

	PREA 27.01	<b>PREA Prevention Planning, Protection, and Retaliation</b>	Effective Date:	August 1, 2019
			Revised Date:	May 3, 2019

**Purpose:**

The purpose of this policy is to establish and document MDC’s prevention and protection efforts for inmates from any form of sexual abuse, sexual harassment and retaliation.

**Field of Application:**

New Mexico, Bernalillo County, Metropolitan Detention Center.

**Policy:**

The policy of the Bernalillo County Metropolitan Detention Center (MDC) is to establish an environment that prevents and protects inmates from any form of sexual abuse, sexual harassment, and retaliation.

**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, contractors, volunteers, and inmates 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. Establishment of a PREA Unit**

1. Designation and Authority of the PREA Administrator.
  - a. MDC shall employ an upper level agency-wide PREA Administrator, which shall fill the role of the PREA Coordinator outlined in the PREA standards.
  - b. The PREA Administrator is vested with the authority to develop, implement, and oversee MDC’s efforts to comply with the PREA standards
  - c. The PREA Administrator shall:
    - (1) Oversee the development and implementation of MDC’s plan to comply with the PREA standards;
    - (2) Ensure all existing policies comply with PREA requirements;
    - (3) Coordinate with training staff to ensure all PREA training complies with the PREA standards;
    - (4) Develop, implement, and oversee compliance of MDC’s response to allegations of sexual abuse, sexual harassment, and retaliation;
    - (5) Develop and implement investigative procedures and ensure investigations are conducted in a manner in compliance with PREA requirements;
    - (6) Chair sexual abuse incident reviews as set forth by policy;
    - (7) Oversee data collection and publish reports as set forth by PREA

- standards;
  - (8) Oversee all MDC's efforts to maintain compliance with the PREA Standards;
  - (9) Participate or appoint a designee in any upgrade projects to the physical plant or technology to consider the effects of the design, acquisition, expansion, or modification upon MDC's ability to protect inmates from sexual abuse; and
  - (10) Provide appropriate access and materials to auditors.
2. Designation & Authority of the PREA Compliance Officer:
    - a. MDC shall employ an upper level agency wide PREA Compliance Officer who reports to the PREA Administrator.
    - b. The PREA Compliance Officer shall be an individual with sufficient authority to;
      - (1) Assist in the development, implementation, and oversight of MDC's plan to comply with the PREA standards;
      - (2) Ensure the facilities compliance with the PREA standards;
      - (3) Monitor MDC training programs to ensure they comply with PREA training standards;
      - (4) Monitor inmate screening procedures, and medical and mental health treatment according to the PREA standards;
      - (5) Supervise and conduct MDC's PREA data collection and retention efforts; and
      - (6) Assist in providing appropriate access and materials to auditors.
  3. Designation and Authority of the PREA Captain
    - a. MDC shall employ a captain who shall hold the role as PREA Captain
    - b. The PREA Captain shall be an individual with sufficient authority to conduct the following:
      - (1) Ensure first responders fulfill all their duties as a first responder;
      - (2) Ensure security supervisors meet all the requirements required when conducting a preliminary inquiry for a PREA allegation;
      - (3) Review all PREA allegations to ensure they meet the definition of sexual abuse, sexual harassment, or retaliation;
      - (4) Conduct investigation on PREA allegations; and
      - (5) Ensure all investigation of PREA allegations are in compliant with the PREA standards.
      - (6) Shall supervise two PREA Investigators and ensure all investigation work conducted by these investigators meet the PREA standards.

#### **B. PREA Compliant Staffing Plan Requirements**

1. MDC shall develop, document, and make its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect inmates against sexual abuse.
2. MDC shall use the below considerations when calculating adequate staffing levels and determining the need for video monitoring:
  - a. Generally accepted detention and correctional practices;
  - b. Any judicial findings of inadequacy;
  - c. Any findings of inadequacy from Federal investigative agencies;
  - d. Any findings of inadequacy from internal or external oversight bodies;

- e. All components of the facility’s physical plant (including “blind-spots” or areas where staff or inmates may be isolated);
  - f. The composition of the inmate population;
  - g. The number and placement of supervisory staff;
  - h. Institution programs occurring on a particular shift;
  - i. Any applicable State or local laws, regulations, or standards;
  - j. The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
  - k. Any other relevant factors.
3. In circumstances where the staffing plan is not complied with, MDC shall document and justify all deviations from the plan.
  4. Whenever necessary, but no less frequently than once each year, MDC shall consult with the PREA Administrator to assess, determine, and document whether adjustments are needed to:
    - a. The staffing plan established pursuant to paragraph (2) of this section;
    - b. MDC’s deployment of video monitoring systems and other monitoring technologies; and
    - c. The resources MDC has available to commit to ensure adherence to the staffing plan.

### **C. Interference with PREA**

1. Interference by any staff member, contractor, volunteer, or inmate in the reporting and/or investigation of an allegation or incident of sexual abuse, sexual harassment, or retaliation is prohibited.
2. Interference with official process includes, but is not limited to:
  - a. Any failure to report an incident of sexual abuse, or sexual harassment whether directly involved or not;
  - b. Any attempt to “cover up” or otherwise hide an incident of sexual abuse or sexual harassment;
  - c. Any failure to cooperate fully with an investigation or inquiry; and
  - d. The making of a false statement or allegation.
3. Any and all suspected or alleged interference shall be reported and an incident report shall be created and referred for an investigation.

### **D. Inmate Privacy**

1. MDC shall enable inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks.
2. Staff, contractor, or volunteer of the opposite gender are required to announce their presence when entering a pod.
3. Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.
4. For policy referring to Unannounced rounds procedures for Unit Supervisors refer to Policy SEC 8.06 Staffing and Around the Clock Supervision

### **E. Protection Against Retaliation**

1. For at least 90 days, MDC shall monitor all staff, and inmates who report sexual

abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other staff, contractors, volunteers, or inmates. MDC shall continue to monitoring beyond 90 days if the initial monitoring indicates a continuing need.

2. Prohibition of Retaliation:
  - a. Retaliation against any inmate in response to their claim of sexual abuse or sexual harassment or in response to their cooperation in reporting or investigating such incidents is prohibited.
  - b. Retaliation against any inmate, staff member, contractor or volunteer in response to their cooperation in reporting or investigating such incidents is prohibited.
3. The Chief of Corrections shall designate a Retaliation Monitor to monitor retaliation
4. The items the Retaliation Monitor shall monitor include but are not limited to;
  - a. Inmate disciplinary reports;
  - b. Housing or program changes; and
  - c. Negative performance reviews or reassignments of staff.
5. Retaliation monitoring shall include periodic status checks.
6. If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation.
7. MDC's obligation to monitor shall terminate if the MDC determines that the allegation unfounded
8. If any form of retaliation is detected by the Retaliation Monitor, an incident report shall be created and referred to the PREA Captain for investigation/referral to OPS.
9. If an allegation of retaliation is reported independent of retaliation monitoring, an incident report shall be created and referred To the PREA Captain for investigation/referral to OPS.

**Standards & References:****A. ACA:**

1. 4-ALDF-2A-29

**B. Court Order:**

1. N/A

**C. Cross-Referenced Documentation:**

1. SEC 8.06 Staffing and Around the Clock Supervision

**D. Forms:**

1. N/A

**F. Other:**

1. PREA §115.11
2. PREA §115.13
3. PREA §115.15
4. PREA §115.18
5. PREA §115.51
6. PREA §115.62
7. PREA §115.66-67