# Table of Contents

Office of Legal and Compliance .................................................................................. 1 – 5

General Counsel ........................................................................................................... 6 –66
   Includes deliverables: 1.2, 21.8, 34.4, 91, 91.5, 92, 92.1, 93.5, 95, 95.1
   Includes performance measure: 38

Compliance, Standards, and Inspections ................................................................. 67 – 107
   Includes deliverables: 6, 6.1, 13.5, 13.6, 16.3, 16.4, 20, 20.1, 20.2, 37, 37.1,
   37.2, 37.3, 37.4, 37.5, 38, 38.1, 38.2, 80.1, 80.2, 80.3, 82, 82.1, 82.2, 83,
   83.1, 83.2, 84, 84.1, 84.2, 84.3, 84.4, 84.5, 84.6, 86.1, 87.2

Prison Rape Elimination Act (PREA) ................................................................. 108 – 126
   Includes deliverable: 13.91

Internal Audits ............................................................................................................ 127 – 132

Information Security and Privacy ............................................................................ 133 – 142

Quality Improvement and Risk Management (QIRM) .................................... 143 – 144

Occupational Safety and Workers' Compensation ............................................. 145 – 149
   Includes performance measure: 37
Disclaimer

Please note that some of the information in this presentation is different than provided in the Agency’s original Program Evaluation Report (PER) submission. The South Carolina Department of Corrections (SCDC) plans to provide the Committee an updated PER submission in the near future.
Overview of the Office of Legal and Compliance

Oversees the following legal and compliance related functions and offices:

• General Counsel’s Office, which includes: Attorneys, Agency Records Retention/Americans with Disabilities Act (ADA) Coordinator, Inmate Grievance Branch, Inmate Mail Services, and Policy Development
• Compliance, Standards, and Inspections
• Prison Rape Elimination Act (PREA) Coordinator
• Internal Audit Manager
• Information Security and Privacy
• Quality Improvement and Risk Management
• Occupational Safety and Workers’ Compensation
The Office of General Counsel (OGC) provides a variety of services in representing the legal interests of the Agency:

- Advises the Director, executive staff, and other employees of the legal rights and responsibilities in the development and implementation of agency policy and procedure.
- Represents the Department’s interests in civil litigation and administrative appeals, as well as with employee corrective action and grievances.
- Manages the Department’s contracting needs.

Responds or assists with responses to South Carolina Freedom of Information Act (FOIA) requests.

Manages the Administrative Law Court docket.

Manages a civil litigation caseload.

Receives and addresses sentencing questions.

Speaks at conferences and CLEs as requested.

Oversees the legal resources available in the law libraries and provides guidance to staff regarding applicable law and policy.

Manages the Request to Staff system.

Oversees the following offices and positions within the division: Deputy General Counsels and Staff Attorneys, Administrative Manager, Inmate Grievance, Inmate Mail Services, Policy Development, ADA, and Records Retention.
Automated Requests to Staff Member (ARTSM)

- The request to staff member process provides inmates with an opportunity to seek an informal resolution prior to starting the grievance process.
- The process was automated March 31, 2014 in an effort to ensure inmate requests are answered in a timely and more efficient manner.
- The automation also extends to the record-keeping of requests.
- Inmates can access the ARTSM system through the kiosks and tablets*, as well as many other features.
- Inmate Representative Committee members were trained at each institution to ensure that inmates who entered SCDC after March 31, 2014 are also trained on how to use the kiosks.
- 2,391,432 automated requests have been generated since the process was automated and 99.39% of these have been answered (as of September 27, 2019).

* Tablets are currently being distributed state-wide and are not at all institutions as of September 17, 2019.
ARTSM Request Types

- There are 37 request types in the system for an inmate to choose from when entering a request
- Employees can change the request type if it is necessary (i.e. the request was originally entered in the incorrect request type by the inmate)
- SCDC is able to run a myriad of reports including overall, or by inmate, location, or date

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* EHSO: Environmental Health and Safety Officer
** ICH: Institutional Clearing House
ARTSM Process
Inmate View

**Step 1**
This is the home screen on the kiosks and tablets from which an inmate enters the request.

**Step 2**
The inmate then clicks on “Submit a Request” to enter a new request.
ARTSM Process
Inmate View (continued)

Step 3
Then the inmate clicks the “Select” button to the right of the Type of Request field.

Step 4
A menu including the 37 request types will appear and the inmate selects the most appropriate request type.
ARTSM Process
Inmate View (continued)

**Step 5**
The text of the request can then be entered and click “Submit”

**Step 6**
The inmate must agree to the SCDC Terms and Conditions by clicking “Agree”
ARTSM Process  
Inmate View (continued)

Step 7
To view the answer, the inmate then clicks “Requests Inbox”

Step 8
This screen shows any answers that have been given to past requests, and the inmate clicks “View” to see the answer, which then pops up
Paper Request to Staff Member

- SCDC still utilizes paper requests to staff, Form 19-11, for medical issues and inmates housed in Restrictive Housing Units, the infirmary, or other units that do not have kiosks

- Paper requests can also be submitted for PREA allegations or other emergency situations such as allegations of criminal activity
The workflow screen shows the request types to which an employee has access, that is limited by need.

**Step 2**

By dropping down a request type, the employee can view which inmates have requests in that specific type.
ARTSM Process
Staff View (continued)

Step 3
The employee then double-clicks on the inmate’s request and can view individual requests from that inmate

Step 4
By double-clicking the request a second time, the employee can view the contents of the inmate’s request
ARTSM Process
Staff View (continued)

**Step 5**
The employee can then answer the request and mark it “Complete” with the day’s date, if appropriate to do so.

**Step 6**
The final screen shows the inmate’s request, the answer to that request, and that it has been completed.
Deliverables of Inmate Grievance Branch

There are no deliverables or performance measures from the Inmate Grievance Branch specified in law.
Inmate Grievance Process

• Inmates may file five grievances per month, including all grievances that are identified as unprocessed and returned

• After five grievances have been submitted by an inmate, others may be unprocessed and returned, with the exception of disciplinary conviction appeals, custody level classification reduction reviews, grievances alleging criminal activity, PREA, ADA, or emergency grievances

• Grievances alleging criminal activity will be forwarded to Police Services, and if found to be without merit, will be returned to the Inmate Grievance Coordinator (IGC) for processing

• If a grievance is determined to have merit, it will be investigated and the IGB will be informed once an investigation closes, which will then be forwarded to the IGC to complete processing

• Emergency grievances will be considered on a case by case basis by the Branch Chief of the IGB, to include ADA grievances
Inmate Grievance

Inmates must make an effort to informally resolve a grievance by submitting a Request to Staff Member to the appropriate supervisor/staff within 8 business days of the incident.*

The Warden of the institution will make a determination regarding the Step 1 Grievance within 45 calendar days of receipt of the Step 1 Grievance.

The Responsible Official will make a determination regarding the Step 2 Grievance within 90 calendar days of receipt of the Step 2 Grievance.

If the inmate is not satisfied with the informal resolution or the determination of his/her disciplinary hearing, the inmate must file their Step 1 Grievance within 5 business days of the hearing.

If the Step 1 Grievance is denied, the inmate is given 5 calendar days from the date Step 1 Grievance is served to file a Step 2 Grievance.

If the Step 2 Grievance is denied, the inmate has 30 calendar days from the date the Step 2 Grievance is served to appeal the decision to the Administrative Law Court.

*Informal resolutions are not required for disciplinary conviction appeals, custody level classification reduction reviews, grievances alleging criminal activity, PREA, or emergency grievances.
Inmate Grievance

Grievable issues:
- Department policies/procedures, directives, or conditions which directly affect the inmate
- Actions of a staff member toward the inmate
- Actions of an inmate against the inmate
- Inmate property complaints
- Disciplinary hearing actions to appeal a conviction following a not guilty plea, or to appeal a sentence when the sanction imposed was allegedly not proportionate to the rules violation
- Any classification decision that directly affects the inmate's custody level
- Calculation of sentence-related credits

Non-grievable issues:
- Classification issues, such as institutional and security assignments made at Reception and Evaluation Centers; institutional job assignments, unless there are extenuating medical circumstances involved; cell, dormitory, or cubicle assignments, unless there are extenuating medical circumstances or criminal activity involved; and inmates who waive their right to be present for classification hearings cannot grieve the decision made
- Administrative transfers which do not result in a custody reduction
- The disposition of any disciplinary proceeding, which resulted from a guilty plea by the inmate, or if the inmate accepted an informal or administrative resolution, unless the sanction imposed was excessive in relationship to the rule violation
- Any issue outside of the control of the Department, such as state and federal court decisions or laws and regulations; parole board decisions; or if the inmate is sentenced to a court ordered credit loss
- Unprocessed grievance(s) or against an IGC for un-processing a grievance
- The disposition on another grievance or status of a pending grievance;
- Matters pending before a state or federal court
Inmate Grievance

Issue Types

- ADA Concerns
- Bedding Materials
- Canteen Issues
- Classification Issues
- Clothing Exchange
- Disciplinary Hearing Appeals
- Discrimination
- Excessive Use of Force
- Food
- General Privileges
- Grievance
- Hygiene Supplies
- Institutional Conditions
- Institutional Procedures
- Job Termination

- Laundry Issues
- Library/Law Library
- Mail/Correspondence
- Medical
- Miscellaneous
- Money
- Other Inmate
- Physical Abuse
- Policy PREA
- Program Eligibility
- Property
- Recreation
- Religion
- Unprofessional Conduct
- Verbal Abuse
- Visitation
Inmate Grievance

Grievances by Level Filed
January 1, 2016 – December 31, 2018

- Step 1 Grievance
- Step 2 Grievance
- Appeal to ALC
In 2000, the South Carolina Supreme Court issued an order and opinion in the case Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000), allowing inmates to appeal final agency decisions from SCDC to the ALC. These appeals are generally limited to allegations of SCDC’s miscalculation of an inmate’s sentence, sentence-related credits, or custody status. Id. at 369.

The Court in Al-Shabazz held that “an inmate may seek review of [SCDC’s] final decision in an administrative matter under [the South Carolina Administrative Procedures Act].” Id. The Court, however, specifically “emphasize[d]” that it was “not holding that all APA provisions apply to the internal prison disciplinary or decision-making processes.” Id.

This was due to the Court’s conclusion that SCDC’s “disciplinary and grievance procedures comply with the minimal due process required in such proceedings.” Id. at 374-75.

SCDC provides a copy of the ALC’s Notice of Appeal form to inmates when they are served with the agency’s final decision, which is in the form of a Step Two Grievance.

The Step Two Grievance also clearly states that the inmate has thirty days from the date of receiving the answered Step Two Grievance to appeal the decision to the ALC.
Administrative Law Court

- Between January 1, 2016 and December 31, 2018, a total of 2,147 cases were appealed to the Administrative Law Court
  - 2,008 have been resolved in favor of the Agency (affirmed or dismissed on procedural grounds)
  - 51 have been remanded
  - 11 have been reversed
  - 15 have been partially dismissed and partially remanded
  - 14 have been partially reversed and partially remanded
  - 8 have been partially remanded and partially reheard
  - 40 are still pending
Deliverables

Establish, appoint necessary staff, and provide facilities within SCDC for the Youthful Offender Division

Deliverable 21

Components include:

• Allow Attorney General to review current juvenile justice confinement policies SCDC thinks may jeopardize federal grant funds before making changes to the policies
Allow AG to review current juvenile justice confinement policies SCDC thinks may jeopardize federal grant funds before making changes to the policies

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<tr>
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<tr>
<td>✗ Does the law allow the agency to charge for the service or product?</td>
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**Greatest potential harm**
- Provides accountability for this targeted inmate population

**Recommendations to General Assembly**
- Must comply with Federal Act

**Additional Comments**
- SCDC does not deal with federal grant funds related to juvenile justice confinement
- SCDPS is the Agency which manages all such grants and reports to the Department of Justice about whether the State of South Carolina is complying with federal law and regulations
- SCDC has no policies in regard to this
Deliverables

Transfer funds available in inmate accounts to Dept. of Motor Vehicles to cover cost of ID cards
Deliverable 32.97

• Legislative Intent in Enabling Act: (1) Preserve public safety, reduce crime, and use correctional resources most effectively. Currently, the South Carolina correctional system incarcerates people whose time in prison does not result in improved behavior and who often return to South Carolina communities and commit new crimes, or are returned to prison for violations of supervision requirements. It is, therefore, the purpose of this act to reduce recidivism, provide fair and effective sentencing options, employ evidence-based practices for smarter use of correctional funding, and improve public safety; and, (2) Provide cost-effective prison release and community supervision mechanisms and cost-effective and incentive-based strategies for alternatives to incarceration in order to reduce recidivism and improve public safety.

• General Counsel’s involvement is strictly limited to reviewing and assisting in the creation and implementation of a contract for this program
Transfer funds available in inmate accounts to Dept. of Motor Vehicles to cover cost of ID cards

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Greatest Potential Harm

- Inmates released without IDs struggle to connect with services that require legal identification

Recommendations to General Assembly

- Support initiatives that provide legal IDs/driver’s license to offenders at the time of release to facilitate connection to essential services

Additional Comments

- Specific questions regarding process or procedures for transferring funds, or any other substantive information regarding this program should be directed to Program, Reentry, and Rehabilitative Services
- General Counsel’s involvement is strictly limited to reviewing and assisting in the creation and implementation of a contract for this program
Deliverables

Establish contracts that allow inmates to perform "service work" for private sector entities

Deliverable 34.4

Service work is defined as any work that includes repair, replacement of original manufactured items, packaging, sorting, recycling, labeling, or similar work that is not original equipment manufacturing.
Establish contracts that allow inmates to perform "service work" for private sector entities

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**Greatest Potential Harm**

- Companies' costs increase and won't work with SCDC without consistency

**Recommendations to General Assembly**

- Continue to understand how Prison Industries help prepare our inmates for release

**Additional Comments**

- Specific questions regarding the companies with which we work, number of inmates employed through these programs, or any other substantive information regarding this program should be directed to Administration
- General Counsel's involvement is strictly limited to contract review
Civil Litigation

- Between January 1, 2016 and December 31, 2018, a total of 642 cases were filed against the Agency
  - 294 were resolved in favor of the Agency (jury verdict, directed verdict, summary judgment, or dismissed for various reasons)
  - 70 were settled
  - 9 have been appealed
  - 269 are still pending litigation in the United States District Court of South Carolina and in the South Carolina Courts of Common Pleas
    - 160 in the South Carolina Courts of Common Pleas
    - 109 in the United States District Court of South Carolina

Number of Lawsuits Filed

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Deliverables

Create process which allows inmates to file lawsuits
Deliverable 91

Components include:

• Determine, at recommendation of the court in the original action filed by the inmate or a separate action brought by the Attorney General, the amount of earned work, education, or good conduct credits an inmate forfeits if the inmate does any of the actions in this statute.
Create process which allows inmates to file lawsuits

Greatest Potential Harm

- If SCDC fails to adequately provide inmates with these services, the Agency could possibly lose lawsuit(s) regarding the inmates’ right to access the courts, potentially paying damages to them with state funds.
- Additionally, if inmates are unable to access the courts in order to appeal and collaterally challenge their sentences, their sentences could be overturned somewhere down the line resulting in their release to the community which, in some cases, could put the community in danger.

Recommendations to General Assembly

- Some exceptions to court rules of procedure could reduce costs. For example, an appellant in the Court of Appeals must file 14 copies of the Record and 14 copies of his/her final brief with the Court. Since many inmates are indigent, SCDC often bears the cost of making these photocopies. If there was an exception that allowed incarcerated filers to only file fewer than 14 copies, SCDC’s costs would be reduced.
- Amend SC Code Ann. § 24-27-200, et seq.: This section may not de-incentivize this behavior for frequent filers. The possibility of an inmate losing the ability to file other lawsuits is a much stronger motivator.

<table>
<thead>
<tr>
<th>Customers</th>
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<tr>
<td>Does the agency evaluate the outcome obtained by customers / individuals who receive the service or product?</td>
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<tr>
<td>Does the agency know the annual # of potential customers?</td>
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<tr>
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<tr>
<td>Does the agency evaluate customer satisfaction?</td>
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<table>
<thead>
<tr>
<th>Costs</th>
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<tbody>
<tr>
<td>Does the agency know the cost it incurs, per unit, to provide the service or product?</td>
</tr>
<tr>
<td>Does the law allow the agency to charge for the service or product?</td>
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</table>
Determine, at recommendation of the court in the original action filed by the inmate or a separate action brought by the Attorney General, the amount of earned work, education, or good conduct credits a inmate forfeits if the inmate does any of the below actions in this statute:

<table>
<thead>
<tr>
<th>Inmate Actions Include:</th>
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<tbody>
<tr>
<td>(1) submitting a malicious or frivolous claim, or one that is intended solely to harass the party filed against;</td>
</tr>
<tr>
<td>(2) testifying falsely or otherwise presenting false evidence or information to the court;</td>
</tr>
<tr>
<td>(3) unreasonably expanding or delaying a proceeding; or</td>
</tr>
<tr>
<td>(4) abusing the discovery process.</td>
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</tbody>
</table>

### Customers

| Does the agency evaluate the outcome obtained by customers / individuals who receive the service or product? | X |
| Does the agency know the annual # of potential customers? | ✓ |
| Does the agency know the annual # of customers served? | ✓ |
| Does the agency evaluate customer satisfaction? | X |

### Costs

| Does the agency know the cost it incurs, per unit, to provide the service or product? | X |
| Does the law allow the agency to charge for the service or product? | X |

### Recommendations to General Assembly

- Amend the statute to allow for barring of future frivolous filings.

Greatest Potential Harm

- None
Deliverables

Authorize, with the Director, legal actions or lawsuits involving the Agency
Deliverable 92

Components include:
• Actions brought in name of the Director and if Director appears on behalf of the Agency
• Assert defense allowed in statute if allegations brought that prison regulations violate the S.C. Religious Freedom Act
Authorize with the Director legal actions or lawsuits involving the agency, including actions involving allegations of violation of religious freedoms

### Customers

<p>| | |</p>
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<tbody>
<tr>
<td>X</td>
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### Costs

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### Greatest Potential Harm

- Unable to appropriately defend the department and its employees

### Recommendations to General Assembly

- Statute is appropriate

### Additional Comments

- Between January 1, 2016 and December 31, 2018, 19 lawsuits were filed against the Agency regarding alleged violations of religious freedoms or religious discrimination
- As of September 26, 2019, 13 of those have been resolved in favor of the Agency
- The remaining 6 cases are still pending
Policy Development Organizational Chart

Sandra Bowie
Branch Chief

Tracy Webb
Program Coordinator
Overview of Policy Development

Policy Development manages all internal policies and forms to assist in uniform management and operation of SCDC

Policy Development Responsibilities:
• Maintains system whereby all policies governing the operation of SCDC are developed and offered for review annually; any policy can be updated at any time based on Agency need
• Notifies policy manual holders of any new policies or changes to policies so they can update their policy manuals
• Ensures all inmate institutional law libraries receive any updates and have access to current non-restricted policies
• Develops and processes the creation, revision, and deletion of forms, per SCDC Policy GA-01.01, “Policies, Publications, and Forms”
• Provides outside counsel, other state agencies, and the public policies requested through subpoena, FOIA, etc., in compliance with SCDC Policy GA-01.01, “Policies, Publications and Forms”
• Researches and responds to questions regarding policies from both the Agency and outside entities
Policy Development Responsibilities (continued)

- Establishes historical file of Agency policies previously governing the operations of SCDC
- Ensures that all policies, changes to those policies, table of contents, and an alphabetical index are maintained in a series of manuals referred to as Agency Manuals and on the SCDC policy intranet website
- Ensures that the draft policies and changes submitted by responsible authorities do not contradict existing policies and make revisions where necessary
- Cross references other Agency policies where necessary
- Coordinates with General Counsel on each policy to determine whether it should be restricted from access by inmates
- Maintains and updates non-restricted policies on the Agency’s public website
- Ensures employees have access to policies by sending out Agency statewide messages regarding any new or updated policies/change memorandums so that each institution can print out the policies/change memorandums and place them in their set of manuals
- Appears at depositions or in court regarding the Agency’s policies and procedures
Legislative Audit Council Report

Deficiencies:
• SCDC’s policy reviews are not in full compliance with most of National Institute Corrections’ (NIC) policy recommendations made in its review of the Agency in February 2009. There were further mentions of SCDC’s staff failure to follow policies.

Recommendations:
• SCDC should implement the remaining NIC recommendations from the its 2009 technical assistance report on the agency by revising agency policies, almost all of which are security-related.
• SCDC should amend the Agency’s policies concerning internal audits of the lock shop and the use of inmates in security system checks to align with the NIC recommendations.
• SCDC should continue addressing the implementation panel’s policy recommendations.
• SCDC should implement the three policy recommendations concerning emergency preparedness, first responder procedures, and on-the-job training practices made by the Association of State Correctional Administrators that have yet to be implemented.

Response:
• Each division within the Agency is responsible for the creation, monitoring, and updating of all policies that fall under it. To assist in that effort, Policy Development sends out a portion of policies for review on a monthly basis so that all policies have been reviewed annually; however, any policy can be updated at any time based on Agency need. The enforcement of policies is the responsibility of all employees and supervisors.
Legislative Audit Council Report

Deficiencies:
• SCDC’s process for reviewing policies does not ensure that the parties responsible for overseeing the policies participate in the annual review. There also was not a process requiring the responsible parties document that they had reviewed their policies.

Recommendations:
• SCDC should amend its policy review process to ensure responsible parties are annually reviewing their respective policies for accuracy.

Response:
• Policy Development took note of the LAC’s remarks and recommendation and have made the following changes:
  • SCDC Policy GA-01.01, “Policies, Publications, and Forms,” was revised to reflect the recommendation made and was signed off by Director Stirling on August 29, 2019.
  • While Agency policies will still be sent out for statewide review to ensure all SCDC staff are allowed to review and make policy recommendations, an additional process has been implemented to ensure that the responsible parties document their review of their respective policies. Policy Development also created three new forms (9-18, 9-18A, and 9-19), to establish a procedure to document the responsible party’s review of their respective policies. This new procedure went into effect on September 3, 2019.
Deliverables

Establish rules and regulations for the performance of the Agency’s functions
Deliverable 1.2
Establish rules and regulations for the performance of the Agency’s functions

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**Greatest Potential Harm**

- The agency would not function in a streamlined, cohesive manner

**Recommendations to General Assembly**

- Statute is appropriate

Deliverable 1.2
Deliverables of Inmate Mail Services

There are no deliverables or performance measures for Inmate Mail Services specified in law.
Mailroom Coordinator

- Oversees inmate mail services in the 21 institutions
- Monitors the operations of all SCDC mailrooms and ensures compliance with SCDC Policy PS 10.08, Inmate Correspondence Privileges, related to inmate correspondence and mailroom operations
- Researches and responds to members of the public, SCDC staff, and inmate inquiries regarding inmate mail
- Supervises 27 institutional mailroom staff members
- Provides training to all mailroom employees to ensure they are up to date on SCDC and United States Postal Services’ policies
- Monitors the annual review of the SCDC policies/forms related to inmate correspondence and mailroom procedures
Inmate correspondence falls into 3 categories: General, Legal, and Privileged Mail

- **Legal mail** refers to mail sent to, or received from, officials of federal, state, and local courts, attorneys, judges, attorney's authorized representatives, the S.C. Attorney General, the U.S. Attorney General, and SCDC Office of General Counsel
- **Privileged mail** refers to mail sent to, or received from, law enforcement officials, federal officials (President, Vice-President, members of Congress, etc.), state officials (Governor, Lieutenant Governor, members of the General Assembly, etc.), officials of SCDC at the level of Warden or higher (to include the Agency Director and Members of the Director's staff [e.g., Deputy Directors, General Counsel, and Inspector General]), the South Carolina Department of Probation, Parole and Pardon Services (SCDPPPS), and correspondence addressed to/from diplomatic representatives of an inmate's country if the inmate is a foreign national
- **General mail** refers to all mail other than that defined as "privileged" or "legal" mail, including publications
  - Publications refers to any printed communications such as newspapers, magazines, newsletters, books, paperbacks, brochures, periodicals, technical manuals, catalogs, and/or pamphlets which can be subscribed to, ordered, or otherwise received direct from an approved source (e.g., publisher, bookstore, etc.).
Institutional Mailroom Staff Responsibilities

• Receives and sorts incoming mail
• Opens all incoming general mail and inspects it for contraband and compliance with policy
• Distributes mail to inmates or to staff on the housing units for distribution to inmates
• If envelope or scanned content appears questionable, a form is completed and the item is forwarded to a committee for review
• Legal and privileged mail receives a date stamp, is entered into a log, and the inmate is notified to report the next working day to sign for mail. When the inmate arrives at the mailroom, staff opens legal and privileged mail in the inmate’s presence and inspects it for contraband and compliance with SCDC policy
• Packages are inspected using the general mail inspection process. If staff find no issues with a package, it is then sent to property control for further processing and distribution
• Standard Operating Procedures:
  • Picks up mail from mailbox and/or dorm/unit
  • Sorts mail and separates as indigent mail, legal mail, general mail, and packages
  • Uses postage meter as needed to log postage used for each type of mail
• Indigent inmates are provided postage for legal mail that is for ongoing or new litigation
The following was spent on postage for indigent inmate’s legal mail:

FY16, $79,896.06  
FY17, $78,462.37  
FY18, $89,774.10  
FY19, $56,304.46 (as of 9/18/19)
Estimation of Outgoing Inmate Mail*

August 1, 2016** – December 31, 2016

*It is an estimate because SCDC can only track mail through the postage meter; pre-stamped envelopes are not tracked

**No records of outgoing mail were kept prior to August 2016
Deliverables

Establish regulations for media presence at executions
Deliverable 93.5
Establish regulations for media presence at executions

Greatest Potential Harm

- None

Recommendations to General Assembly

- None

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Deliverables

Respond to Freedom of Information Act (FOIA) requests
Deliverable 95

Components include:

• Exempt information, which is outlined in statute, from Agency's response to a Freedom of Information Act (FOIA) request
Respond to Freedom of Information Act (FOIA) requests

Customers

- Does the agency evaluate the outcome obtained by customers/individuals who receive the service or product? [x]
- Does the agency know the annual # of potential customers? [x]
- Does the agency know the annual # of customers served? [✓]
- Does the agency evaluate customer satisfaction? [x]

Costs

- Does the agency know the cost it incurs, per unit, to provide the service or product? [✓]
- Does the law allow the agency to charge for the service or product? [✓]

Greatest Potential Harm

- Lack of transparency regarding SCDC records
- Loss and payment of damages pursuant to actions under S.C. Code 30-4-100

Recommendations to General Assembly

- Add language that explicitly prohibits attorneys from using FOIA to gather documentation as part of a lawsuit in lieu of the discovery process (criminal or civil)
- Additionally, add language that allows the Agency more time in responding to FOIA requests by attorneys in their professional capacity
- This would free up agency employees to spend more time responding to the FOIA requests for which the law was actually designed
Responding to FOIA Requests

- With the exception of requests pursuant to S.C. Code Ann. 30-4-30(d), SCDC requires individuals requesting information under the FOIA to submit their request in writing to SCDC's FOIA Coordinator. Written requests must include the following:
  - A simple description of the requested information
  - The name, address, and phone number of the person making the request
- SCDC may require a deposit and does charge a fee as permitted by 30-4-30(b)
  - $0.25 per page is charged for records that are produced in hardcopy. Additionally, $25.92 an hour is charged for the search, retrieval and redaction of records.
- The requested records are reviewed by the custodian of those records with assistance from the Office of General Counsel in order to determine their availability in light of the FOIA’s exclusions and exemptions
- In accordance with 30-4-30(c), redactions may be made pursuant to additional exemptions
- SCDC has created a new position for an Administrative Assistant, who will assist in processing FOIA requests; SCDC is also reevaluating some of the FOIA procedures including cost for requestors and internal tracking of requests
FOIA Request Data

Number of FOIA Requests Received from May 2017 – September 25, 2019

- **Deliverables 95, 95.1**
- **January February March April May June July August September October November December**
- **2017:**
  - January: 0
  - February: 0
  - March: 0
  - April: 0
  - May: 9
  - June: 44
  - July: 37
  - August: 35
  - September: 16
  - October: 50
  - November: 26
  - December: 25
- **2018:**
  - January: TBD
  - February: TBD
  - March: 34
  - April: 17
  - May: 30
  - June: 69
  - July: 36
  - August: 26
  - September: 22
  - October: 29
  - November: 30
  - December: 43
- **2019:**
  - January: 36
  - February: 34
  - March: 25
  - April: 25
  - May: 20
  - June: 38
  - July: 17
  - August: 37
  - September: 38
  - October: TBD
  - November: TBD
  - December: TBD

*There was no data collected prior to May 2017*

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<tr>
<th>Totals</th>
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<tbody>
<tr>
<td>2017: 242</td>
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<td>2018: 385</td>
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<td>2019: 270</td>
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ADA Program Description

• The primary purpose of the South Carolina Department of Correction’s Americans with Disabilities Act (ADA) program is to ensure that inmates with disabilities:
  • Have an equal opportunity to participate in programs, activities and services as inmates without disabilities
  • Have a right to receive reasonable accommodations to make programs, activities and services accessible
• SCDC’s regulatory responsibilities under Title II of the ADA (ADA, 1990, Public Law 101-336) and Section 504 of the Rehabilitation Act of 1973 (Section 504) include oversight of all correctional facilities to ensure that they do not discriminate on the basis of disability in any SCDC program, activity or service they provide to inmates
The United States DOJ has rulemaking authority and enforcement responsibility for Title II of the ADA, which extends the prohibition against discrimination promulgated by the ADA to State and local governments, regardless of their receipt or non-receipt of federal funding.

The two significant ADA complaints filed against SCDC are:

- On March 29, 2018, SCDC reached a settlement agreement (DJ# 204-67-174) with the DOJ to ensure that inmates with hearing disabilities are provided effective communication and the opportunity to participate equally in SCDC’s services, programs, and activities. One of the “remedial actions” stipulated in the agreement was for SCDC to provide a written status report to the DOJ every six months for a period of two years. The bi-annual report includes applicable supporting documents delineating all steps taken during the reporting period to comply with each substantive provision of the agreement. Two status reports have been submitted with two remaining to be sent on October 1, 2019 and April 1, 2020. Additional information can be found here.

- On September 28, 2018, the twelfth and final status report as required by the Consent Decree in USA v. SCDC, et al. C/A No. 3:13-CV-02664-CMC was submitted to the DOJ requiring that an inmate not be segregated from the general population based solely on his/her HIV status; rather an individualized assessment of the inmate’s circumstances must be made. This successfully satisfied all provisions of the Consent Decree which expired October 1, 2018 and, accordingly, the DOJ closed this matter. Additional information can be found here.
Protection and Advocacy for People with Disabilities, Inc. (P&A) is an independent, statewide, non-profit corporation that protects the rights of people with disabilities in South Carolina by enabling individuals to advocate for themselves, by speaking on their behalf when they have been discriminated against or denied a service to which they are entitled, and by promoting policies and services which respect their choices.

- 45 C.F.R. § 1326.21 includes the requirements and authority of the State P&A System
- S.C. Code Ann. § 43-33-310 et al., as required by Public Law 94-103 (HR 4005), established the P&A System for South Carolina

From January 1, 2016 to December 31, 2018, SCDC interacted with SC P&A to successfully investigate and mitigate solutions for over three hundred allegations expressed by SCDC Inmates with Disabilities.

Interactions to Resolve ADA Issues

Interactions with P&A
January 1, 2016 – December 31, 2018

Number of Formal Inmate Allegations

= 2016  ▲ 2017  ■ 2018

115 112 85
The South Carolina Department of Correction’s Records Retention Management Program is designed to ensure that official records will be preserved appropriately through their entire life cycle—from receipt or creation until their final disposition.


SCDC’s records retention schedules are determined by the record type and the legal and compliance requirements associated with the record.

- Retention schedules establish guidelines regarding how long important records must remain accessible for future use or reference.
- This concerns all records which are created, received, captured, used, stored and/or disposed of in the conduct of official agency regulations whatever their format and medium and applies to all institutions, divisions, and departments.
- SCDC has established mandatory minimum retention periods for records to provide storage and control for inactive records.
- Retention schedules describe the records, the length of time they should be retained, and indicate their final disposition.
- There are two types of retention schedules: general and specific.
- If a record does not have a retention schedule it must be kept indefinitely.
# Records Management Audits

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<tbody>
<tr>
<td>Records management audits, number conducted</td>
<td>Target:</td>
<td>DNE</td>
<td>DNE</td>
<td>48</td>
<td>22</td>
<td>22</td>
<td>21</td>
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<tr>
<td>(DNE: did not exist)</td>
<td>Actual:</td>
<td>DNE</td>
<td>DNE</td>
<td>23</td>
<td>12</td>
<td>6</td>
<td>22</td>
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## Trends in Audits

### Number of Audits vs Fiscal Year

- 2013-14: 0
- 2014-15: 0
- 2015-16: 6
- 2016-17: 12
- 2017-18: 22
- 2018-19: 23

General Counsel

Target: Meet Exactly
Compliance, Standards, and Inspections

Organizational Chart

Blake E. Taylor, Jr.
Division Director

Robert Ellison
Detention and Correctional Inspector

Scott Morehead
Detention and Correctional Inspector

Vacant
Detention and Correctional Inspector

68
Overview of Compliance, Standards, and Inspections

- Oversees the inspections at all state and local facilities
- Reviews all proposed renovation and construction projects for all state and local facilities
- Monitors and enforces compliance with the Designated Facilities Agreements (contracts) which enable local governments to house SCDC inmates and use them for public works assignments
- Reviews all SCDC policies to identify pertinent American Correctional Association (ACA) Standards to be referenced within those policies upon their publication/revision
  - While the Agency is not currently ACA-accredited, these standards are included as best practice
- Coordinates the Management Review Program, which is currently limited to conducting security audits and related matters
- Serves as advisor and gatekeeper regarding relevant codes and regulations that impact how institutions and buildings within SCDC may be used, renovated, and/or modified
Security Audits

The following SCDC institutions have undergone site visit security audits under the oversight of the Management Review Program since site visits resumed in October 2018:

• Kershaw Correctional Institution
• Lee Correctional Institution
• Palmer Pre-Release Center
• Broad River Correctional Institution
• Perry Correctional Institution
• Trenton Correctional Institution
• Turbeville Correctional Institution
• Tyger River Correctional Institution
**Deliverables**

**Deliverable 6**

Establish protocol for activities related to mandated inspections in the Jail and Prison Inspection Division

Components include:

- Select inspectors for the Jail and Prison Inspection Division
Establish protocol for inspections in Jail and Prison Inspection Division, including selection of inspectors

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### Greatest Potential Harm

- Dangerous environment for the institutional staff and the inmate population

### Recommendations to General Assembly

- Continued support for the law concerning incarcerated individuals
- Maintain the Agency mission which reflects said deliverables

Deliverables 6, 6.1
Inspections

- There are currently 63 fully operational local jail and prison facilities that require inspection once per year
  - These include: 44 county detention centers (jails), 6 county prison camps, 3 county juvenile detention centers, and 10 municipal jails
- Additionally, inspection is required at:
  - 21 SCDC prisons and 21 other SCDC work sites; 15 DJJ facilities and various other related sites at that Agency; and 1 private facility
- SCDC policy calls for inspection of these facilities twice per year
- In 2018, all but seven sites received at least one inspection
- In 2018, a second visit and inspection was conducted at more than 50% of the facilities
Deliverables

Obtain consent before confining inmates in local facilities and terminate assignments if facilities determined unsuitable

Deliverable 13.5 and 13.6

Required
SC Codes: 24-3-20(A)
24-3-30(A)
24-3-30(C)
Obtain consent before confining inmates in local facilities and terminate assignments if facilities unsuitable

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**Greatest Potential Harm**

- Inmates could be sent to locations where security and supervision are lacking (Deliverable 13.5)
- Inmates could remain at facilities where conditions and supervision are inadequate (Deliverable 13.6)

**Recommendations to General Assembly**

- Maintain statute requiring mutual approval for state inmates to be placed at local detention facilities (Deliverable 13.5)
- Maintain statute allowing SCDC to remove state inmates when circumstances warrant doing so (Deliverable 13.6)
**Designated Facilities Program**

- S.C. Code Ann. Sections 24-3-20 (A) and 24-3-30 (A) are the authority for having a Designated Facilities Program.
- These sections were passed into law at the same time the General Assembly established the criteria requiring all inmates with sentences greater than three months be housed at SCDC.
- Prior to this, the “chain gang” system prevailed throughout South Carolina and local governments retained inmates at will after sentencing regardless of the crime committed or the total service requirement; everyone who was not retained locally went directly to SCDC.
- The changes to both law and practice were intended to eliminate this so-called “dual prison system” in favor of a professionally organized approach, whereby SCDC would control the management and placement of virtually all inmates.
# FY 2018-2019 Designated Facilities Agreements

<table>
<thead>
<tr>
<th>Abbeville County Detention Center</th>
<th>Beaufort County Detention Center</th>
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<td>Dillon County Detention Center</td>
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<td>Allendale County Jail</td>
<td>Chesterfield County Detention Center</td>
<td>Easley City Jail</td>
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<td>Marlboro County Detention Center</td>
<td>Sumter-Lee Regional Detention Center</td>
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<td>Fairfield County Detention Center</td>
<td>Jasper County Detention Center</td>
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<tr>
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<td>Darlington County Detention Center</td>
<td>Fort Mill City Jail</td>
<td>Laurens County (R. Eugene Johnson) Detention Center</td>
<td>Pickens County Jail</td>
<td>York County Prison Camp</td>
</tr>
</tbody>
</table>

Required SC Codes: 24-3-20(A) 24-3-30(A) 24-3-30(C)
Designated Facilities Count

As of May 20, 2019, 306 SCDC inmates were housed at local Designated Facilities

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<tr>
<td>York County Prison Camp</td>
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</table>
Deliverables

Create reports on which a facility manager can report the death of an inmate and the surrounding circumstances

If a person dies while in jail or prison, SCDC Jail and Prison Inspection Division permanently retains the facility manager's report of the death and surrounding circumstances

Deliverable 16.3, 16.4
Create reports to be used responsive to the death of an inmate and retain such reports indefinitely

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**Greatest Potential Harm**

- Information regarding deaths in confinement may not all be available in one location

**Recommendations to General Assembly**

- Continued support of this statute
- Understand that the prison system and jails have offenders of all ages confined within their perimeters
- Understand that not all inmates die from injuries inflicted by other inmates or unnatural causes
Inmate Deaths in Local Institutions

January 1, 2016 - December 31, 2018

These numbers are strictly deaths of the local intuitions’ inmates. No SCDC inmates died while housed at a local institution during these years.
Deliverables

Receive construction plans for new facilities to certify compliance with minimum design standards (Jail and Prison Inspection Division)

Deliverable 20

Components include:

• Receive notification 15 days or more before jail facility opening from appropriate officials (Jail and Prison Inspection Division)

• Conduct inspections before jail facility opening (Jail and Prison Inspection Division)
Receive construction plans for new facilities to certify compliance with minimum design standards (Jail and Prison Inspection Division)

**Customers**

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**Greatest Potential Harm**

- Unsafe facilities could be built if architectural drawings are not reviewed prior to construction or renovation
- Change orders may be required and unnecessary expenses incurred if facilities are not built to code and minimum design standards

**Recommendations to General Assembly**

- Continued support for the law requiring plans review
Receive construction plans for new facilities to certify compliance with minimum design standards

**Construction/Renovation Plans Reviewed**

January 1, 2017 – December 31, 2018

- 2017: 56 plans reviewed
- 2018: 61 plans reviewed

Required
SC Codes: 24-9-40
**Greatest Potential Harm**

- Pre-opening inspections may be delayed due to scheduling difficulties, which could result in approval for occupancy not being received in a timely manner

**Recommendations to General Assembly**

- Continued support for the law requiring advance notice of project completion

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### Customers

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Conduct inspections before opening of jail facility
(Jail and Prison Inspection Division)

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Greatest Potential Harm

- Verification would be lacking that buildings have been constructed or renovated according to approved plans and unsafe or unsatisfactory buildings could be in use before problems are discovered

Recommendations to General Assembly

- Continued support for the law requiring pre-opening inspections
Deliverables

Work with local detention facilities that offer voluntary programs for inmates, such as labor on public works and ways, to determine when SCDC inmates housed at the local detention facility may participate

Deliverable 37

Components include:

• Provide local governing bodies access to SCDC regulations regarding inmate work in the community as a guide for creating their own regulations for a work/punishment program

• Develop standards for SCDC inmates housed at local detention facilities for voluntary work programs established pursuant to Section 24-13-235 (labor on public works or ways)

• Monitor and enforce standards for SCDC inmates housed at local detention facilities for voluntary work programs established pursuant to Section 24-13-235 (labor on public works or ways)

• Develop standards for SCDC inmates housed at local detention facilities for local public work programs pursuant to Section 17-25-70 (authority of local officials to require able-bodied convicted persons to perform labor in public interest)

• Monitor and enforce standards for SCDC inmates housed at local detention facilities for local public work programs pursuant to Section 17-25-70 (authority of local officials to require able-bodied convicted persons to perform labor in public interest)
Work with local detention facilities that offer voluntary programs for inmates to determine when inmates may participate (including relevant components)

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Greatest Potential Harm

- Inmates in community settings may not be properly accounted for

Recommendations to General Assembly

- Continue to support legislation on this matter (Deliverable 37.3)
Deliverables

• Contract with the local detention facilities to allow SCDC inmates confined to those facilities to participate in the programs
• Develop standards for SCDC inmates housed at local detention facilities for work/punishment programs established pursuant to Section 24-13-910 through 24-13-940
• Monitor and enforce standards for SCDC inmates housed at local detention facilities for work/punishment programs established pursuant to Section 24-13-910 through 24-13-940

Deliverable 38, 38.1, 38.2
Contract with the local detention facilities to allow SCDC inmates confined to those facilities to participate in work/punishment programs (including relevant components)

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**Greatest Potential Harm**

- Inmates in community settings may not be properly accounted for

**Recommendations to General Assembly**

- Maintain arrangement as it currently exists

Deliverables 38, 38.1, 38.2
Deliverables

Feed inmates and conduct appropriate inspections of food service operations
Deliverable 80

Components include:

- Enable Department of Health and Environmental Control (DHEC) annually to conduct an inspection of food service operations at all prison system facilities
- Receive written report on conditions of food service operations at each jail facility inspected by DHEC
- Facilitate the filing of each jail facility inspection report from DHEC's food service inspector with responsible local governing body, sheriff/police chief, and director of the facility
Feed inmates and conduct appropriate inspections of food service operations

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**Greatest Potential Harm**

- Dangerous environment for the institutional staff and the inmate population

**Recommendations to General Assembly**

- Continued support for the law concerning incarcerated individuals
- Maintain the Agency mission that reflects said deliverables
- Be aware of nation-wide changes that occur in the management and operations of a properly run prison system
Deliverables

Collaborate annually with State Fire Marshal to ensure inspection of all prison system and jail facilities, including all phases of operation, fire safety, and health and sanitation conditions

Deliverable 82

Components include:

• Receive written report on conditions of each jail facility inspected from fire marshal (Jail and Prison Inspection Division)

• Facilitate the filing of each facility inspection report from the fire marshal with the responsible local governing body, sheriff/police chief, and director of the facility
Collaborate annually with State Fire Marshal to ensure inspection of all prison system and jail facilities

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### Greatest Potential Harm

- Dangerous environment for the institutional staff and the inmate population

### Recommendations to General Assembly

- Continued support for the law concerning incarcerated individuals
- Maintain the Agency mission that reflects said deliverables

Deliverables 82, 82.1, 82.2
Deliverables

Establish SCDC standards with Association of Counties for inspections of local confinement facilities
Deliverable 83

Components include:

• Prepare written report on conditions of each jail facility inspected by SCDC Jail and Prison Inspection Division pursuant to standards for inspections of local confinement facilities established with Association of Counties

• Facilitate the filing of each facility inspection report from SCDC's Jail and Prison Inspection Division with responsible local governing body, sheriff/police chief, and director of the facility

These standards are actually the statutorily mandated minimum standards, not SCDC’s standards
Establish with Association of Counties SCDC standards for inspections of local confinement facilities

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**Greatest Potential Harm**

- Dangerous environment for the institutional staff and the inmate population

**Recommendations to General Assembly**

- Continued support for the law concerning incarcerated individuals
- Maintain the Agency mission that reflects said deliverables

**Additional Comments**

- These standards are actually the statutorily mandated minimum standards, not SCDC’s standards

Deliverables 83, 83.1, 83.2

**Required**

SC Codes: 24-9-20

96
Inspections of Local Facilities

- Jails and Prison Camps are evaluated based on the Minimum Standards for Local Detention Facilities in South Carolina, along with applicable fire and building codes.
Deliverables

Notify local governing body if inspection discloses a facility that does not meet minimum standards and fire and health codes

Deliverable 84

Components include:

- Monitor whether local governing body initiates corrective action or corrects conditions stated in an inspection report as necessary for the inspected facility to meet minimum standards and fire and health codes
- Determine if a facility needs to be closed for failure to meet minimum standards and fire and health codes
- If SCDC orders closure of a facility because conditions, which served as a basis for an inspection report stating that the facility did not meet minimum standards and fire and health codes, were not corrected, then send notice to the presiding judge of the judicial circuit via certified mail
- If SCDC orders closure of a facility because conditions, which served as a basis for an inspection report to state the facility did not meet minimum standards and fire and health codes violations, were not corrected, then accept local governing body's notice of appeal of the directive to close the facility, if local governing body appeals
- If SCDC orders closure of a facility because conditions, which served as a basis for an inspection report to state the facility did not meet minimum standards and fire and health codes, were not corrected, AND a local governing body appeals the directive to close the facility, then appear at the hearing and present evidence
- Receive notification of jail facility closing from appropriate officials, 90 days prior to closing
Monitor whether local governing body initiates corrective action or corrects conditions stated in an inspection report as necessary for the inspected facility to meet minimum standards and fire and health codes.

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<tr>
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<td>X</td>
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<tr>
<td>Does the law allow the agency to charge for the service or product?</td>
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</table>

**Greatest Potential Harm**
- Dangerous environment for the institutional staff and the inmate population

**Recommendations to General Assembly**
- Continued support for the law concerning incarcerated individuals
- Maintain the Agency mission that reflects said deliverables
Determine if a facility needs to be closed for failure to meet minimum standards; If SCDC orders closure of a facility, the Agency must send notice to the presiding judge via certified mail, accept local governing body's notice of appeal of the directive to close the facility, and appear at the hearing and present evidence

<table>
<thead>
<tr>
<th>Customers</th>
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<tbody>
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**Greatest Potential Harm**

- Dangerous environment for the institutional staff and the inmate population

**Recommendations to General Assembly**

- Continued support for the law concerning incarcerated individuals
- Maintain the Agency mission that reflects said deliverables

Deliverables 84.2, 84.3, 84.4, 84.5

Required
SC Codes: 24-9-30(B) 24-9-30(C) 24-9-30(D)
## Greatest Potential Harm

- There would be a lack of awareness that a facility is to be taken out of service, and there would be no prior notice given of policies and procedures regarding the proper handling of affected detainees.

## Recommendations to General Assembly

- Continued support for the law requiring advance notice before the voluntary closing of facilities.

### Customers

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### Costs

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</table>
Deliverables

**Deliverables 86**

**Receive, electronically, from the responsible local government entity, data about inmates and operations at local detention facilities**

**Components include:**

- Accept monthly reports on inmate demographics and data from local facilities
  
  - Data that is accepted by Compliance, Standards, and Inspections includes average daily inmate population and inmate high count figures prior to the inspection; current number of security employees broken down by shift; current number of non-security staff broken down by general function (e.g., administration, support, treatment, and program); and current number of vacant positions in all categories
  
  - This data is requested either just prior to or at the time of a site visit
  
  - During the actual inspection itself, statistical information is also obtained regarding the breakdown on numbers of inmates who are being housed in each living unit at the facility at that time
Receive data about inmates and operations at local detention facilities

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**Greatest Potential Harm**

- Safety and security of the inmate population is compromised
- Jail and Prison Inspection Division would be lacking some of the information needed to prepare inspection reports

**Recommendations to General Assembly**

- Continued support for this statute
- Understand that inmate classification changes as society and the outside criminal element change
- Understand that studies are done nationally to maintain current classification standards
- Leave flexibility in statute about how information is reported

Deliverables 86, 86.1

SC Codes: 24-9-50
24-13-50
Deliverables

Maintain records of industry, habits, deportment, and any other information about inmates requested by the board or director of PPP

Deliverable 87

Components include:

• Assist the Director of the Department of Probation, Parole, and Pardon Services (PPP) with surveys of detention facilities to aid in reviewing parole applications, if the Director of PPP conducts such surveys.
Assist the Director of PPP with surveys of detention facilities to aid in reviewing parole applications

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**Greatest Potential Harm**

- Information needed by Parole Board and Probation Officers may be lacking

**Recommendations to General Assembly**

- Leave responsibility for initiation with PPP
Legislative Audit Council Report

Deficiency:
• SCDC has been unable to complete all of the required inspections of detention facilities and holding cells across the state.

Recommendation:
• The SCDC should identify the location of all holding cells in the state and inspect them annually as required by S.C. Code § 24-9-20.

Response:
• SCDC agrees that all holding cells should be identified and inspected along with the various other categories of local and state facilities. It is also agreed that it would be sufficient to inspect most holding cells only once a year.
• In order to make that distinction, the Minimum Standards for Local Detention Facilities in South Carolina and Agency policy must be amended. SCDC will contact the South Carolina Association of Counties and propose that the Minimum Standards be changed as recommended. Assuming that this effort is successful, the Agency will then automatically revise its own policy accordingly.
• The process of identifying all the holding cells statewide and inspecting them, as well as ensuring that all other local and state facilities receive the required inspections, will be implemented promptly after enough additional personnel are approved and funded.
Legislative Audit Council Report

Deficiency:

- In the last decade, SCDC has not had adequate internal controls to ensure that correctional officers are properly using technology and search methods to detect contraband before it enters its institutions and locate contraband that exists inside its institutions. While previously used, robust reviews resumed in October 2018 to assess institutional compliance with security requirements. Prior to then, SCDC assessed institutional security posture through various, less robust types of reviews.

Recommendation:

- SCDC should resume the Management Review Program and complete these reviews according to the schedule outlined in Agency policy.

Response:

- SCDC agrees that the entire Management Review Program should be resumed. A plan is being developed that is less staff intensive, but will nevertheless require the authorization of at least two additional positions to implement. The Agency intends to continue conducting the very important security audits in the meantime.
- It is anticipated that the full Management Review Program can be underway again by this time next year if funding for the necessary employees is forthcoming.
Prison Rape Elimination Act (PREA)
Please note all PREA Compliance Managers (PCMs) are Associate Wardens (A/Ws), with the exception of Palmer Pre-Release (Captain serves as PCM as there is no A/W)
Overview of the PREA Coordinator Position

• Pursuant to the Prison Rape Elimination Act, SCDC has a zero-tolerance policy regarding sexual abuse and sexual harassment against inmates in correctional facilities or patients confined in prisons or jails
• The PREA Coordinator:
  • Ensures that SCDC complies with the National Prison Rape Elimination Act of 2003
  • Serves as the liaison for SCDC to federal, state, and local agencies in regards to reporting and responding to acts of sexual abuse and sexual harassment
  • Ensures that SCDC’s policies, procedures, and practices are aligned with the National PREA Standards and coordinates the Agency’s prevention, detection, and response to reports of sexual abuse and sexual harassment of inmates by staff, volunteers, visitors, interns, contractors, and other inmates
Tools for Meeting PREA Standards

• PREA risk assessment screening and reassessments
• Inmate Peer Education—Use of “PREA-What You need to know” video, training of Inmate Peer Educators, “Let’s Talk About Safety” PREA brochures, PREA playing cards, PREA posters, and signage for *22 (direct line to Police Services for reporting purposes) and *63 (direct line to a local sexual assault center for confidential emotional support)
• Staff, volunteer, and contractor training
• PREA Compliance Manager facility tours to make decisions about facility needs for cameras, mirrors, restroom partitions, shower curtains, fencing, signage, etc.
• Outside Entity Reporting and Information – Available on the Agency’s public website:
  • Information on PREA and SCDC policy, SCDC’s PREA Annual Report, the Final Audit Reports completed for each institution as they are audited, as well as all Surveys of Sexual Violence (SSV) Reports sent to the Department of Justice since 2006
  • The “PREA Tips” fillable form through which the public can report sexual abuse or sexual harassment on behalf of an inmate
Legislative Audit Council Report

Deficiencies:

• A review of the nine (9) Interim Reports received from the PREA Auditor indicates that SCDC has averaged a compliance with nine (9) of the forty-five (45) Federal PREA Standards. Issues requiring correction included:
  • Physical plant issues – lack of privacy for showering, etc.;
  • Blind spots in various areas of institutions;
  • Inadequate documentation and policy information;
  • Staff training; and
  • Data collection and reports.

Recommendations:

• SCDC should prepare annual reports detailing corrective actions it has taken to prevent sexual abuse, the number of allegations and substantiated incidents of sexual abuse by facility, and comparisons with data from prior years. These reports should further be publicly released on the agency’s website.

• SCDC should revise its policy to more accurately reflect federal regulations promulgated under the PREA.

• SCDC Police Services should proactively collaborate with agency’s PREA staff in order to ensure that cases are properly classified as PREA cases.

• SCDC should revise its policy to include procedures to ensure that resignations from employees under investigation or terminated for sexual misconduct are not accepted.
Response:

- To address these issues, SCDC has taken the following corrective measures:
  - Physical plant – Installing PREA-approved shower curtains that maintain an inmate’s privacy yet allow security to ensure safety of inmate; some adjustments have been made to shower stalls.
  - Blind spots – Mirrors have been put in place in some areas and cameras have been requested.
  - Documentation and policies –
    - Institutional staffing plans are being developed, a PREA Annual Report has been created, signed by the Director, and has been placed on the Agency’s public website.
    - Reporting processes have been adjusted to ensure accuracy of data collection.
    - The PREA Coordinator has met with Resource Information Management (RIM) and Police Services to ensure cases are properly classified as PREA cases. Policies are being reviewed by the PREA Resource Center with assistance from Just Detention International to ensure these polices properly reflect the mandates of the Federal PREA Standards. Should an employee resign, his/her name is sent to Police Services to check its database to inquire whether the employee is under investigation regarding sexual abuse or sexual harassment. If this is affirmed, the employee’s resignation is not accepted.
    - As Final Audit Reports are completed by the PREA Auditor, these reports are made available to the public by clicking on the PREA link on the Agency’s public website and navigating to “Audit Reports.” For the two Final Audits completed to date, SCDC has met 44 of the 45 standards for Turbeville Correctional Institution and 41 of 45 for Ridgeland Correctional Institution.
Legislative Audit Council Report

Short-Term Goals:
• Identify policy issues from the Final Audit Reports and make necessary changes;
• Continue to address data collection issues with institutions; and
• Ensure better documentation measures are put in place for monitoring retaliation.

Long-Term Goals:
• Continue to make necessary physical plant adjustments to meet compliance with the Federal Prison Standards, such as changing shower stalls to ensure privacy and placement of mirrors and cameras in areas where there are blind spots.
Comply with Federal Prison Rape Elimination Act

- Evaluate, revise, and develop policies, procedures, and practices compliant with the PREA Standards
- Obtain consent before confining inmate to local facilities

Deliverable 13.91
Comply with the Federal Prison Rape Elimination Act

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Greatest Potential Harm

- Inmate safety

Recommendations to General Assembly

- Provisions to state law defining and prohibiting verbal, visual, and other observable sexual harassment of inmates will further assist with reduction of sexual abuse incidents and safety of both employees and inmates

Deliverable 13.91
PREA Claims Data – Inmate on Inmate

INMATE ON INMATE SEXUAL ABUSE
JANUARY 1, 2016 – DECEMBER 31, 2018

SUBSTANTIATED | UNSUBSTANTIATED | UNFOUNDED | INVESTIGATION ONGOING | TOTALS
---|---|---|---|---
6 | 54 | 53 | 161 | 229
3 | 54 | 11 | 36 | 78
7 | 53 | 13 | 9 | 69
16 | 161 | 36 | 16 | 229

Total: 229
PREA Claims Data – Inmate on Inmate

INMATE ON INMATE SEXUAL HARASSMENT
JANUARY 1, 2016 – DECEMBER 31, 2018

SUBSTANTIATED

UNSUBSTANTIATED

UNFOUNDED

INVESTIGATION ONGOING

TOTALS

2016  2017  2018  Total

5   0   6   11
9   16  39  86
19  35  86  140
60  71  140

PREA
PREA Claims Data - Staff

STAFF SEXUAL MISCONDUCT
JANUARY 1, 2016 – DECEMBER 31, 2018

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<th>2017</th>
<th>2018</th>
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<td>2</td>
<td>7</td>
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<tr>
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<td>Totals</td>
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<td>32</td>
<td>50</td>
<td>112</td>
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</tbody>
</table>
PREA Claims Data - Staff

STAFF SEXUAL HARASSMENT
JANUARY 1, 2016 – DECEMBER 31, 2018

- 2016
- 2017
- 2018
- Total

SUBSTANTIATED
UNSUBSTANTIATED
UNFOUNDED
INVESTIGATION ONGOING
TOTALS

22
10
9
11
31
0
1
1
12
12
32
11
12
12
55
PREA Claims Data – Substantiated

Total Substantiated Incidents of Sexual Violence
January 1, 2016 – December 31, 2018
Sexual abuse and sexual harassment are defined in 28 C.F.R. § 115.6. Generally, those definitions are:

- **Sexual Abuse** – Sexual contact of any person without his or her consent, or of a person who is unable to consent or refuse; and
  - Intentional touching, either directly or through the clothing, of the genitalia
  - Exclude incidents in which the contact was incidental to a physical altercation or a staff member’s job (e.g. medical evaluation and pat-down searches)

- **Sexual Harassment** – Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate directed toward another
PREA Audits

• Per the Prison Rape Elimination Act passed by Congress and signed into law in September 2003 by President George W. Bush, every agency shall ensure that each facility operated by an agency or private organization should be audited once every three years by a Department of Justice (DOJ) certified auditor.

• The Auditor reviews relevant agency-wide policies, practices, and procedures, external audits and accreditation, and a sample of relevant documents and records for a one-year period for each institution; the audit includes interviews with the Director, Warden, PREA Coordinator, PREA Compliance Managers, and a random sampling of interviews with specialized staff.

• The Auditor will use a DOJ developed and issued Audit Instrument and provide an Interim Report to the Agency and a Final Report to the DOJ, which must be displayed on the Agency's website.

• SCDC has had ten facilities audited since June 2018, and is currently in the corrective action phase for eight facilities to address standards that were found to be non-compliant; the agency has received two Final Audit Reports.

• Every audit is reviewed for compliance with 45 Federal PREA standards currently listed in the PREA Prison and Jail Standards Manual.
Timeline of PREA Audits

2018*

Turberville C.I.
June 12-14, 2018

Leath C.I.
July 18-20, 2018

Livesay C.I.
October 8-10, 2018

Wateree River C.I.
January 22-24, 2019

Ridgeland C.I.
July 9-11, 2018

Kershaw C.I.
August 13-15, 2018

Camille-Graham C.I.
November 13-15, 2018

*PREA audit cycles start on August 20 and end on August 19.
Timeline of PREA Audits 2019*

**Perry C.I.**
March 19-21, 2019

**Kirkland R&E**
September 23-25, 2019

**Tyger River C.I.**
October TBD, 2019

**MacDougall C.I.**
January 21-23, 2019

**Trenton C.I.**
May 14-16, 2019

**Manning Reentry / Work Release**
October TBD, 2019

**McCormick C.I.**
November 12-14, 2019

*PREA audit cycles start on August 20 and end on August 19.
Timeline of PREA Audits

2020*

Allendale C.I.
March 24-26, 2020

Broad River C.I.
August 18-20, 2020

Lieber C.I.
October 20-22, 2020

Lee C.I.
December 8-10, 2020

Palmer Pre-Release
May 5-7, 2020

Evans C.I.
September 15-17, 2020

Goodman C.I.
November 10-12, 2020

*PREA audit cycles start on August 20 and end on August 19.
Internal Audits
Internal Audits Organizational Chart

Iris Y. McNeil
Audit Manager

Naemon Youmans
Auditor III
Deliverables of Internal Audits

There are no deliverables or performance measures from the Internal Audit office specified in law.
Overview of Internal Audits

• It is the policy of the Department of Corrections to maintain an Internal Audit Section as an independent appraisal function to perform unbiased and objective reviews of agency activities.

• In keeping with the vision and goals of the South Carolina Department of Corrections, the primary mission of the Internal Audit Section is to assist all levels of management in achieving the most effective, efficient and economical administration of the Department.

• Audits follow a three year cycle, which also includes eighteen month follow-up reviews and are generally institutional reviews of trust accounts, procurement, purchasing cards, petty cash, meal tickets, postage, safes, work center accounting, and inmate pay.

• Agency-wide purchasing card reviews also follow a three year cycle.

• In the last six fiscal years, auditors have performed 214 internal audits:
  • The shortest lasted three days and the longest was completed in four months.
  • The average number of months needed to conduct an audit is around one and a half.

• The Agency notes those 214 internal audits were of agency-wide purchasing card reviews and institutional audits to include trust accounts, procurement, purchasing cards, petty cash, meal tickets, postage, safes, work center accounting, and inmate pay.
<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Institutional Audits</th>
<th>Follow-up Reviews</th>
<th>Agency-Wide Purchasing Card Reviews</th>
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<tbody>
<tr>
<td></td>
<td>Petty Cash, Meal Tickets, Postage, Procurement, P-Cards, Fixed Assets, Trust Accounts, Inmate Pay, Work-Center Accounting and Safe reviews</td>
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<td>10</td>
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<td>2018</td>
<td>12</td>
<td>4</td>
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Timeline of FY2020 Institutional Audits

- Broad River CI: July 2019
- Wateree River CI: September 2019
- Evans CI: March 2020
- Lee CI: June 2020
- Livesay CI: August 2019
- Graham (CG) CI: December 2019
- MacDougall CI: May 2020
Information Security and Privacy
Information Security and Privacy Organizational Chart

Joe Merrifield
Division Director

Tina Bridgewater
Information Security and Privacy Auditor

Valeria McDonald
Privacy Analyst
Deliverables of Information Security and Privacy

There are no deliverables or performance measures from Information Security and Privacy specified in law.
Overview of Information Security and Privacy

• Ensures the security of SCDC’s information in all formats and for managing the risk to our information assets

• Oversees SCDC’s compliance with applicable federal, state, and industry laws, regulations, as well as other requirements for information security and privacy
Common Misperceptions

• Information Security and Privacy:
  • Does not deal with contraband electronic devices – but works with Police Services as needed
  • Is separate from the IT division (RIM) - but works closely with them
  • Deals with more than IT controls
  • Is not the Internet police
Goals and Duties

Information Security and Privacy regulates how SCDC shall provide an appropriate level of governance controls over information security and privacy related activities

• Assists all SCDC Divisions with security and privacy concerns encountered in the normal course of business

• Facilitates general staff training, as well as specific training for technology employees, in InfoSec and Privacy related activities

• Establishes policies and standards with regard to Information Security Plan, Information Security and Privacy, and incorporates these policies and standards into SCDC operations

• Assists the management of all divisions in their role as data owners
Program Accomplishments

• Implementation of Security and Privacy Policies prior to the South Carolina Division of Information Security generated deadline
• Implementation of Network Access Control and new security software
• Number of security alerts reduced each year since 2015 (from 133 to 29 annually)
• Increased Awareness and Training:
  • Annual employee awareness training
  • Over fifty (50) advanced industry level certification classes taken by IT and InfoSec staff from top security organizations
  • Privacy training and certifications provided to staff in InfoSec, QIRM, and Legal
• Addition of Auditor and Privacy positions
• Increased threat intelligence feeds to provide better awareness of potential threats and events
Program Accomplishments (continued)

- Severity of received alerts reduced (74 Tier 3 alerts in 2015 to 0 Tier 3 alerts in 2018)
  - A Tier-5 response recommendation indicates that malicious code or software has been detected on an agency machine, but it is not fully compromised and there is no risk of sensitive information loss
  - A Tier-4 response recommendation indicates that the affected machine is fully compromised (meaning that a malicious user has obtained unauthorized administrative control over the machine, but there is no immediate risk of sensitive information loss)
  - A Tier-3 response recommendation is both an incident notification and a request for agency assistance
    - The Tier-3 designation indicates that a machine is fully compromised and there is a possibility that sensitive information could have been accessed or lost
    - Further investigation by the agency is required to determine if the affected user had access to sensitive information.
    - An incident will never stay classified as a Tier 3; it will either be escalated to a Tier-2 if the agency reports sensitive information was definitely or potentially involved, or downgraded to a Tier-4 if the agency reports no sensitive information was involved
  - A Tier-2 response recommendation indicates that the affected machine is fully compromised and network traffic suggests that information has been lost; a Tier-2 designation is made when the information lost is potentially or definitively sensitive in nature
  - A Tier-1 response recommendation indicates a very serious incident of a criminal nature, usually brought to the attention of Security Operations Center (SOC) through law enforcement agencies (SLED, FBI, Secret Service, etc.)
    - Due to the extremely sensitive and often confidential nature of Tier 1 incidents, agencies will never receive a Tier 1 incident notification from the SOC through e-mail; an incident of this magnitude is out of the purview of the SOC and agency IT and will be handled by the appropriate authorities, which may include federal, state, or local law enforcement.
Incident Trends
January 1, 2015 – December 31, 2018

Tier 3
Tier 5
Total
Moving Forward

Goals:
• Refine and mature auditing and monitoring program
  • Refine asset management procedures to include compliance validation, tracking, and remote wipe capabilities for our laptops and tablets
  • Increase Security Operations Center (SOC) monitoring level
  • Improve Incident Response capabilities, including hiring an external Incident Response team to assist with capabilities
• Improve training opportunities for staff

Challenges:
• Obtaining funding for third-party services
• Obtaining funding and approval for asset management software (inter-agency and state level approval)
• Convincing other state and federal agencies of the need to only collect the minimal personal information on inmates and to dispose of it as soon as not needed
Quality Improvement and Risk Management (QIRM)
Disclaimer

- SCDC is currently in on-going mediation arising from the settlement agreement in T. R., P.R, K.W., and A.M v SCDC
- The settlement agreement makes any compliance evaluation reports provided to the Implementation Panel (IP) in advance of facility inspections confidential.
- The functions of this office relate to compliance evaluation reports provided to the Implementation Panel.
- There are no deliverables or performance measures for Quality Improvement and Risk Management specified in law.

*The IP Reports issued by the IP that were provided to this Committee are not confidential.*
Occupational Safety and Workers' Compensation
Occupational Safety and Workers’ Compensation Organizational Chart

Russell Rush
Division Director

Tracie Baxley
Program Coordinator

Pamela Craig
Program Manager

Rebekah Crider
Administrative Coordinator
Overview of Occupational Safety and Workers' Compensation

- Oversees the Safety and Workers' Compensation Programs for the Agency
- Assures compliance with all regulatory standards to include Occupational Safety and Health Administration (OSHA), Department of Health and Environmental Control (DHEC), and Fire Marshal
- Dually supervises the Environmental Health and Safety Officers (EHSO) in each institution and division within SCDC
  - The EHSO is responsible for implementing and monitoring all aspects of the Safety Program and Workers' Compensation Policy at the local level
- Develops, maintains, and updates policies and procedures related to Agency Safety and Workers' Compensation
- Performs monthly inspections of SCDC facilities to assure policy and regulatory compliance is achieved at each location
- Processes and manages all workers’ compensation claims filed by Agency employees
- Works with employees, insurance carrier, and contractors to assure employees are cared for effectively and efficiently
- Oversees Emergency Management efforts and coordinates with state and federal agencies in cases of emergency
Workers' Compensation Claims Filed by FY

July 1, 2007 – June 30, 2019

Performance Measure 37
SCDC Workers' Compensation Premium History by Fiscal Year

July 1, 2007 – June 30, 2019

Amount in Millions

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Performance Measure 37