

**SOUTHWEST MULTI-COUNTY CORRECTIONAL CENTER
POLICIES AND PROCEDURES MANUAL**



Dickinson Adult Detention Center
Dickinson, North Dakota

PROCEDURE NUMBER:

103

APPENDICES:

ACA RELATED STANDARDS:

ACI 4-4281-1M, 4-4281-2M,
4-4281-3M, 4-4281-4M, 4-4281-5M,
4-4281-6M, 4-4281-7M, 4-4281-8M,
4-4406

PREA 115.11, 115.12, 115.13, 115.14, 115.15,
115.16, 115.17, 115.18, 115.21, 115.22, 115.31,
115.32, 115.33, 115.34, 115.35, 115.41, 115.42,
115.43, 115.51, 115.52, 115.53, 115.54, 115.61,
115.62, 115.63, 115.64, 115.65, 115.66, 115.67,
115.68, 115.71, 115.72, 115.73, 115.76, 115.77,
115.78, 115.81, 115.82, 115.83, 115.86, 115.87,
115.88, 115.89, 115.93,
115.401, 115.402, 115.403, 115.404,
115.405, 115.501

CHAPTER TITLE: Accountability:
Inmate Rights

SECTION:

SUBJECT:

(PREA) Prison Rape Elimination Act of 2003

DATE ISSUED:

08/10/05

DATE(s) REVISED:

January 19, 2024

1. **AUTHORITY:** Authority for this policy with procedures is found in chapters 54-23.3 and 12-47 of the North Dakota Century Code and part 115 of Title 28 of the Code of Federal Regulations.
2. **APPLICABILITY:** This policy with procedures applies to all employees, adults in custody within and working for Southwest Multi-County Correctional Center.
3. **DEFINITIONS AND ACRONYMS: (PREA 115.11)**
 - A. Prison Rape Elimination Act of 2003 (PREA): Federal law that prohibits and seeks to eliminate sexual assaults and sexual misconduct in correctional institutions and community corrections settings.
 - B. PREA Compliance Manager: The designated facility staff at each facility with sufficient time and authority to coordinate the facility's efforts to comply with the Prison Rape Elimination Act standards.
 - C. PREA Coordinator: A senior-level position within the Department with the responsibilities of developing, implementing, and overseeing the agency's plan to comply with the Prison Rape Elimination Act standards.
 - D. Sexual Abuse of an Adult in Custody by another Adult in Custody: 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: which may include: persuasion, inducement, enticement or forcible compulsion, subjecting to sexual contact another person who is incapable of giving consent by reason of custodial status; subjecting another person to sexual contact who is incapable of consenting by reason of being physically

helpless, physically restrained or mentally incapacitated; prostituting or otherwise sexually exploiting another person includes:

1. Contact between the penis and vulva or the penis and 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.
- E. Sexual Abuse of an Adult in Custody by a Staff Member, Contractor, or Volunteer. Includes any of the following acts, with or without consent of the adult or juvenile in custody:
1. Contact between the penis and vulva or the penis and 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 which has the intent to abuse, arouse, or gratify sexual desire;
 4. Penetration of the anal or genital opening of another person, 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 touching, 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 adult or juvenile in custody.
- F. Sexual Harassment: Includes: Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one adult or juvenile in custody directed toward another; or, repeated verbal comments or gestures of a sexual nature to an adult or juvenile in custody 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.
- G. Sexual Victimization and Abusiveness Risk Assessment: An assessment tool utilized to screen for their risk of sexual victimization or sexual aggression and to inform housing, bed, work, education, and programming assignments.
- H. Substantiated Allegation: Allegation that was investigated and determined to have occurred.

- I. Unfounded Allegation: Allegation that was investigated and determined not to have occurred.
 - J. Unsubstantiated Allegation: Allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
 - K. Volunteer and Contractor Unescorted Contact: Any contact with adults in custody that occurs while the volunteer or contractor is not escorted or observed by staff. These persons will receive Prison Rape Elimination Act training prior to entering a Department of Corrections and Rehabilitation facility unescorted or unsupervised. Volunteer and contractor acknowledgement forms shall be retained in the volunteer/contractor's file by designated facility staff.
 - L. Voyeurism by a Staff Member, Contractor, or Volunteer: An invasion of privacy of an adult in custody by staff for reasons unrelated to official duties, such as peering at an adult in custody who is using a toilet in his or her cell to perform bodily functions; requiring an adult or juvenile in custody to expose their buttocks, genitals, or breasts; or taking images of all or part of an adult or juvenile in custody's naked body or of an adult or juvenile in custody performing bodily functions. (For the purposes of PREA statistics, voyeurism is counted under sexual abuse).
4. **POLICY:** SWMCCC is committed to maintaining a zero-tolerance policy for sexual abuse and sexual harassment at all facilities. SWMCCC facilities shall have written policy and procedures mandating zero-tolerance towards all forms of sexual abuse, and sexual harassment and outlining SWMCCC'S approach to preventing, detecting, and responding to such conduct. Policy and procedures will be in accordance with the DOJ Title 28 Code of Federal Regulations, Part 115, National Standards, to prevent, detect, and respond to prison rape.
5. **PROCEDURES:** These procedures provide uniform guidelines to reduce the risk of sexual abuse and sexual harassment within all Department facilities.
- A. Prevention Planning.
 - 1. § 115.11 Zero tolerance for sexual abuse and sexual harassment. This policy, as well as applicable plans, manuals, and guides outline how the Department will implement the agency's zero tolerance approach to preventing, detecting, and responding to sexual abuse and sexual harassment. Refer to the Prison Rape Elimination Act of 2003 – Agency/facility organizational charts.
 - 2. § 115.12 Contracting with other entities for the confinement of adults in custody.
 - a. Agencies under contract with the SWMCCC will include in any new contract or contract renewal to adopt and comply with the PREA standards. [115.12 (a)-1] b.
 - b. All new contracts or contract renewals provide for SWMCCC contract monitoring to ensure compliance with the PREA standards. [115.12 (a)-2]

3. § 115.13 Supervision and Monitoring.
 - a. Staffing Plan.
 - 1.) Refer to Policy 2310, Staffing Requirements.
 - b. Unannounced Rounds.
 - 1.) Refer to Policy 2111, Patrols and Inspections.
4. § 115.14 Youthful Adults in Custody.
 - a. Delinquent youths charged with offenses and youth convicted of a crime in adult court are not housed at DADC.
5. § 115.15 Limits to cross-gender viewing and searches.
 - a. SWMCCC employees will not conduct cross-gender unclothed searches or cross-gender visual body cavity searches (anal or genital opening) except in exigent circumstances or when performed by medical practitioners. Efforts will be made in exigent circumstances to obtain the warden's prior approval. [115.15 (a)-1]
 - b. Employees will document in the Exigent Circumstances Log Book all cross-gender unclothed searches and cross-gender visual body searches.
 - c. Facility residents will be allowed to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell/dorm checks. [115.15 (d)-1]
 - d. Staff of opposite sex will announce "Male/Female on the Floor" when entering a facility resident's housing unit where facility residents may be seen using the shower, toilet, or different stages of undress. [115.15 (d)-2]
 - 1.) This announcement will be documented as an electronic log entry in LERMS; for each security shift daily. The entry will be logged as "Cross-Gender Supervision."
 - 2.) Non-uniformed staff will announce prior to entering a facility resident's opposite sex housing unit where facility residents may be seen using the shower, toilet, or different stages of undress.
 - 3.) Signage will be posted in conspicuous areas for those facility residents who may have been absent from the housing unit when the announcement was made.

- e. Staff will not search or physically examine a transgender or intersex facility resident for the sole purpose of determining the facility resident's genital status. [115.15 (e)-1]
 - 1.) If the facility resident's genital status is unknown, it may be determined through conversation with the facility resident, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.
 - 2.) During the PREA Intake Screening interview with a transgender or intersex facility resident, staff will ask the facility resident if they prefer to be searched by a male or female officer. This information will be recorded in alerts in LERMS.
 - 3.) During initial orientation, security staff are trained to conduct cross-gender pat-down searches and searches of transgender and intersex facility residents in a professional and respected manner and in the least intrusive manner possible, consistent with security needs. [115.15 (f)-1]
 - f. Refer to Policy 2102, Control of Contraband, Searches of Adults in Custody, Visitors, and Facilities; Policy 102, Protection from Unreasonable Searches, Freedom in Grooming.
6. § 115.16 Adults in custody with disabilities; adults in custody who are limited English proficient.
- a. The following services have been established to provide disabled and limited English proficient adult in custody equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. All adult in custody education materials will be in formats accessible to all adults in custody in accordance with Title II of the Americans with Disabilities Act, 28 CFR 35.164. [115.16 (a)-1] [115.16 (b)-1]
 - 1.) Interpreter services for the deaf, blind or hard of hearing adult in custody, and Non-English-speaking adult in custody.
 - a.) CTS Language Link at: 1-888-338-7394
 - b.) Account Number: 17816
 - c.) Your Full Name: Employee Name
 - 2.) Adults in custody who have intellectual, psychiatric, or speech disabilities will review materials with staff to ensure comprehension.

- b. DADC will not rely on adult in custody interpreters, adult in custody readers, or other types of adult in custody assistants except in limited circumstances, and must be fully documented, where an extended delay in obtaining an effective interpreter could compromise: [115.16 (c)-1] [115.16 (c)-2]
 - 1.) The inmate/detainee's safety;
 - 2.) The performance of first responder duties under §115.64; or
 - 3.) The investigation of the adults in custody allegations.
- 7. § 115.17 Hiring and Promotion Decisions
 - a. Refer to Policy 1409, Selection and Promotion, Probationary Period, and Provisional Appointment; Policy 1C-11, Criminal Record Check and Fingerprinting.
- 8. § 115.21 Evidence Protocol and Forensic Medical Examinations.
 - a. Forensic medical examinations will be offered without financial cost to the victim. Forensic examinations will be conducted at CHI St. Alexius, Dickinson, ND, unless exigent circumstances exist. [115.21(c)-2]
 - b. All victims of sexual abuse will be offered access to forensic medical examinations. [115.21 (c)-1]
 - c. Refer to the SWMCCC Coordinated Response Plan.
- 9. § 115.22 Policies to ensure referrals of allegations for investigations. The Agency is responsible for ensuring an administrative investigation is completed for all allegations of sexual abuse and/or harassment that occur within a Department facility. If the act is potentially criminal, Department staff also shall ensure the completion of a criminal investigation. Refer to the SWMCCC Coordinated Response Plan.
- 10. § 115.31 Employee Training.
 - a. Refer to Policy 2403, Training Requirements and Orientation.
- 11. § 115.32 Volunteer and Contractor Training.
 - a. Refer to Policy 2107, Facility Access and Perimeter Security.
- 12. § 115.33 Adult in Custody Education.
 - a. Refer to Policy 1501, Admission, Reception, and Orientation, Transfers; Policy 4B-06, Limited English Proficiency; Resident Training Presentation and Lesson Plan; Resident Orientation PREA Information Pamphlet.
- 13. § 115.34 Specialized Training: Investigations.

- a. Refer to Policy 2403, Training Requirements and Orientation.
14. § 115.35 Specialized Training: Medical and Behavioral Health Care.
- a. Refer to Policy 2403, Training Requirements and Orientation.
15. § 115.41 Screening for Risk of Sexual Victimization and Abusiveness.
- a. The Prison Rape Elimination Act (PREA) Intake/Admission Screening must be completed within 24 hours of admission for risk of being sexually abused by other facility residents or being sexually abusive toward other facility residents. Housing assignments are made accordingly. **(4-4281-2M)** [115.41 (a)-1] [115.41 (b)-1] [115.41 (c)-1]
 - b. The Prison Rape Elimination Act (PREA) Intake/Admission screening considers the following criteria to assess facility residents for risk of sexual victimization and sexual abusiveness: [115.41 (d)-1] [115.41 (e)-1]
 - 1.) Whether the facility resident has a behavioral, physical or developmental disability;
 - 2.) The age of the facility resident;
 - 3.) The physical build of the facility resident;
 - 4.) Whether the facility resident has previously been incarcerated;
 - 5.) Whether the facility resident's criminal history is exclusively nonviolent;
 - 6.) Whether the facility resident has prior convictions for sex offenses against an adult or child;
 - 7.) How does the facility resident perceive their sexual orientation; heterosexual; gay; lesbian; bisexual; transgender; intersex; or gender nonconforming?
 - 8.) Whether the facility resident has previously experienced sexual victimization;
 - 9.) The facility resident's own perception of vulnerability.
 - c. Upon completion of the Prison Rape Elimination Act (PREA) Intake/Admission Screening unit staff must review for housing assignment.
 - d. Prison Rape Elimination Act (PREA) Assessment/ Reassessment Screening form will be utilized by transitional planning staff or designee within 30 days of the facility

resident's intake in the orientation unit and/or before the facility resident transfers from the orientation unit, whichever comes first. This form will also be utilized to conduct reassessments annually by an assigned case manager or designee at the same time the facility resident undergoes custody level reclassification. A reassessment should also be completed when there is a triggering event such as a substantial PREA related incident or the facility resident self-discloses an act of sexual predation or victimization. If a facility resident is identified as a transgender or intersex, a reassessment shall be completed by the assigned counselor or designee every six (6) months. If a reassessment is warranted because of a referral, request, or receipt of additional information that bear on the facility resident's risk of sexual victimization or abusiveness, any staff member may refer a facility resident for reassessment. [115.41 (f)-1], (f)-2]

- e. Prior to returning to assigned housing, the receiving staff shall complete the Prison Rape Elimination Act (PREA) Temporary Leave/Transfer Screening form. This form is completed upon return from temporary leave and by the receiving facility upon transfer between SWMCCC facilities and DOCR contract facilities. This form is completed with input from the resident. If either question on the form is marked as "yes", activate the facility coordinated response and refer to unit management.
 - f. Facility residents identified as high-risk with a history of sexual victimization or sexually assaultive behavior will be assessed by a qualified staff member. Facility residents with a history of sexual victimization or sexually assaultive behavior are identified, monitored, and counseled. **(4-4281-4M)**
 - 1.) A facility resident's risk level must be reassessed when warranted because of a referral, request, incident of sexual abuse, or receipt of additional information that bears on the facility resident's risk of sexual victimization or abusiveness. Any staff may refer to a facility resident for reassessment. [115.41 (g)-1]
 - g. Facility residents may not be disciplined for any refusal or nondisclosure during screening regarding gender identity, sexual orientation, intersex condition, disability status, or prior sexual victimization. [115.41 (h)-1]
 - 1.) DADC maintains information within LERMS that limits access to staff and ensures information is not exploited to the facility resident's detriment by staff or other facility residents. Staff is required to follow the SWMCCC confidentiality agreement. [115.41 (i)-1]
 - h. Refer to the PREA Rating Assessment Manual and Assessment forms.
16. § 115.42 Use of Screening Information.

- a. In deciding whether to assign a transgender or intersex facility resident to a facility for male or female facility residents, and in making other housing and programming assignments, a multi-disciplinary team including staff represented from security, medical, unit management, behavioral health and administration staff shall consider on a case-by-case basis whether a placement would ensure the facility resident's health and safety and whether the placement would present management or security problems. [115.42 (c)-1]
 - b. SWMCCC shall not place lesbian, gay, bisexual, transgender, or intersex facility residents in dedicated facilities, units, or wings solely on the basis of such identification or status.
 - c. Refer to Policy 4A-01, Admission, Reception and Orientation, and Transfers; Policy 4B-07, Gender Non-Conforming Persons; PREA Rating Assessment Manual.
17. § 115.43 Protective Custody.
- a. Refer to Policy 2201, Segregation; the SWMCCC Coordinated Response Plan.
18. § 115.51 Adult in Custody Reporting and § 115.53 Adult in Custody Access to Outside Confidential Support Services.
- a. DADC: SWMCCC Public Website; Refer to the SWMCCC Coordinated Response Plan; the Memorandum of Understanding between SWMCCC and the Domestic Violence Crisis and Rape Center; the Memorandum of Understanding between DADC and Dickinson Police Department.
19. § 115.52 Exhaustion of Administrative Remedies.
- a. Refer to Policy 104, Grievance Procedures.
20. § 115.53 Facility Resident Access to Outside Confidential Support Services
- a. Facility residents are provided with access to outside victim advocates for emotional support services related to sexual abuse through mailing addresses and telephone numbers, including toll-free hotline numbers to the organizations listed below. In the event of sexual abuse, a trained behavioral health staff member will be available to provide support services. The facility shall enable reasonable communication between adults in custody and these organizations and agencies in as confidential manner as possible. [115.53 (a)-1]
 - b. Staff shall inform facility residents prior to giving them access to outside victim advocates, of the extent to which such communications will be monitored and the extent to which

reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. [115.53 (b)-1] [115.53 (b)-2]

- c. SWMCCC maintains or attempts to enter into memorandum of understanding or other agreements with community service providers able to provide facility residents with confidential emotional support services related to sexual abuse. SWMCCC shall maintain copies of these agreements or documentation showing attempts to enter into such agreements. [115.53 (c)-1] [115.53 (c)-2] [115.53 (c)-3] [115.53 (c)-4]
21. § 115.54 Third-Party Reporting. Refer to SWMCCC website.
 22. § 115.61 Staff and Agency Reporting Duties.
 - a. Refer to Policy 2301, Rules of Conduct; the SWMCCC Coordinated Response Plan; Policy 4E-53, Confidentiality, Informed Consent, Privacy.
 23. § 115.62 Agency Protection Duties.
 - a. Refer to the SWMCCC Coordinated Response Plan.
 24. § 115.63 Reporting to Other Confinement Facilities.
 - a. Upon receiving an allegation an adult in custody was sexually abused while confined at another facility, the warden shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred. [115.63 (a)-1]
 - b. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. [115.63 (b)-1]
 - c. The facility head or agency head who receives such notification shall ensure the allegation is investigated in accordance with this policy. [115.63 (d)-1]
 25. §115.64 First Responder Duties. Refer to SWMCCC Coordinated Response Plan.
 26. §115.65 Coordinated Response – Investigations of Sexual Abuse or Sexual Harassment. Refer to SWMCCC Coordinated Response Plan.
 27. § 115.66 Preservation of ability to protect adults in custody from contact with abusers.

- a. Standard § 115.66 does not apply to North Dakota since there are no collective bargaining agreements. North Dakota is a right to work state.
28. § 115.67 Agency Protection Against Retaliation.
- a. SWMCCC PREA Coordinator and or designated staff at each SWMCCC facility protects all adults in custody and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other adults in custody or staff.
 - b. Refer to the SWMCCC Coordinated Response Plan.
29. § 115.68 Post-Allegation Protective Custody.
- a. Refer to Policy 2201, Segregation; the SWMCCC Coordinated Response Plan.
30. § 115.71 Criminal/Administrative Agency Investigations.
- a. Refer to the SWMCCC Coordinated Response Plan
31. § 115.72 Evidentiary standard for administrative investigations.
- a. Refer to SWMCCC Coordinated Response Plan.
32. § 115.73 Reporting to Adults in Custody.
- a. If there has been a substantiated or unsubstantiated complaint of sexual abuse committed by a staff member against a facility resident the agency must subsequently inform the facility resident whenever: [115.73 (c)-1]
 - 1.) The staff member is no longer posted within the facility resident's unit;
 - 2.) The staff member is no longer employed at the facility;
 - 3.) SWMCCC learns that the staff member has been charged or convicted on an offense related to sexual abuse within the facility.
 - b. All notifications or attempted notifications of the final determination of the allegation is documented and stored in the PREA drive. [115.73 (e)-1]
 - c. Refer to the SWMCCC Coordinated Response Plan.
- B. Discipline.
- 1. § 115.76 Disciplinary Sanctions for Department Staff.

- a. Disciplinary sanctions for violations of SWMCCC policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) must 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. [115.76 (c)-1]
 - b. All terminations for violations of SWMCCC 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. [115.76 (d)-1]
 - c. Refer to the SWMCCC Employee Handbook.
2. § 115.77 Corrective Action for Contractors/Volunteers.
 - a. Any contractor or volunteer who engages in sexual abuse is prohibited from contact with the residents and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.
 - b. The facility shall take appropriate remedial measures, and shall consider whether or prohibit further contact with inmates, in the case of any other violations of agency sexual abuse or sexual harassment policies by a contractor or volunteer.
 3. § 115.78 Disciplinary Sanctions for Adults in Custody.
 - a. Adults in custody shall be subject to disciplinary sanctions pursuant to the DADC disciplinary process following an administrative or criminal finding of guilt that the adult in custody engaged in adult in custody-on-adult in custody sexual abuse. [115.78 (a)-1] [115.78 (a)-2]
 - b. Sanctions must be commensurate with the nature and circumstances of the abuse committed, the adults in custody disciplinary history, and the sanctions imposed for comparable offenses by other adults in custody with similar histories. [115.78 (b)]
 - c. The disciplinary process shall consider whether an adults in custody mental disabilities or mental illness contributed to her behavior when determining what type of sanction, if any, should be imposed. [115.78 (c)]
 - d. Behavior health staff shall consider, as a condition of access to programming or other benefits, whether to require the offending adult in custody to participate in therapy, counseling or other interventions designed to address and correct underlying

reasons or motivations for the abuse. [115.78 (d)-1] [115.78 (d)-2]

- e. DADC may discipline an adult in custody for sexual contact with staff only upon a finding the staff member did not consent to the contact. [115.78 (e)-1]
- f. 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 may not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation. [115.78 (f)-1]

C. Medical and Mental Health Care.

1. § 115.81 Medical and Mental Health Screenings, History of Sexual Abuse

- a. If the screening indicates an adult in custody has experienced prior sexual victimization or perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure the adult in custody is offered a follow-up meeting with a medical or behavioral health practitioner within 14 days of the intake screening. [115.81 (a)/(c)-1] [115.81 (a)/(c)-2] [115.81 (b)-1] [115.81 (b)-2]
- b. Disclosure of information related to sexual victimization or abuse that occurred in an institutional setting must be strictly limited to staff, as necessary, to make security and management decisions, including treatment plans, housing, bed, work, education, and program assignments, or as required by federal, state, or local law. [115.81 (d)- 2]
- c. Medical and behavioral health practitioners shall obtain informed consent from adults in custody before reporting information about prior sexual victimization that did not occur in an institutional setting. [115.81 (e)-1]

2. § 115/82 Access to Emergency Medical and Behavioral Health Services.

- a. Medical and behavioral health services shall be provided to the victim and abuser without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
- b. Refer to the SWMCCC Coordinated Response Plan.

3. § 115.83 Ongoing Medical and Behavioral Health Care for Sexual Abuse Victims and Abusers.

- a. Refer to the SWMCCC Coordinated Response Plan.

D. Data Collection, Review, and Reporting.

1. § 115.86 Data Collection and Incident Reviews.

- a. The facility shall conduct a sexual abuse incident review pursuant to PREA Standard 115.87 at the conclusion of every sexual abuse investigation, including when the allegation has not been substantiated, unless the allegation has been determined to be unfounded.
- b. The review shall ordinarily occur within 30 days of the conclusion of the investigation. The review team may include PREA Coordinator, facility PREA Compliance Manager, behavioral health staff, investigator, and assigned facility staff. The results of the review will be provided to the warden.
- c. Refer to the PREA Investigation Checklist and investigation files.

2. § 115.87 Data Collection.

- a. The Department shall conduct accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. (115.87(a)/(c)-1)
 - 1.) The DADC utilizes the Department of Justice, Bureau of Justice Statistics form SSV-3, Survey of Sexual Violence for Local Jail Jurisdictions.,
 - a.) This information is forwarded to the Department of Justice upon request.
 - b. The SWMCCC PREA Coordinator shall aggregate incident-based sexual abuse data at least annually. (115.87(b)-1)

3. § 115.88 Data Review for Corrective Action.

- a. The PREA Coordinator in conjunction with the facility wardens shall review data collected and aggregated pursuant to PREA Standard 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training to include:
 - 1.) Identifying problem areas;
 - 2.) Taking corrective action on an ongoing basis; and
 - 3.) Preparing an annual report of its findings and corrective actions for each facility and the agency as a whole. This report will be approved by the Director of the Department and posted to the Department website. The Department may redact specific material from the reports when publication presents a clear and specific

threat to the safety and security of a facility but must indicate the nature of the material redacted.

4. § 115.89 Data Storage, Publication, and Destruction.

- a. The SWMCCC shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through the public website.
- b. Before making aggregated sexual abuse data publicly available, the Department shall remove all personal identifiers.
- c. All case records associated with claims of sexual abuse, including incident reports, investigation reports, inmate information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and counseling will be retained in accordance with North Dakota statute. **(4-4281-8M)**

1.) Refer to N.D.C.C. § 25-03.3-04.

E. Audit. § 115.93 Audits of Standards.

- a. The Department shall comply with all audit requirements from the Department of Justice.

6. **SIGNATURE:** This policy with procedures becomes effective when signed by the Warden at Dakota Women's Correctional and Rehabilitation Center.

Electronically signed by: Rachelle Juntunen, Warden

01/19/2024

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