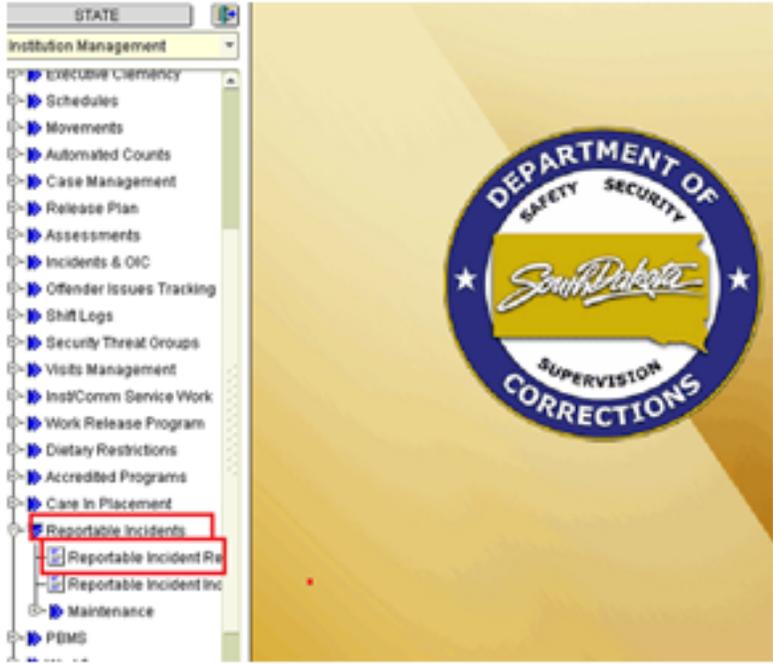
The *COMS Reportable Incident Procedures* screens are located on the COMS System:

STATE – Institutional Management - ➤ Reportable Incidents

- Reportable Incidents Recording: Used for primary data entry
- Reportable Incidents Inquiry: Used for incident review.

Section 1. Entering an Incident.

- Go to Reportable Incidents. Double click Reportable Incident Reporting.



The screenshot shows the COMS system interface. On the left is a navigation tree under the 'STATE' tab, with 'Institution Management' selected. The 'Reportable Incidents' folder is expanded, and 'Reportable Incident Reporting' is highlighted with a red box. On the right is a large yellow banner featuring the South Dakota Department of Corrections logo, which includes the text 'DEPARTMENT OF SAFETY SECURITY SUPERVISION CORRECTIONS' and 'South Dakota' in script.

Attachment 6: PREA Corrections Protocol for Response to Sexual Abuse

The *PREA Corrections Protocol for Response to Sexual Abuse* form is located on the WAN. Click [here](#) to access the form.

Corrections Protocol for Response to Sexual Abuse

South Dakota Department of Corrections

Acknowledgements

This protocol is based upon "A National Protocol for Sexual Assault Medical Forensic Examinations-Adults/Adolescents, second edition" April 2013, the South Dakota Department of Corrections Policies: Compliance with the Prison Rape Elimination Act and Response and Investigation of Sexual Abuse/Harassment, Final Adult PREA Standards, and the NIC PREA Investigators Training for Trainers lesson plan.

Goals

- Provide guidance to DOC personnel on responding to sexual assault victims in a corrections environment. It is intended as a guideline for suggested practices rather than a list of requirements.
- Identify the key participants and their roles in responding to an incident of sexual abuse.
- Promote a victim centered response
- Identify evidentiary practice and procedures
- Explain the role of the Sexual Assault Evidence Kit and the SANE Nurse to DOC personnel.

SECTION A: OVERREACHING ISSUES

1. Coordinated Team Approach -key participants and basic responsibilities.

A. First responders

First responders can be any Department of Corrections (DOC) personnel, contractors, or volunteers. The staff member will immediately report the incident directly through their chain of command

1. Assess victims need for immediate care for potentially life-threatening or serious injuries.
2. Address safety needs of victims and others on the scene, separate the alleged victim and abuser.
3. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence.
4. Seek basic information from victims about the abuse in order to identify the abuser and facilitate crime scene preservation. Separate the abuser and the victim.

B. Correctional Health Services

The Correctional Health Program provides health care services to adult and juvenile offenders in South Dakota's correctional facilities. The program works to meet the basic health care needs of offenders by providing general primary care, acute inpatient hospital care, dental services, and optometric care.

1. Victim shall receive timely, unimpeded access to emergency medical treatment.
2. Health Services will examine and provide emergent medical needs of all alleged victims, taking care to preserve evidence when possible.