

# BERNALILLO COUNTY

Metropolitan Detention Center



# PREA ANNUAL REPORT 2019



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## Prison Rape Elimination Act (PREA)

The Prison Rape Elimination Act (PREA) was signed into law by President George W. Bush in 2003 to address the problem of sexual abuse and sexual harassment of persons in the custody of U.S. correctional agencies. The subsequent development of the PREA Standards by the Department of Justice emphasizes the prevention, detection, and response to allegations of sexual abuse and harassment. PREA applies to all public and private confinement institutions that house adult or juvenile offenders and is also relevant to community-based agencies.

PREA requires that each facility collect and review data “...in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies and training” [Standard §115.88(a)]. In addition, PREA requires all correctional facilities to conduct sexual abuse incident reviews and collect “accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.” [Standard §115.87(a)].

- This annual report shall be made available on the MDC PREA Webpage: <http://www.bernco.gov/metropolitan-detention-center/resources-reports-and-publications-.aspx>

## PREA at MDC

MDC has adopted and enforces a zero-tolerance policy on all forms of sexual abuse and sexual harassment involving any person who works for, contracts with, visits or is confined within the facility, in accordance with PREA. Additionally, per New Mexico State Statute §30-9-11, staff are strictly prohibited from any type of sexual activity with an inmate, as the inmate is legally unable to consent due to the imbalance of power over the inmate.

Inmates who are sexually abused or sexually harassed by anyone are encouraged to report the incident immediately using any one of the multiple reporting avenues available to them. All allegations of sexual abuse or sexual harassment received are officially reported, investigated thoroughly, and staff and inmates are held accountable for substantiated findings. Any substantiated violation of policy and law is punishable and includes disciplinary sanctions up to and including loss of employment, civil penalties, and/or criminal proceedings.

MDC's continuous efforts to implement PREA has resulted in MDC being found in full compliance of the PREA standards on the audit final report received in October of 2019.

MDC's commitment to improve sexual safety includes building and sustaining partnerships with community stakeholders to ensure that victims of sexual abuse receive services and support comparable to services available in the community. MDC continues to strengthen their relationships with community partners, which include the Rape Crisis Center of Central New Mexico, Albuquerque SANE, the Transgender Resource Center of New Mexico, and the New Mexico Coalition of Sexual Assault Programs.

# Definitions

## Definitions

**Sexual Abuse:** Sexual abuse includes the sexual abuse of an inmate by another inmate, and sexual abuse of an inmate by an employee, contractor, or volunteer.

- a. Sexual abuse of an inmate by another inmate includes any of the following acts, if the victim does not consent, is coerced into such an act by overt or implied threats of violence, or is unable to consent or refuse:
  1. Contact between the penis and the vulva, or the penis and the anus, including penetration, however slight;
  2. Contact between the mouth and the penis, vulva, or anus;
  3. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
  4. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.
- b. Sexual abuse of an inmate by staff, contractor, or volunteer includes any of the following acts, with or without consent of the inmate:
  1. Contact between the penis and the vulva, or the penis and the anus, including penetration, however, slight;
  2. Contact between the mouth and the penis, vulva, or anus;
  3. Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
  4. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
  5. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member,

## Definitions (Cont.)

- contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
6. Any attempt, threat, or request by an employee, contractor, or volunteer to engage in the activities described in paragraphs 1-5 above;
  7. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate; and
  8. Voyeurism by a staff member, contractor or volunteer.

### **Sexual Harassment:**

- a. 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; and
- b. Repeated verbal comments or gestures of a sexual nature to an inmate by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

**Voyeurism:** (by a staff employee, contractor, or volunteer) - An invasion of privacy of an inmate by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

## Definitions (Cont.)

**Substantiated:** The allegation that was investigated and determined to have occurred.

**Unfounded:** The allegation that was investigated and determined not to have occurred.

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

# PREA Allegation Data

## PREA Allegation Data

MDC's PREA Office tracks all allegations to include attempted sexual abuse and sexual harassment. This section presents data on all allegations for the year, and the findings of a thorough investigation into each allegation.

MDC's PREA Office also tracks allegations of sexual abuse that occurred outside of MDC that are reported to the facility, which shall not be in this report because it is not a requirement of the PREA standards.



## 2017-2019 Comparisons of Reported Incident Data

Table 1: 2017-2019 Total PREA Allegations

	2017	2018	2019
<b>Substantiated:</b>	6	6	9
<b>Unsubstantiated:</b>	32	59	40
<b>Unfounded:</b>	11	47	62
<b>Total Number of Allegations:</b>	49	112	111

Starting in late 2017, MDC implemented additional PREA training for inmates and added various media throughout the pods on how to report an allegation of sexual abuse and sexual harassment. Due to these implementations, inmates are more aware about PREA and how to report allegations, which can account for the higher number of reports this year compared to previous years.

# PREA Allegation Data

## Breakdown of 2019 Data

**Table 2: 2019 Data by Type of Incident, and Findings**

Type of Incident	Substantiated	Unsubstantiated	Unfounded	Pending
Sexual Abuse	5	26	49	0
Sexual Harassment	4	14	13	0

**Table 3: 2019 Data broken into subcategories that match the Definitions as defined on pp. 4-6. (a. Inmate-on-Inmate, b. Staff-on-Inmate)**

Type of Incident	Substantiated	Unsubstantiated	Unfounded	Pending
a. Inmate-on-Inmate Sexual Abuse	5	13	7	0
b. Staff-on-Inmate Sexual Abuse	0	10	38	0
Sexual Abuse - Aggressor Type not Identified	0	3	4	0
a. Inmate-on-Inmate Sexual Harassment	2	9	4	0
b. Staff-on-Inmate Sexual Harassment	2	5	9	0

MDC ensures that an administrative investigation is completed for all allegations of sexual abuse and sexual harassment. The data show the majority at 56% of the allegations of sexual abuse and sexual harassment are found to be unfounded. Allegations involving staff, contractors, or volunteers make up 58% of the allegations of sexual abuse and sexual harassment reports received.

# Sexual Abuse Review Team

## Sexual Abuse Review Team

The Sexual Abuse Review Team (SART) was formed by MDC in compliance with PREA Standard §115.86. According to the standard, MDC must conduct a sexual abuse incident review at the conclusion of each sexual abuse investigation except when the allegation is determined to be unfounded. These reviews occur within 30 days of the conclusion of a PREA Case investigation. The review team includes upper-level management (with input from line supervisors) and medical or mental health practitioners. For each investigation, SART reviews the following criteria:

- Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
- Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
- Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
- Assess the adequacy of staffing levels in that area during different shifts; and
- Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

## Summary of Corrective Action

Over the past year, MDC has made many strides in implementing PREA and below is a list of some of the actions that have been taken:

- Facility upgrades, such as privacy window etching in cells, additional privacy curtains in bathroom areas and privacy partitions in cell toilet areas
- Eight new PREA policies, addressing investigative procedure, incident response, incident reporting and more
- Revamped investigation process, including a new investigation team

- Increased employee training, which included six different components on topics including PREA policies, sexual abuse in jails, first responder duties and retaliation. MDC's interim PREA administrator also attended 30 hours of in-person training conducted by the National PREA Resource Center.
- MDC upgraded the camera system that was completed in March 2020. The upgrade included an additional 346 cameras based on the input from the PREA department to address blind spots.