

**South Dakota Department of Corrections**  
**2013 Annual Prison Rape Elimination Act Report**



**October 2014**

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The South Dakota Department of Corrections (SDDOC) is pleased to publish its 2013 Annual Report. This report reflects a tremendous amount of change in 2013 as the Department continued to move forward in complying with the national standards promulgated under the Prison Rape Elimination Act (PREA). The SDDOC is committed to keeping those in our custody safe and free from harm and has zero tolerance for sexual assault and harassment of offenders under the jurisdiction of the department.

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

### **Staffing**

Protecting inmates and youth from sexual assault and harassment and compliance with PREA standards is a top priority for the SDDOC and all staff from throughout the Department have been involved in achieving these goals. The Department Secretary has assigned a senior staff person in the Administration Office responsibility for overseeing the agency's PREA activities. Adult division and juvenile division PREA Coordinators have been appointed to lead their respective division's efforts in achieving compliance with PREA standards. Three PREA Compliance Managers for the three main adult facilities have also been appointed. A PREA Compliance Manager has been appointed for STAR Academy and a Juvenile Corrections Specialist for the Department assists and monitors local facilities under contract with the agency for PREA compliance.

In 2013, these staff, and others, worked to develop new and revise existing departmental policies and facility operational memorandums to support compliance with PREA standards and protect inmates and youth from sexual assault and harassment.

### **Training**

Throughout 2013, SDDOC staff participated in training conducted by the PREA Resource Center, the National Institute of Corrections, the Moss Group and the Department of Justice. Trainings were also conducted for PREA incident investigators. PREA centered training attended or conducted by staff of the DOC in 2013 include the following:

**BJA / NPRC Investigator Training in Denver Co.**

March 18<sup>th</sup> – 20<sup>th</sup>

DOC PREA Coordinators & DOC Investigators

**BJA / NPRC Investigator Training for Trainers in Baltimore, MD**

April 15<sup>th</sup> – 17<sup>th</sup>

DOC PREA Coordinators

**BJA / NPRC Audit Tool Training in Milwaukee, WI**

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May 20<sup>th</sup> – 21<sup>th</sup>  
DOC PREA Coordinators

**JDI Inmate Education Training in Omaha, NE**  
June 4<sup>th</sup> – 5<sup>th</sup>  
DOC Adult PREA Coordinator

**Juvenile Facility Investigator Training, Sioux Falls & Rapid City**  
August and September  
Private and county facility in-house PREA investigators

**Adult SD DOC PREA Investigators Training in Sioux Falls**  
September 9<sup>th</sup> & 10<sup>th</sup>  
DOC Investigators & PREA Compliance Managers

In addition, pursuant to PREA Standard § 115.31 *Employee Training*, the SDDOC facilities developed and implemented pre-service and in-service for all staff, volunteers and contractors that have contact with inmates or youth.

### **Policies**

In 2013, institutional operations consistent with PREA requirements were guided by the *Prevention of Offender Sexual Assault/Rape* policy, which establishes zero-tolerance for sexual assault/rape of an offender. The policy requires facilities to provide offenders sexual assault/rape prevention and reporting information, to train staff on PREA requirements and policies, and to assess offenders for risk of perpetration or victimization. The *Prevention of Offender Sexual Assault/Rape* policy also outlines institutional response and investigation requirements for reports of sexual assault or rape. This policy is scheduled to be updated in 2014.

Numerous DOC policies were updated in 2013 to comply with the PREA Standards. Those policies updated in 2013 include the following:

- Code of Ethics*
- Supervision of Offenders*
- Searches – Adult Institutions*
- Searches - Juvenile Institutions*
- Screening Staff, Volunteers and Contractors for Prior Sexual Abuse*

Both the adult institution living guide and STAR Academy student handbook were updated with PREA content.

### **Support Services**

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

#### **Juvenile Division MOU's**

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Women Escaping a Violent Environment in Custer, SD on January 3, 2013

- Covering STAR Academy

**Adult Division MOU's**

The Compass Center in Sioux Falls on 01/19/13

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

Missouri Shores Domestic Violence Center in Pierre, SD on 03/06/13

- Covering the South Dakota Women's Prison

Working Against Violence, Inc in Rapid City, SD on 06/11/13

- Covering Rapid City Minimum Unit

Yankton Women's / Children's Center in Yankton, SD on 08/08/13

- Covering Mike Durfee State Prison in Springfield and the Yankton Minimum Unit.

It is the intent of the DOC and its partner victim advocate groups to:

- Provide offenders an additional way to report sexual abuse or sexual harassment to an entity that is not part of the DOC.
- Provide a way for the victims' advocates reporting sexual abuse or sexual harassment of a DOC offender to the DOC verbally, in writing, or through complaint form, allowing the offender to remain anonymous upon request.
- Provide offenders with confidential access to a qualified outside victim advocate providing them with emotional support and assisting them with the response to sexual abuse.
- Provide universal access to *all* offenders, including those with special needs or who are limited English proficient.
- The DOC and its Partner(s) will be encouraged to participate in joint training and education.
- The Partner(s) will protect the personally identifiable information gathered from offenders and follow the confidentiality & mandatory reporting laws and rules for their respective agencies and programs

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

**Audits**

**Juvenile Division**

Pursuant to Section 115.401 of the PREA Standards the SDDOC – Juvenile Division is preparing for audits to be completed in 2014. STAR Academy and three privately operated facilities that hold

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contracts with DOC. The PREA Standards require that 1/3 of these facilities are audited each year on a three year cycle. In 2014 STAR Academy and McCrossan Boys Ranch will complete PREA audits. The final audit report will be posted on SDDOC website upon completion (<http://doc.sd.gov/about/PrisonRapeEliminationAct.aspx>). Upon completion of the McCrossan Boys Ranch audit, the final audit report can be found on their website at [http://www.mccrossan.org/PREA\\_Information.html](http://www.mccrossan.org/PREA_Information.html)

### Adult Division

In October of 2013 a group of Midwest states started to arrange a Midwest Consortium. Circular auditing is a consortium of three or more States that agrees to perform audits at facilities in other consortium States. A circular auditing schedule must be developed so that no audits would be considered impermissible reciprocal audits.

By employing circular auditing the Midwest Consortium will allow the member states to share Department of Justice certified PREA Auditors while avoiding any conflict of interest.

Currently the Midwest Consortium is composed of:

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

The PREA Audits are on a 3 year cycle, with South Dakota scheduled for 1 audit per year.

South Dakota will conduct 1 PREA Audit per year in Kentucky and in return Missouri will conduct 2, and Louisiana will conduct 1 for South Dakota over the next 3 years.

## 2013 Sexual Incident Investigations & Reviews

### Data Review for Corrective Action and Publication

In compliance with *Section 115.388* of the PREA Standards, senior staff from the SDDOC have reviewed data collected and aggregated pursuant to *Section 115.387* and incident specific data in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:

- Identifying problem areas;
- Taking corrective action on an ongoing basis; and
- Preparing an annual report of its findings and corrective actions.

Also, in compliance with *Section 115.389* of the PREA Standards, the SDDOC will make all aggregated sexual abuse data readily available to the public at least annually by publishing data in a report and posting the report on the Department's website.

### General Definitions

Substantiated allegation -- An allegation that was investigated and a preponderance of the evidence determined the allegation to have occurred.

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

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

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

**Juvenile Division**

The following definitions apply to the aggregated sexual abuse data.

Youth-on-Youth -- Sexual abuse of a resident by another resident. Sexual abuse of a resident by another resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

Sexual Assault- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight; Contact between the mouth and the penis, vulva, or anus; Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument;

Sexual Touching -- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Staff-on- Youth -- Sexual abuse of a resident by a staff member, contractor, or volunteer. Sexual abuse of a resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the resident:

Sexual Assault- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;  
Contact between the mouth and the penis, vulva, or anus;  
Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;  
Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

Sexual Touching -- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

Attempted Sexual Abuse -- Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1) & (2) of this section;

Indecent Exposure -- Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of a resident, and



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Voyeurism -- An invasion of privacy of a resident 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 a resident to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a resident's naked body or of a resident performing bodily functions.

**Juvenile Division – Reported incidents: January 1 to December 31, 2013\***

**STAR ACADEMY**

	YOUTH- ON-YOUTH ALLEGATIONS				STAFF- ON-YOUTH ALLEGATIONS			
	Reported	Substantiated	Unsubstantiated	Unfounded	Reported	Substantiated	Unsubstantiated	Unfounded
Sexual Abuse - Sexual Touching	6	1	3	2	0	0	0	0
Sexual Abuse - Sexual Assault	1	0	1	0	0	0	0	0
Sexual Abuse – Attempted					0	0	0	0
Sexual Abuse – Indecent Exposure					0	0	0	0
Sexual Abuse – Voyeurism					1	0	0	1
<b>TOTAL INVESTIGATIONS</b>	<b>7</b>	<b>1</b>	<b>4</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>

A group of SDDOC officials, including the Department Secretary and Deputy Secretary, juvenile administrators and the Juvenile PREA Coordinator and Juvenile PREA Compliance Manager met and reviewed the 2013 PREA incidents. The one substantiated incident at STAR Academy involved a youth touching the buttocks of another youth while playing softball. The perpetrator admitted to the incident but denied it was sexual but categorized it as horseplay. In assessing the PREA allegations at STAR Academy, horseplay and excessive activity and movements at bedtime and shortly thereafter were identified as factors that could be addressed through staff training and awareness. No other agency-wide strategies were identified.

Sequel Transition Academy is a private licensed group care facility operated under contract on behalf of the SDDOC. No PREA incidents were reported in 2013 at Sequel Transition Academy.

**SEQUEL TRANSITION ACADEMY**

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

\*Began services on June 3, 2013

Volunteers of America is a private licensed group care facility operated that serves a population comprised of more than 50% juvenile justice involved youth. No PREA incidents were reported in 2013 at Volunteers of America.

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

McCrossan Boys Ranch is a private licensed group care facility operated that serves a population comprised of more than 50% juvenile justice involved youth.

**McCROSSAN BOYS RANCH**

	YOUTH- ON-YOUTH ALLEGATIONS				STAFF- ON-YOUTH ALLEGATIONS			
	Reported	Substantiated	Unsubstantiated	Unfounded	Reported	Substantiated	Unsubstantiated	Unfounded
Sexual Abuse - Sexual Touching	5	3	0	2	0	0	0	0
Sexual Abuse - Sexual Assault	0	0	0	0	0	0	0	0
Sexual Abuse – Attempted					0	0	0	0
Sexual Abuse – Indecent Exposure					0	0	0	0
Sexual Abuse – Voyeurism					0	0	0	0
TOTAL INVESTIGATIONS	5	3	0	2	0	0	0	0

A copy of McCrossan Boys Ranch 2013 Annual PREA Report can be found here:  
[http://www.mccrossan.org/uploads/PREA\\_Annual\\_Report\\_Data.pdf](http://www.mccrossan.org/uploads/PREA_Annual_Report_Data.pdf) The report adequately addresses the PREA incidents occurring at this facility and does not require any action by the SDDOC..

**Adult Division**

*Sexual Contact includes –*

Physical contact for the purpose of sexual gratification of one or more of the parties involved.

*Sexual abuse includes—*

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



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

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

*Sexual harassment* includes—

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

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**Adult Division – Reported incidents: January 1 to December 31, 2013**

**Total Reported Sexual Incidents /Results**

	Inmate Sexual Abuse	Inmate Sexual Abuse Touching	Inmate Sexual Harassment	Staff Sexual Abuse/ Touching	Staff Sexual Harassment	Total
Substantiated	1	10	21	3	2	37
Unsubstantiated	14	4	19	2	4	43
Unfounded	6	2	3	0	2	13
<b>Total</b>	<b>21</b>	<b>16</b>	<b>43</b>	<b>5</b>	<b>8</b>	<b>93</b>

**Mike Durfee State Prison (MDSP) Reported Sexual Incidents /Results**

	Inmate Sexual Abuse	Inmate Sexual Abuse Touching	Inmate Sexual Harassment	Staff Sexual Abuse/ Touching	Staff Sexual Harassment	Total
Substantiated	0	0	0	1	1	2
Unsubstantiated	3	0	4	0	1	8
Unfounded	0	0	1	0	0	1
<b>Total</b>	<b>3</b>	<b>0</b>	<b>5</b>	<b>1</b>	<b>2</b>	<b>11</b>

**MDSP Reported Sexual Incidents by Unit**

MDSP Unit	Sexual Abuse	Sexual Harassment	Total
Barracks	2	2	4
East Crawford	0	1	1
Harmon	1	0	1
Rapid City	0	1	1
West Crawford	0	2	2
Yankton	1	1	2
<b>Total</b>	<b>4</b>	<b>7</b>	<b>11</b>

**MDSP Substantiated Sexual Incidents by Unit**

MDSP Unit	Sexual Abuse	Sexual Harassment	Total
Barracks	0	0	0
East Crawford	0	0	0
Harmon	0	0	0
Rapid City	0	0	0
West Crawford	0	0	0
Yankton	1	1	2
<b>Total</b>	<b>1</b>	<b>1</b>	<b>2</b>

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**South Dakota State Penitentiary (SDSP) Total  
Reported Sexual Incidents /Results**

	Inmate Sexual Abuse	Inmate Sexual Abuse Touching	Inmate Sexual Harassment	Staff Sexual Abuse/ Touching	Staff Sexual Harassment	Total
Substantiated	1	10	20	2	1	34
Unsubstantiated	8	2	13	2	3	28
Unfounded	6	2	2	0	2	12
<b>Total</b>	<b>15</b>	<b>14</b>	<b>35</b>	<b>4</b>	<b>6</b>	<b>74</b>

**SDSP Reported Sexual Incidents by Unit**

SDSP Unit	Sexual Abuse	Sexual Harassment	Total
N/S Unit	2	2	4
Shop-PI	0	1	1
SHU	2	1	3
Unit A	3	4	7
Unit B	5	3	8
Unit C	1	2	3
Unit D	5	3	8
WEST	15	25	40
<b>Total</b>	<b>33</b>	<b>41</b>	<b>74</b>

**SDSP Substantiated Sexual Incidents by Unit**

SDSP Unit	Sexual Abuse	Sexual Harassment	Total
N/S Unit	0	0	0
Shop-PI	0	0	0
SHU	0	0	0
Unit A	1	1	2
Unit B	0	2	2
Unit C	1	2	3
Unit D	3	1	4
WEST	8	15	23
<b>Total</b>	<b>13</b>	<b>21</b>	<b>34</b>

**South Dakota Women's Prison (SDWP) Reported  
Sexual Incidents /Results**

	Inmate Sexual Abuse	Inmate Sexual Abuse Touching	Inmate Sexual Harassment	Staff Sexual Abuse/ Touching	Staff Sexual Harassment	Total
Substantiated	0	0	1	0	0	1
Unsubstantiated	3	2	2	0	0	7
Unfounded	0	0	0	0	0	0
<b>Total</b>	<b>3</b>	<b>2</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>8</b>

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**SDWP Reported Sexual Incidents by Unit**

SDWP Unit	Sexual Abuse	Sexual Harassment	Total
Pierre Main	5	3	8
Unit E	0	0	0
Unit H	0	0	0
Total	0	0	8

**SDWP Substantiated Sexual Incidents by Unit**

SDWP Unit	Sexual Abuse	Sexual Harassment	Total
PIR	0	1	1
PRE	0	0	0
PRH	0	0	0
Total	0	0	1

Senior staff from the SDDOC, including the Department Secretary, the Deputy Secretary, facility administrators and senior staff, the PREA Coordinators, the PREA Compliance Managers met and reviewed the aggregate and incident specific data of 2013 PREA incidents. No systemic or agency-wide problems or strategies were identified to better protect inmates and youth from sexual abuse or harassment. At the MDSP facilities, the issue of female staff, specifically female contractual staff, entering into physical relationships with male inmates was identified as a problem area. Enhancements to the screening process during recruitment and additional emphasis on staff training was identified as a strategy to address this issue at MDSP.

At the SDSP facilities, West Hall was identified as a problem area. A large number of inmates housed at West Hall are special needs offenders, lower functioning or mentally ill. One strategy identified was to track inmates who are involved in multiple incidents and to reach out to victims to see if there are ways to better protect them and also to respond more effectively to inmates who are sexual aggressors. Enhancements to the video monitoring of West Hall was also identified as a strategy, which may serve to act as deterrence to PREA incidents and assist in their investigations.

Given the low number of incidents at the SDWP, no specific strategies were identified for this facility.

**Sexual Incident Reviews**

In 2013 the SDDOC adult division began a senior level staff review of sexual abuse / harassment incidents that were either substantiated or unsubstantiated.

- Staff included in the reviews:  
 Deputy Warden(s)  
 Associate Warden(s)  
 Security Major/Captain  
 PREA Coordinator  
 PREA Compliance Managers  
 Unit Managers  
 Investigators  
 Health Service Staff  
 Mental Health Staff

The number of Sexual Incident reviews at the adult facilities average 6 per month from in 2013.

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**2014 Prospectus**

The SDDOC will continue its pursuit of compliance with the PREA standards and protecting inmates and youth from sexual assault and harassments. A new compliance with PREA standards policy and a response to reported PREA incidents will be drafted. Staff training and education for inmates and staff will continue. Audits are planned for STAR Academy and one of the adult facilities in 2014. Data collection and PREA monitoring visits of contract facilities will be conducted in 2014 as well.