

	PREA 27.06	PREA Disciplinary, Sexual Abuse Incident Review, and Data Collection	Effective Date:	August 1, 2019
			Revised Date:	May 28, 2019

Purpose:

The purpose of this policy is to establish discipline process for PREA incident, process sexual abuse incident reviews, and a process to collect, store, and publish PREA related data.

Field of Application:

New Mexico, Bernalillo County, Metropolitan Detention Center.

Policy:

The policy of the Bernalillo County Metropolitan Detention Center (MDC) is to have disciplinary sanctions for staff and inmates, and corrective action for contractors and volunteers. To conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded. To have a uniformed procedure to collect, store, and publish PREA related data

Definitions:

Definitions used in this policy are defined in PREA Policy [27.00 Prohibition of Sexual Abuse, Sexual Harassment, and Definitions.](#)

Responsibility:

The requirements and processes described in this document apply to all staff members at MDC. Area Managers and Supervisors are responsible for, ensuring that staff members have access to up-to-date information and policies, ensuring that staff members are trained in all policy updates; and ensuring all staff members login in to PowerDMS on a regular basis and to acknowledge and/or complete items in their inbox.

Procedure:

A. Disciplinary Sanctions for Staff

1. All discipline for staff resulting from a PREA investigation shall follow the procedures outlined in the policy PER3.34: Disciplinary Procedures. Special consideration for discipline for staff resulting from a PREA investigation shall include the following:
 - a. Staff shall be subject to disciplinary sanctions up to and including termination for violating any of MDC’s PREA policies.
 - b. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
 - c. Disciplinary sanctions for violations of MDC’s PREA policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member’s disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
 - d. All terminations for violations of MDC’s PREA policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not

criminal, and to any relevant licensing bodies.

B. Corrective Action for Contractors and Volunteers.

1. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.
2. MDC shall take appropriate remedial measures, and shall consider whether to prohibit further contact with inmates, in the case of any other violation of MDC's PREA policies by a contractor or volunteer.

C. Disciplinary Sanctions for Inmates

1. All discipline for inmates resulting from a PREA investigation shall follow the procedures outlined in the policy Chapter 14: Inmate Rules and Discipline. Special consideration for disciplining for inmates resulting from a PREA investigation shall include the following:
 - a. Inmates shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse/sexual harassment or following a criminal finding of guilt for inmate-on-inmate sexual abuse/sexual harassment.
 - b. Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories.
 - c. The disciplinary process shall consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
 - d. MDC may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
 - e. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

D. Sexual Abuse Incident Reviews

1. MDC will conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.
2. Such review will ordinarily occur within 30 days of the conclusion of the investigation.
3. The review team will include upper-level management officials and the PREA Administrator with input from line supervisors, investigators, and medical or mental health practitioners.
4. The review team will:
 - a. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
 - b. 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;
 - c. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
 - d. Assess the adequacy of staff levels in that area during different shifts;
 - e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
 - f. Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (a) through (e) of this section, any recommendations for improvement and submit such report to the facility Jail Administrator.
5. MDC will implement the review team's recommendations for improvement, or will document its reasons for not doing so.

E. Data Collection

1. The PREA Administrator will collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.
2. The PREA Administrator will aggregate the incident-based sexual abuse data at least annually.
3. The incident-based data collected will include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.
4. The PREA Administrator will maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
5. The PREA Administrator also will obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates.
6. Upon request, MDC will provide all such data from the previous calendar year to the Department of Justice no later than June 30.
7. The PREA Administrator will review data collected and aggregated pursuant to this policy in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:
 - a. Identifying problem areas;
 - b. Taking corrective action on an ongoing basis; and
 - c. Preparing an annual report of its findings and corrective actions for MDC
 - (1) Such report will include a comparison of the current year's data and corrective actions with those from prior years and will provide an assessment of MDC's progress in addressing sexual abuse.
 - (2) The PREA report will be approved by the Jail Administrator and made readily available to the public through MDC's website.
 - (3) The PREA Coordinator may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.
 - d. The PREA Administrator will ensure that data collected pursuant to this policy is securely retained.
 - e. The PREA Administrator will make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it

contracts, readily available to the public at least annually through its website or, if it does not have one, through other means.

- f. Before making aggregated sexual abuse data publicly available, the PREA Administrator will remove all personal identifiers.
- g. MDC will maintain sexual abuse data collected pursuant to PREA Standard § 115.87 for at least ten (10) years after the date of the initial collection unless Federal, State, or local law requires otherwise.

Standards & References:

A. ACA:

1. N/A

B. Court Order:

1. N/A

C. Cross-Referenced Documentation:

1. PER3.34: Disciplinary Procedures
2. Chapter IRD14 of this Policy and Procedures Manual

D. Forms:

1. N/A

F. Other:

1. PREA § 115.115.76 – 78
2. PREA § 115.115.86 – 89