



## SCDC POLICY

**NUMBER:** GA-06.11B

**TITLE:** APPLYING THE PRISON RAPE ELIMINATION ACT (PREA)

**ISSUE DATE:** November 23, 2021

**RESPONSIBLE AUTHORITY:** OFFICE OF THE DEPUTY DIRECTOR OF LEGAL AND COMPLIANCE

**POLICY MANUAL:** GENERAL ADMINISTRATION

**SUPERSEDES:** GA-06.11B - JULY 8, 2020

**RELEVANT SCDC FORMS/SUPPLIES:** 1-9, 17-13, 18-78, 19-29A/B, 19-141, 19-164A, 19-165, 19-181, 19-182, 19-183, 19-184, M-207

**ACA/CAC STANDARDS:** 4-4281-1 through 4-4281-8

**STATE/FEDERAL STATUTES:** Prison Rape Elimination Act of 2003 (PREA, P.L.108-79); Section 44-23-1150, South Carolina Code of Laws, 1976, as amended

**PURPOSE:** To provide direction and guidance for performing functions and actions required by the National PREA Prison and Jail Standards [28 C.F.R. Part 115] and applicable SCDC policies. This policy stands as a supplement to SCDC Policy GA-06.11, "Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment" (formerly numbered SCDC Policy OP-21.12).

**POLICY STATEMENT:** Pursuant to the Prison Rape Elimination Act (PREA), the South Carolina Department of Corrections (SCDC) has a zero-tolerance policy regarding sexual abuse and sexual harassment against inmates in correctional institutions, or patients confined in prisons or jails. SCDC will identify and monitor those inmates who are vulnerable to sexual abuse and those who have a propensity to commit such acts and ensure that they are separated from each other. All persons who have contact with inmates will receive training on Agency sexual abuse and sexual harassment policies, including reporting procedures, the dynamics of sexual abuse in confinement, and how to detect and respond to signs of abuse. All inmates will receive orientation on their rights to be free from sexual abuse and sexual harassment and will be made aware of the procedures available to them for reporting acts of sexual abuse. The Agency will fully investigate all allegations and will take appropriate action pursuant to the outcome of the investigations.

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### **PROCEDURAL GUIDELINES:**

#### **1. PREVENTIVE PLANNING**

**1.1** SCDC Policy GA-06.11 (formerly numbered SCDC Policy OP-21.12), "Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment," establishes SCDC's zero tolerance for any form of sexual abuse and/or sexual harassment in all institutions operated by or operated under contract with SCDC. [PREA Standard(s) §115.11(a), §115.12 (a) (b)]

**1.2** The Agency's PREA Coordinator has full authority for development, implementation, and oversight of the Agency's efforts to comply with the Federal PREA standards in all SCDC institutions and institutions operated under contract with SCDC. [PREA Standard(s) §115.11(b)]

**1.3** For each institution SCDC operates and contracts with, an institutional PREA Compliance Manager shall be designated and will have the authority to oversee the institution's day to day PREA compliance efforts and will serve as the institution's liaison on all matters concerning PREA within that institution. [PREA

**standard(s) §115.11(c)]**

**1.4** For each institution SCDC contracts with for the confinement of inmates adjudicated to the South Carolina Department of Corrections, SCDC will monitor contracted agencies to ensure compliance with the National PREA Prison and Jail Standards on a yearly basis. **[PREA Standard(s) §115.12]**

**1.5** Each SCDC institution is required to develop and comply with a written and documented staffing plan. The staffing plan will be reviewed at least yearly in cooperation between the Warden and the Agency's PREA Coordinator in accordance with the National PREA Prison and Jail Standards. **[PREA Standard(s) §115.13]**

**1.5.1** Each institution will document all instances of non-compliance with the staffing plan, which will include written corrective actions plans. The Warden must document when the approved Staffing Plan is deviated from with a written justification for the deviation on SCDC Form 19-212, "Deviation From Staffing Plan." All documentation of non-compliance will be provided to the institution's PREA Compliance Manager for filing purposes. **[PREA Standard(s) §115.13 (c)].**

**1.6** In accordance with SCDC Policy OP-22.48, "Institutional Weekly Rounds", Intermediate to higher level supervisors will conduct and document all unannounced rounds/security checks. Unannounced rounds/security checks will be conducted at least weekly, on all shifts, and are prohibited from being announced or alerted to unless it is due to a legitimate operational function of the institution. **[PREA Standard(s) §115.13 (d)]**

**1.7** As per SCDC Policy OP-22.39, "Young Offender Parole and Reentry Services (YOPRS)", youthful offenders will not be placed in a housing unit in which the youthful offender will have sight, sound, or physical contact with any adult inmate through the shared dayroom or other common space, shower area, or sleeping quarters. In areas outside of housing units, institutions will ensure direct staff supervision between youthful offenders and adult (18 years of age or older) offenders **[PREA Standard(s) §115.14]**

**1.8** Pursuant to SCDC Policy OP-22.19, "Search of Inmates", SCDC does not conduct cross-gender strip searches or cross-gender visual body cavity searches, except in limited and documented exigent circumstances. All cross-gender searches will be documented on SCDC Form 19-29A, "Incident report." **[PREA Standard(s) §115.15 (a)(c)]**

**1.9** All SCDC institutions will develop and comply with a written and documented standard operating procedure which allows inmates to shower, perform bodily functions, and change clothing without being completely viewed by other inmates, non-medical staff, or staff of the opposite gender, except in limited and exigent circumstances, or in the line of one's official duties. **[PREA Standard §115.15 (d)]**

**1.10** All SCDC institutions will ensure that all staff, volunteers, interns, visitors, and contractors are required by institutional policies and procedures to have their own presence announced when entering a housing unit. Employees, volunteers, interns, visitors, and contractors entering a living facility will announce or have announced a statement similar to "Staff on the floor". **[PREA Standard(s) §115.15(e)]**

**1.11** At no time will any SCDC institution search or physically examine a transgender or intersex inmate for the purpose of determining the inmate's genital status. **[PREA standard §115.15 (e)]**

**1.12** The Division of Training & Staff Development will ensure all security staff are trained in how to conduct cross-gender pat-down/frisk searches, searches of transgender and intersex inmates in a respectful manner, and consistent with security needs. **[PREA Standard(s) §115.15 (f)]**

**1.13** Consistent with SCDC Policy OP-21.04, "Inmate Classification Plan", SCDC will make available an Americans with Disabilities Act (ADA) Coordinator who shall take appropriate steps to ensure inmates with disabilities and those who are limited English proficient, have an equal opportunity to participate in or benefit from all aspects of the Agency's PREA efforts. **[PREA Standard(s) §115.16]**

**1.14** SCDC will not rely on inmate interpreters, inmate readers, or any other type of inmate assistants in obtaining information regarding investigations that may compromise the safety of the inmate. **[PREA Standard §115.16 (c)]**

**1.15** Consistent with SCDC Policy ADM-11.28, "Applicant Selection Process," SCDC will conduct criminal background records checks before hiring employees, and will not hire or promote anyone who have engaged in sexual abuse of any kind. Individuals who have engaged in sexual harassment will be considered on a case by case basis. SCDC shall conduct criminal background records checks at least every five (5) years for current employees and contractors who may have contact with residents or have in place a system for otherwise capturing such information for current employees. **[PREA Standard(s) §115.17(a) and (e)]**

**1.16** When determining additions or considering new construction, SCDC will consider the effects of the design or modification upon the institution's ability to monitor and protect the inmates from sexual abuse. **[PREA standard(s) §115.18]**

## **2. RESPONSIVE PLANNING**

**2.1** SCDC's *Office of Investigations and Intelligence (OI)* is responsible for investigating all allegation of sexual abuse, consistent with SCDC Policy POL-23.01, "Investigations". Evidence collection efforts will be collaborative with the local hospital of agreement and the South Carolina Law Enforcement Division, depending on the severity of the event, who is involved (inmate or staff), and availability of evidence. **[PREA Standard(s) §115.21 (a), §115.22]**

**2.2** SCDC's *OII* will ensure that a uniform evidence protocol that is developmentally appropriate for youthful offenders (when applicable), and is documented and used based on the most current law enforcement practices. **[PREA Standard(s) §115.21 (b)]**

**2.3** SCDC's Institutional PREA Compliance Managers are responsible for ensuring a thorough administrative investigation is completed for all inmate-on-inmate sexual harassment allegations. Administrative investigations must include the gathering and preservation of evidence and a detailed written report which describes the investigative method used, evidence collected, investigative facts and findings, and must describe the conclusion and disposition in detail.

**2.3.1** All Administrative investigations will be based upon preponderance of the evidence and shall include an effort to determine whether staff actions, or failures to act, contributed to the abuse/harassment. **[PREA Standard(s) §115.72]**

**2.3.2** Substantiated allegations of sexual abuse/sexual harassment that appears to be criminal shall be referred to *OII* for prosecution. **[PREA Standard(s) §115.71 (h)]**

**2.4** All substantiated and unsubstantiated dispositions of allegations will have an incident review conducted by the Institutional PREA Compliance Manager, the institution's leadership team, and a legal representative from SCDC's General Counsel. **[PREA Standard(s) §115.86 (a)]**

**2.5** Any inmate who alleges sexual assault will be given medical assistance consistent with SCDC Policy GA-06.11, "Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment". **[PREA Standard(s) §115.21]**

2.6 In the event of sexual assault, the SCDC Mental Health Practitioners will ensure that the victim(s) are offered the services of an outside agency victim advocate consistent with SCDC Policy GA-06.11, "Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment." [PREA Standard(s) §115.21 (d)(e)]

2.7 The Agency's PREA Coordinator will attempt to make available written Memorandum of Understanding/Agreement's with local/regional Rape Crisis Centers to provide emotional support services. Such attempts will be documented through written memorandums and retained for monitoring purposes. [PREA Standard §115.21, §115.53 (e)]

2.8 In the event that SCDC's *OH* does not investigate an allegation, the Chief of Enforcement will request that the investigating agency follow the requirements set by PREA Standard §115.21 (a) through (e). [PREA Standard(s) §115.21 (f)]

2.9 All allegations of sexual misconduct investigated by SCDC's *OH*, to include, but not limited to, sexual abuse, sexual harassment, and inappropriate sexual behaviors, by staff or inmates, will have an investigative case opened within five (5) days from the date of receipt. [PREA Standard §115.71 (a)]

### **3. TRAINING AND EDUCATION**

3.1 All employees, inmates, contractors, interns, and volunteers, to include contracted institutions, will receive training on SCDC Policy GA-06.11, which establishes the Agency's zero tolerance for sexual abuse and sexual harassment of inmates, SCDC Form 17-13, "PREA New Employee Onboarding," or SCDC Policy PS-10.04, "Volunteer Services Programs". SCDC will provide employees a refresher training regarding these standards every year to ensure that all employees know the Agency's current sexual abuse and sexual harassment policies and procedures. Certificates of completion, SCDC Form 19-181, "NIC Training Log for Investigations and Medical/Mental Health", SCDC Form 1-9, "Volunteer Services Agreement", and SCDC Form 17-13, "PREA New Employee Onboarding," or other documents showing completion of this training will be placed in the employee file. [PREA Standard(s) §115.31, §115.32, §115.33]

3.2 Consistent with SCDC Policy GA-06.11, "Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment," each SCDC institution will ensure that all inmates receive education on the Agency's zero-tolerance policy and their rights and responsibilities on how to be free from sexual abuse, sexual harassment, and retaliation for reporting. Such education will be provided to all inmates within thirty (30) days of intake. Documentation of provided education will be described and signed on SCDC Form 18-78, "Certification of Prison Rape Elimination Act (PREA) Orientation" and placed in the inmate's permanent file. [PREA Standard §115.33]

3.3 In addition to general training provided to all employees and training provided by the SC Criminal Justice Academy, SCDC's *OH* will ensure that its investigators who investigate allegations of sexual abuse have specialized training as prescribed in PREA Standard §115.34. Such training will be renewed at least every two (2) years with certificates of completion or SCDC Form 19-181, "Training Log for Investigations and Medical/Mental Health," placed in the employee's file. [PREA Standard §115.34]

3.4 Any employee authorized to conduct any portion of an administrative investigation into allegations of sexual abuse/sexual harassment will have completed specialized training in PREA investigations prior to conducting any portion of any investigations. Certificates of completion or SCDC Form 19-181, "Training Log for Investigations and Medical/Mental Health," will be filed in the employee's personnel records for review and auditing purposes. [PREA Standard(s) §115.34]

3.5 Consistent with PREA Standard §115.35, all full-time and part-time medical and mental health (social workers, psychologists, etc.) personnel will receive specialized training on the identified items prescribed in Standard §115.35 (a) through (d). Such training will be renewed at least every two (2) years with documentation placed in the employees file [PREA Standard §115.35].

### **4. SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS**

4.1 All inmates will be screened for risk vulnerability/abusiveness consistent with SCDC Policy OP-21.04, "Inmate Classification Plan," and the National PREA Prison and Jail Standards requirements within seventy-two (72) hours of arrival at each institution and before permanent placement decisions and assignments are made. All institutions will use the SCDC PREA Screening Application. [PREA Standard(s) §115.41]

4.2 Each institution's Classification personnel will use the information obtained from the screening tool for vulnerability/abusiveness to help determine each inmates housing, bed, program, education, and work assignment. Determinations for housing of inmates will be documented. Within thirty (30) days of the initial intake screening, a reassessment screening will be conducted by the institutions Classification personnel as described in SCDC Policy OP-21.04, "Inmate Classification Plan." [PREA Standard(s) §115.42]

4.3 Consistent with SCDC Policy OP-21.04, "Inmate Classification Plan," inmates at risk for possible abuse may be placed in isolation only as a last resort, when less restrictive measures of protection are not available and then only until an alternative means of keeping all inmates safe can be arranged. [PREA Standard(s) §115.43]

4.4 Inmates who identify as lesbian, gay, bisexual, transgender, or questioning/queer, or intersex (LGBTQI) will be treated fairly and respectfully in accordance with SCDC Policy ADM-11.34, "Employee Inmate Relations". [PREA Standard(s) §115.42]

4.5 In determining housing and programming for inmates who identify as transgender, or intersex, assessment staff will complete the PREA Screening Application and will document the inmate's preferences in their assignment. Decisions on housing, programming, and other placements will be determined on a case-by-case basis. [PREA Standard(s) §115.42]

4.6 Inmates who identify as transgender or intersex during confinement will have their own perceptions of safety and housing documented and considered on a case-by-case basis. [PREA Standard(s) §115.42 (d)]

4.7 Those inmates identified by the MMTT as Transgender, Intersex, or diagnosed with Gender Dysphoria, will be provided an individualized accommodation plan (SCDC Form M-207, "Multidisciplinary Management and Treatment Team Inmate Accommodation Plan"). All individualized accommodation plans will be followed by SCDC Staff, absent exigent circumstances, whenever possible in consideration with employee, security, and safety concerns.

4.8 Transgender and intersex inmates will be given the opportunity to shower separately from other inmates. [PREA Standard(s) §115.42 (g)]

### **5. INMATE REPORTING**

**5.1 Inmate Reporting:** *Inmates incarcerated in an SCDC institution will have multiple ways of reporting actual or suspected acts of sexual abuse or sexual harassment. Inmates may make a report by utilizing the inmate phone system to call in an allegation by dialing \*22, or write or make a verbal report to any Agency employee, volunteer, intern, or contractor. Inmates may also utilize the kiosk system to write any staff member regarding the allegation, notify medical personnel through the sick call procedure, write to the South Carolina Law Enforcement Division (SLED), or ask a family member or friend to file a report on their behalf through the PREA Tips page on the Agency's public website at <http://www.doc.sc.gov/preaweb/>.*

5.2 Consistent with SCDC policy, all employees, contractors, and volunteers are mandated to report any knowledge of alleged, communicated, or suspected abuse of an inmate immediately as per SCDC Policy GA-06.11, "Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment," SCDC Policy ADM-11.34, "Employee - Inmate Relations"; SCDC Policy ADM-11.39, "Staff Sexual Misconduct with Inmates"; and the SC Employee Code of Ethics. [PREA Standard(s) §115.51 (c)]

5.3 Employees, volunteers, contractors, or anyone who has knowledge of alleged, communicated, or suspected abuse can report anonymously to SCDC via SCDC's public PREA website at <http://www.doc.sc.gov/preaweb/>. [PREA Standard(s) §115.51 (c) (e)]

5.4 SCDC's *OII* will investigate all criminal allegations of sexual abuse and sexual harassment. Inmates do not have to use an informal grievance process to address any alleged perpetrators to resolve an alleged incident. [PREA Standard(s) §115.52 (b)]

5.5 Consistent with SCDC Policy GA-01.12, "Inmate Grievance System", the Grievance Branch will ensure that grievance receptacles are available and secure in all institutions. Inmates will not be required to give a grievance form to any staff member who is the subject to the complaint. Inmates may also file grievances through an available kiosk or provided mobile device. [PREA Standard(s) §115.52 (c)]

5.6 The Institutional PREA Compliance Manager (PCM) will notify the inmate of the process of the investigation when provided the information from the assigned investigator, consistent with SCDC Policy POL-23.01, "Investigations." The investigator assigned to the allegation will ensure that the PCM is notified of the investigation after receiving the allegation. [PREA Standard(s) §115.52 (d)]

5.7 Anyone who has knowledge of the alleged event may also assist the inmate with filing a grievance, file a report on behalf of the alleged victim, or file a report themselves. [PREA Standard(s) §115.51 (e)]

5.8 Anyone who willingly files a false statement may be subject to administrative or criminal investigation and discipline consistent with SCDC Policy POL-23.01, "Investigations." [PREA Standard(s) §115.52]

5.9 Inmates will have access to available outside victim advocates for emotional support. Information for advocacy centers will be provided throughout all SCDC institutions and as a part of the inmate orientation program in all correctional institutions. [PREA Standard(s) §115.53 (a)]

5.10 Any monitored communications of inmates, recording or live listening of conversations with advocacy centers, will be expressed to inmates and/or others prior to authorization for use. [PREA Standard(s) §115.53 (b)]

5.11 SCDC will attempt to gain and maintain memoranda of understanding with outside advocacy centers to provide confidential emotional support services related to sexual abuse victims as long as regulatory and/or budgetary constraints permit. [PREA Standard(s) §115.53]

5.12 Consistent with SCDC Policies PS-10.08, "Inmate Correspondence Privileges", and SCDC Policy OP-22.09, "Inmate Visitation", inmates will be allowed confidential access to their attorneys or other legal representation. [PREA Standard(s) §115.54]

5.13 Anyone who suspects, alleges, or has knowledge of sexual abuse of an inmate adjudicated to SCDC may report the allegations on the SCDC PREA Tips website <http://www.doc.sc.gov/preaweb/>. [PREA Standard(s) §115.54]

## **6. COORDINATED RESPONSE FOLLOWING AN INMATE'S REPORT**

6.1 All employees are required to immediately report any knowledge, suspicion, information or allegation of sexual offenses consistent with SCDC Policy GA-06.11, "Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment", SCDC Policy ADM-11.17, "Employee Conduct"; SCDC Policy ADM-11.34, "Employee Inmate Relations", and SCDC Policy OP-22.25, "Reporting Incidents and Accidents (Management Information Notes (MINS)) and Other Methods of Reporting." [PREA Standard(s) §115.61 (a) through (f)]

6.2 All employees are obligated to inform inmates of their duty to report sexual abuse and harassment as well as their limits of confidentiality. [PREA Standard(s) §115.61 (c)]

6.3 SCDC will take immediate action to protect an inmate who is at a substantial risk of imminent sexual abuse consistent with SCDC Policy OP-22.23, "Statewide Protective Custody." [PREA Standard(s) §115.62]

6.4 Any reports or allegations of sexual abuse that occurred while an inmate was housed at an institution outside the authority of SCDC will be reported to the Warden within seventy-two (72) hours of receiving the allegation and will be documented utilizing SCDC Form 19-184, "Warden-to-Warden PREA Notification." [PREA Standard(s) §115.63]

6.5 Upon notification of an allegation of sexual abuse that occurred while an inmate was housed at an institution outside the authority of SCDC, the SCDC institutional Warden will contact the institution head of the institution where the alleged abuse occurred and will notify SCDC *OII*. This notification will be provided within seventy-two (72) hours of receiving the report and will be documented and provided to the institution's PREA Compliance Manager and the Agency's PREA Coordinator. [PREA Standard(s) §115.63]

6.6 All employees who are given knowledge of, have suspicion of, have information of, or receive an allegation of sexual abuse will be required to take the actions described in SCDC Policy GA-06.11, "Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment," immediately.

6.7 All SCDC institutions will develop a written institutional sexual abuse coordinated response plan that is in accordance with SCDC Policy GA-06.11, "Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment," and the National PREA Prison and Jail Standard §115.65, Coordinated Response. Each SCDC Warden will ensure the members of their institution's Sexual Assault Response Team (SART) are aware of their role(s) and are active participants in the institution's response to allegations of sexual abuse. All staff assigned to each institution in any capacity will be informed and/or trained on the institution's coordinated response plan within thirty (30) calendar days from the date of its publication or update. [PREA Standard(s) §115.65]

6.8 In accordance with SCDC Policy GA-06.11, "Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment," all Wardens will ensure that all inmates, staff, witnesses, and reporters be monitored and protected against retaliation for a minimum of ninety (90) days while maintained within the same institution. Monitoring will be documented on SCDC Form 19-182, "Sexual Abuse Retaliation Monitoring", and filed for auditing purposes. [PREA Standard(s) §115.67]

6.9 Inmates housed in segregation for protection purposes will be done so in accordance with SCDC Policy OP-22.23, "Statewide Protective Custody."

## **7. INVESTIGATIONS**

**7.1** In accordance with SCDC Policy GA-06.11, "Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment", SCDC Policy POL-23.01, "Investigations," SCDC Policy ADM-11.34, "Employee Inmate Relations," and OP-22.25, "Reporting Incidents and Accidents (Management Information Notes-MINs) and Other Methods of Reporting," all allegations of sexual abuse will be investigated, regardless of their source(s). SCDC Police Service (PS) will initiate the investigation of an alleged sexual abuse act, staff sexual harassment or staff sexual misconduct to include all allegations made on or by contractors and volunteers. The Deputy Director of Police Services can request assistance from the state law enforcement division based on terms of the MOU. **[PREA Standard(s) §115.71]**

**7.2** Consistent with SCDC Policy GA-06.11, "Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment," upon learning of an allegation that an inmate was sexually abused, the first security staff member to respond to the report will ensure that the alleged victim is separated from the alleged perpetrator, will preserve and protect the crime scene, will not allow the alleged victim or perpetrator (if known and applicable) to possibly destroy evidence through washing, brushing, or using bodily functions, and will notify supervisory staff, to include the institution's PREA Compliance Manager. All actions taken will be documented on SCDC Form 19-29A, "Incident Report."

**7.3** SCDC will ensure that, following a report of sexual abuse/sexual harassment, the alleged victim is notified of the outcome of the investigation. When the alleged perpetrator is a staff member, the institution's PCM will ensure the alleged victim is notified of the progress of the investigation as specified in PREA Standard §115.73.

**7.4** The institution's PCM will ensure that SCDC Form 19-141, "Separation Memorandum Form", is completed for all substantiated or unsubstantiated allegations of sexual abuse or sexual harassment. **[PREA Standard(s) §115.67]**

**7.5** Following the completion of an investigation, the alleged victim, and any inmate witness and staff who cooperate with the investigation, will be monitored by the institution and documented on SCDC Form 19-182, "Sexual Abuse Retaliation Monitoring Form," for a period of no less than ninety (90) days. The ninety (90) day monitoring may be extended if retaliation is alleged or suspected. **[PREA Standard(s) §115.67]**

**7.6** Consistent with SCDC Policy 11.34, "Employee-Inmate Relations", the presumptive disciplinary sanction for staff who have engaged in sexual relations with an inmate is termination. Additionally, the presumptive disciplinary sanction for volunteers, interns, and others is removal from SCDC and prosecution, if appropriate. **[PREA Standard(s) §115.76/115.77]**

**7.7** Employees who are under investigation for sexual abuse/sexual harassment of an inmate will not be permitted to resign from SCDC until clearance or removal from the investigation. Employees who submit documentation of resignation will be coded as terminated if employment ends due to the investigation or during the investigation. All notifications/documentation of resignation will be submitted to both SCDC **OH** and/or by Human Resources to ensure the resigning employees clearance of investigations. **[PREA Standard(s) §115.71]**

**7.8** Any employee, contractor, volunteer, intern, or visitor investigated and substantiated for sexual abuse/sexual harassment of an inmate will be reported to the appropriate licensure authority. **[PREA Standard(s) §115.76(d)]**

**7.9** Inmates who willingly submit a false report will be subject to discipline consistent with SCDC Policies POL-23.01, "Investigations" and OP-22.14, "Inmate Disciplinary System". **[PREA Standard(s) §115.78]**

**7.10** Any inmate who engages in a consensual or non-consensual sexual act or intimate physical contact of a sexual nature with another inmate, solicits sexual acts from another inmate, or engages in any non-consensual sex act with an employee, visitor, vendor, contractor or a volunteer may be subject to discipline consistent with SCDC Policy OP-22.14, "Inmate Disciplinary System". **[PREA Standard(s) §115.78]**

## **8. MEDICAL AND MENTAL HEALTH CARE**

**8.1** Consistent with SCDC Policy GA-06.11, "Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment," SCDC Policy HS-18.13, "Health Screenings and Exams", SCDC Policy OP-21.04, "Inmate Classification Plan," and SCDC Policy HS-19.04, "Mental Health Services-General Provisions", inmates will be screened for prior sexual abuse, victimization and potential for abusiveness. Results from the screening will be used for physical and mental health evaluations, program inclusion, and housing assignments **[PREA Standard(s) §115.81]**

**8.2** Medical and mental health practitioners will follow all directives regarding confidentiality as outlined in SCDC Policy HS-18.07, "Inmate Health Information". **[PREA Standard(s) §115.81(d)]**

**8.3** Pursuant to South Carolina State Law and SCDC Policies HS-18.09, "Institutional Health Care Authority and Responsibilities"; SCDC Policy HS-18.13, "Health Screenings and Exams," and SCDC Policy GA-06.11, "Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment," all inmates who are victims of sexual abuse will have unimpeded access to emergency medical treatment, crisis intervention services, emergency contraception and sexually transmitted infection prophylaxis without financial cost to the inmate. **[PREA Standard(s) §115.82]**

**8.4** Consistent with SCDC Policy HS-18.09, "Institutional Health Care Authority Responsibilities," and SCDC Policy HS-19.05, "Mental Health Services-Treatment Plans and Treatment Team Meetings", inmates will receive a continuum of care as appropriate for victims of sexual offenses as outlined in SCDC Policy GA-06.11, "Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment". **[PREA Standard(s) §115.83]**

## **9. DATA COLLECTION AND REVIEW**

**9.1** In accordance with the National PREA Standards, SCDC will collect data to accurately track all allegations and incidents of sexual abuse and sexual harassment. This data will be reviewed by the Agency's PREA Coordinator and all institution level management teams on an annual basis to improve operations and services. **[PREA Standard(s) §115.86]**

**9.2** All SCDC institutional Sexual Abuse Response Teams (SARTs) will conduct a sexual abuse incident review within thirty (30) days of receiving a substantiated or unsubstantiated investigative report of an allegation of sexual abuse or sexual harassment to determine if changes are necessary and determine the possible causes of the incident. The incident review, and its findings, will be documented on SCDC Form 19-183, "PREA Incident Review", and filed with the institutions PREA Compliance Manager and the Agency's PREA Coordinator. All recommended changes to policy, procedures and/or practices will be documented on SCDC Form 19-183, "PREA Incident Review," and submitted to the policy authority for implementation, unless otherwise directed, which will also be documented on SCDC Form 19-183. **[PREA Standard(s) §115.86]**

## **10. DATA TRACKING AND REPORTING**

**10.1** SCDC will report to the US Department of Justice, US Bureau of Justice Statistics, SLED, and any other federal and/or state authority that requires sexual offense data and information annually, all acts of sexual abuse, sexual harassment, and staff sexual misconduct with inmates, for all its institutions and contracted institutions. **[PREA Standard(s) §115.87]**



**10.2** Consistent with National PREA Standards, SCDC will collect data that will assist SCDC in reducing the risk of sexual abuse and/or sexual activity occurring within SCDC institutions. SCDC will compile the information that relates to the prevalence of sexual abuse and/or sexual activity within the institutions, including circumstances that contribute to this kind of behavior, in order to provide insight into potential strategies for its reduction or elimination. [PREA Standard(s) §115.87, 115.88]

**10.3** SCDC will maintain data collected in accordance the National PREA Standards and with SCDC Policy OP-21.10, "Agency Records Management." SCDC's PREA Coordinator will ensure that data collected pursuant to the PREA Standards are securely retained for at least ten (10) years after the date of the initial collection. [PREA Standard(s) §115.89]

**10.4** The Agency, through the PREA Coordinator, will retain all investigative written reports regarding sexual abuse/sexual harassment for as long as the alleged abuser is incarcerated or employed by the Agency, plus five (5) years.

**10.5** SCDC will publish a yearly report, approved by the Agency Director, all aggregated sexual abuse data in accordance with the National PREA Standards. This annual report will include all findings and corrective actions for each institution as well as the Agency as a whole. Additionally, the annual report will include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the Agency's progress in addressing sexual abuse. This report will be made public through the Agency's public website. [PREA Standard(s) §115.89]

## **11. AUDITS**

**11.1** SCDC will conduct audits of all confinement institutions pursuant to the National PREA Prison and Jail Standards for compliance with the Standards. [PREA Standard(s) §115.93]

**11.2** All SCDC institutions and staff are mandated to cooperate and follow the requirements of the audit and auditor. Problems arising from audits or auditors will be communicated with the Agency PREA Coordinator for resolution.

**11.3** Final reports of completed audits will be available to the public on the Agency's public website. [PREA Standard(s) §115.93, 115.401-115.405]

## **12. COMPLIANCE WITH THE PREA PROGRAM**

**12.1** To ensure effective data collection, measurement, evaluation, process improvement, and reporting on the Agency's performance, all SCDC staff are required to fully cooperate with the PREA Program. This includes responding to the requests and providing information in a timely and accurate manner.

**12.2** All PREA related training and technical assistance will be coordinated and approved by the Agency's PREA Coordinator.

**12.3** Failure to adhere to the above will result in referrals for employee corrective action. [SCDC Policy ADM-11.04, "Employee Corrective Action"]

## **13. DEFINITIONS See SCDC Policy GA-06.11, "Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment," for "Sexual Abuse, Sexual harassment, and Voyeurism"**

**Administrative Investigation** means an impartial inquiry, authorized by the institutional warden or higher level manager, to determine facts and collect evidence in connection with an allegation of sexual abuse and sexual harassment. Administrative Investigations for the purposes of the National Prison Rape Elimination Act (PREA) uses no standard higher than preponderance of the evidence for determining whether allegations of sexual abuse or sexual harassment are substantiated. Administrative investigations do not determine criminal actions.

**Agency** means the unit of a State, local, corporate, or nonprofit authority, or of the Department of Justice, with direct responsibility for the operation of any facility that confines inmates, detainees, or residents, including the implementation of policy as set by the governing, corporate, or nonprofit authority.

**Community Confinement facility** means a community treatment center, halfway house, rehabilitation center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-trial release or post-release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during nonresidential hours.

**Contractor** means a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.

**Direct Staff Supervision** means that security staff are in the same room with, and within reasonable hearing distance of, the resident or inmate.

**Employee** means a person who works directly for the Agency or facility.

**Exigent Circumstances** means any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.

**Facility** means a place, institution, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or set of buildings) that is used by an agency for the confinement of individuals.

**Full Compliance** means compliance with all material requirements of each standard except for *de minimis* violations, or discrete and temporary violations during otherwise sustained periods of compliance.

**Gender Nonconforming** means a person whose appearance or manner does not conform to traditional societal gender expectations.

**Inmate** means any person incarcerated or detained in a prison or jail.

**Intersex** means a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

**Juvenile** means any person under the age of 18, unless under adult court supervision and confined or detained in a prison or jail.

**Lockup** means a facility that contains holding cells, cell blocks, or other secure enclosures that are: (1) Under the control of a law enforcement, court, or custodial officer; and (2) Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.

**Medical Practitioner** means a health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A "qualified medical practitioner" refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

**Mental Health Practitioner** means a mental health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A "qualified mental health practitioner" refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

**Pat-down Search** means a running of the hands over the clothed body of an inmate, detainee, or resident by an employee to determine whether the individual possesses contraband.

**Preponderance of Evidence** means the greater weight of the evidence in non-criminal investigations to decide in favor of one side or the other. Preponderance of evidence is based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence.

**Prison** means an institution under Federal or State jurisdiction whose primary use is for the confinement of individuals convicted of a serious crime, usually in excess of one year in length, or a felony.

**Security Staff** means employees primarily responsible for the supervision and control of inmates, detainees, or residents in housing units, recreational areas, dining areas, and other program areas of the facility.

**Staff** means employees.

**Strip Search** means a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks, or genitalia.

**Transgender** means a person whose gender identity (i.e. internal sense of feeling male or female) is different from the person's assigned sex at birth.

**Substantiated allegations** means an allegation that was investigated and determined to have occurred.

**Unfounded Allegation** means an allegation that was investigated and determined not to have occurred.

**Unsubstantiated Allegation** means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

**Volunteer** means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.

**Young Adult** means, as defined by the SC Code of Laws, Section 24-19-10, an inmate in a correctional institution age seventeen (or younger) to twenty-five years of age at the time of conviction for committing criminal acts where the imprisonment is at least one (1) year of confinement.

**Youthful Inmate** means any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.

#### **14. APPLICABLE POLICIES**

**ADM-11.04- Employee Corrective Action**

**ADM-11.17- Employee Conduct**

**ADM-11.28- Applicant Selection Process**

**ADM-11.34- Employee-Inmate Selection Process**

**ADM-11.39- Staff Sexual Misconduct with Inmates**

**ADM-12.01- Procurement of Supplies and Services**

**ADM-17.01- Employee Training Standards**

**GA-01.12- Inmate Grievance System**

**GA-04.01- Strategic Planning**

**GA-06.04- Request to Staff Member**

**GA-06.06- Continuous Quality Improvement Review**

**GA-06.09- Care and Custody of Transgender Inmates and Inmates Diagnosed with Gender Dysphoria**

**GA-06.11- Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment**

**HS-18.13- Health Screening and Exams**

**HS-18.15- Levels of Care**

**HS-19.04- Mental Health Services-General Provisions**

**HS-19.06- Mental Health Services-Disciplinary Detention for Inmates Classified as Mentally III**

**HS-19.11- Mental Health Services-Reception and Evaluation**

**OP-21.04- Inmate Classification Plan**

**OP-21.10- Agency Records Management**

**OP-22.14- Inmate Disciplinary System**

**OP-22.19- Searches of Inmates**

**OP-22.23- Statewide Protective Custody**

- OP-22.25- Reporting Incidents and Accidents, (Management Information Notes-MINs) and Other Methods of Reporting\*\*RESTRICTED
- OP-22.38- Restrictive Housing Unit
- OP-22.39- Young Offender Parole and Reentry Services (YOPRS)
- OP-22.47- Prison Management Expectations
- OP-22.48- Institutional Weekly Rounds
- POL-23.01- Investigations\*\*RESTRICTED
- POL-23.12- Case File Requirements\*\*RESTRICTED
- POL-23.28- Evidence Protocol\*\*RESTRICTED
- PS-10.04- Volunteer Services Programs
- PS-10.08- Inmate Correspondence Privileges
- PS-10.11- Sex Offender Treatment Program (SOTP)

#### **15 APPLICABLE FORMS**

- 1-9 Volunteer Service Agreement
- 17-13 PREA New Employee Onboarding
- 18-78 Certification of Prison Rape Elimination Act (PREA) Orientation
- 19-29A Incident Report
- 19-29B Incident Report Supplement
- 19-47 Evaluation of Protective Concerns
- 19-141 Separation Memorandum
- 19-164A Unannounced Rounds Log
- 19-165 Disposition of PREA Report
- 19-168 Inmate Voluntary Statement
- 19-169 Incident Report Checklist of PREA Issues
- 19-174 PREA Medical Checklist Form
- 19-181 NIC Training Log for Investigations and Medical/Mental health
- 19-182 Sexual Abuse Retaliation Monitoring
- 19-183 PREA Incident Review Form
- 19-184 Warden-to-Warden PREA Notification

#### **16. TRAINING REQUIREMENTS**

All SCDC Employees are required to review this policy within thirty (30) calendar days of its publication. All volunteers, interns, and contractors are required to be provided training on this policy any updates to this policy within thirty (30) business days of its publications.

**SIGNATURE ON FILE**

\_\_\_\_\_  
s/Bryan P. Stirling, Director

\_\_\_\_\_  
Date of Signature

**ORIGINAL SIGNED COPY MAINTAINED IN THE OFFICE OF POLICY DEVELOPMENT.**