



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

CD-150100 Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA	Issued: 06/05/85 Effective: 06/19/85	Reviewed: 07/17/2023 Revised: 07/17/2023
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

AUTHORITY:

- A. NMSA 1978, Sections 27-7-16, 27-7-30, 30-9-11, 30-9-12, and 32A-4-3, 33-1-6, as amended.
- B. Policy CD-010100, CD-031801, CD-070700, CD-170100, and CD-181000.
- C. Prison Rape Elimination Act of 2003, 42 USCA § 15601 et seq.

REFERENCES:

- A. ACA Standard 2-CO-3C-01, *Standards for the Administration of Correctional Agencies*, 2nd Edition.
- B. ACA Expected Practices 5-ACI-3D-08 (M), 5-ACI-3D-09 thru 5-ACI-3D-16 *Performance Based Expected Practices for Adult Correctional Institutions*, 5th Edition and Standards Supplement 2004.
- C. ACA Standard 2-CI-5A-2, *Standards for Correctional Industries*, 2nd Edition.
- D. Prison Rape Elimination Act Standards §115.11, §115.13 through §115.16, §115.18 through §115.51; §115.53 through §115.63, §115.67, §115.71, §115.73 through §115.89
- E. NMSA 1978, Section 31-5-20 as amended, Interstate Compact for Adult Offender Supervision.
- F. Use of Force (*CD-130600*).
- G. Allegations from Inmates against Corrections Department Staff or Other Inmates (*CD-150600*).

PURPOSE:

To ensure:

1. The safety and well-being of inmates and offenders to the extent reasonably possible and protect inmates and offenders from abuse and sexual misconduct while under correctional supervision. [2- CO-3C-01]
2. All actions taken in response to an incident of sexual abuse are coordinated among staff first responders, medical and mental health practitioners, investigators, and facility leadership. [§115.64] [§115.65] [§115.66]
3. Victims receive all necessary immediate and ongoing medical, mental health, and support services. [§115.82]
4. Investigators are able to obtain usable evidence to substantiate allegations and hold perpetrators accountable.

APPLICABILITY:

All employees of the New Mexico Corrections Department (NMCD), all those who contract or volunteer to perform services for the NMCD, visitors, NMCD representatives and to all persons committed to or under the supervision of the NMCD.

FORMS:

- A. **Internal PREA Compliance Assessment Tool** form (CD-150100.1)
- B. **Screening for Risk of Sexual Victimization & Abusiveness** (CD-150100.2)
- C. **Facility Response to Sexual Assault Checklist** form (CD-150102.1)
- D. **Staff Retaliation Monitoring** form (CD-150102.2) (2 pages)
- E. **Sexual Abuse or Assault Incident Review Team** form (CD-150102.3)
- F. **PREA Sexual Abuse Response Team Committee Confidentiality Agreement** form (CD-150102.4).
- G. **Monthly PREA Incident Tracking Log** form (CD-15102.5)

ATTACHMENTS:

None

DEFINITIONS:

- A. Abuse: The unlawful or unjustified use of force or other actions that jeopardize the physical or mental well-being of an inmate.
- B. Incapacitated Adult: Any adult with a mental, physical or developmental condition that substantially impairs the adult's ability to provide adequately for the adult's own care or protection.
- C. Investigation: The process of gathering, obtaining, collecting, compiling, and reporting all evidence surrounding an alleged incident of sexual misconduct.
- D. Intersex: A general term used for a variety of conditions in which a person is born with a reproductive or sexual anatomy that does not typically fit the standard definitions of female or male. A person with an intersex condition is born with sex chromosomes, external genitalia or an internal reproductive system that is not considered 'standard' for either male or female.
- E. NPSAMFE: National Protocol for Sexual Assault Medical Forensic Examinations Adult/Adolescent.
- F. Offender: An adult placed under, or made subject to, supervision, probation and/or parole, as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies, and who is required to request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.
- G. Serious Incident Report (SIR): A comprehensive written report of a serious incident that is completed by the shift supervisor of the shift during which a serious incident occurs.
- H. Sexual Abuse: Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - Contact between the mouth and the penis, vulva or anus
 - Contact between the mouth and any body part that is unrelated to official duties, where the staff member, contractor or volunteer has the intent to abuse, arouse, or gratify sexual desire
 - Penetration of the anal or genital opening of another person, however slight, by a hand, a finger, object or other instrument
 - 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.
 - Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section
 - Any display by a staff member, contractor or volunteer of his or her uncovered genitalia, buttocks or breast in the presence of an inmate, detainee, or resident, and
 - Voyeurism by a staff member, contractor, or volunteer. Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate, detainee, or resident 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.
- I. 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, detainee, or resident directed toward another; or repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident 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.
- J. Transgender: An individual whose gender identity or gender expression, does not conform to that typically associated with the sex to which they were assigned at birth.
- K. Sexual Misconduct: Any behavior or act of a sexual nature directed towards an offender by another offender, a department employee, contractor, volunteer, visitor or department representative.
- L. Voyeurism: when a staff member, contractor or volunteer invades the privacy of an inmate, detainee, or resident by staff for reason 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.

POLICY:

- A. The NMCD has a “**zero tolerance**” policy regarding all forms of sexual abuse, sexual misconduct and sexual harassment. [§115.11]
- B. In the event that physical force is necessary, the limitations of the NMCD's policy on Use of Force, (Policy CD-130600), will be strictly observed.

- C. Any employee, inmate or other person who in good faith reports abuse or sexual misconduct will not be subject to retaliation by staff or inmates. Information will be kept confidential. Wardens or their designees will monitor those who report sexual abuse or cooperate with investigations for ninety (90) days and take appropriate steps to protect individuals from retaliation, including periodic status checks on inmates. **[§115.67]**
- D. All staff, vendors, contractors and volunteers are required to immediately report the following:
 - 1. any knowledge, suspicion or information regarding an incident of sexual abuse of sexual harassment that occurred in a facility, whether or not it is part of the agency;
 - 2. retaliation against inmates or staff who reported such an incident; and
 - 3. staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

These must immediately be reported to one or more of the following persons: Secretary of Corrections, Office of Professional Standards Case Assignments Officer, Inspector General, PREA Coordinator, Warden, Shift Supervisor, Institutional Investigator, District Supervisor or any other employee of NMCD. When staff or the agency believes that an inmate is at substantial risk of imminent sexual abuse or sexual harassment, it shall take immediate action to protect the inmate. **[§115.61] [§115.62]**

- E. Information shall be provided to inmates about sexual abuse, sexual harassment and sexual assault including: **[5-ACI-3D-09]**
 - 1. Prevention/intervention;
 - 2. Rights to be free from sexual abuse, sexual harassment and retaliation for reporting such,
 - 3. Self-protection,
 - 4. How to report,
 - 5. Zero Tolerance,
 - 6. Reporting sexual abuse/assault; and,
 - 7. Treatment/counseling
- F. The agency shall provide comprehensive education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents. In addition to providing such education, the agency shall ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats. This information shall be communicated orally and in writing, in a language clearly understood by the inmate, upon arrival at a facility. Information will be made available to inmates, as needed to include those who are Limited English Proficient, deaf, visually impaired, otherwise disabled and limited in reading skills. **[§115.33][§115.51]**
- G. The agency shall provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills. **[§115.33]**

- H. If an inmate reports or staff become aware of any knowledge, suspicion or information regarding an incident of sexual abuse or sexual harassment that occurred in another facility, the Warden of the facility that received the information must immediately (no later than 72 hours) report it to the Warden of the facility where it is alleged to have occurred. If the incident is alleged to have occurred at an agency other than NMCD, that report should be forwarded to the Agency PREA Coordinator, who will immediately (no later than 72 hours) notify the outside agency. The facility must maintain documentation of all notifications to other facilities; the PREA Coordinator will maintain documentation of all external notifications. **[§115.61] [§115.62] [§115.63]**
- I. Inmates shall be screened within 48 hours of arrival at the facility and reassessed 25 days after the inmate's arrival, for potential vulnerabilities or tendencies of acting out with sexually aggressive behavior. Inmates will be reassessed thereafter due to a referral, request, incident of sexual abuse or sexual harassment, or receipt of additional information that bears upon an inmate's risk of sexual victimization or abusiveness. Housing and program assignments will be made accordingly. Transgender and Intersex inmates shall be screened every six months. In the event of an incident, both the inmate perpetrator and/or inmate victim will be re-screened. **[5-ACI-3D-10] [§115.41]**
- J. The placement of inmates determined to be at high risk of sexual victimization into Special Management shall cite the basis for the facility's concern for the inmate's safety and the reason why no alternative placements are appropriate consistent with NMCD Special Management policies. Inmates shall not be disciplined for refusing to participate in the screening process. **[§115.43]**
- K. Transgender and intersex inmates shall not be searched or examined by non-medical staff for the sole purpose of determining the inmate's genital status. Genital status shall be determined by interviews or medical records reviews. A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration. **[§115.15] [§115.42]**
- L. An investigation shall be conducted and documented whenever a sexual assault or threat is reported. At the conclusion of an investigation into an inmate's allegations against a staff member, the inmate will be informed in writing (unless the investigation determines that the allegation is unfounded) whenever:
1. The staff member is no longer posted in the inmate's unit.
 2. The staff member is no longer employed at the facility.
 3. The staff member has been indicted on a charge related to sexual abuse within the facility.
 4. The staff member has been convicted on a charge related to sexual abuse within the facility.
 5. At the conclusion of an investigation into an inmate's allegation against another inmate, the alleged victim will be informed in writing:
 6. Whether the alleged abuser has been indicted on a charge related to the sexual abuse in the facility; and
 7. Upon the agency learning that the abuser has been convicted on a charge related to sexual abuse within the facility. **[5-ACI-3D-11] [§115.73]**

- M. Inmates that are identified as high risk with a history of criminally sexual behavior shall be assessed by a mental health or other qualified professional within 14 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners. Inmates with a history of criminally sexual behavior shall be identified, monitored, and counseled. [**5-ACI-3D-12**] [§115.81] [§115.42]
- N. Inmates identified as at risk for sexual victimization shall be assessed by a mental health or other qualified professional within 14 days of learning of such abuse history and offered treatment when deemed appropriate by mental health practitioners. Inmates at risk for sexual victimization shall be identified, monitored, and counseled. [**5-ACI-3D-13**] [§115.81] [§115.42]
- O. Sexual conduct between staff and inmates, volunteers, or contract personnel and inmates, regardless of consensual status, is prohibited and subject to administrative discipline, up to and including termination, and criminal sanctions and referred to local law enforcement authorities for possible criminal prosecution. For matters of sexual abuse, termination should be the presumptive disciplinary sanction for staff who engaged in sexual abuse. Licensed professionals engaging in sexual conduct with inmates will be reported to any relevant licensing body. [**5-ACI-3D-14**] [§115.76] [§115.77]
- P. Inmates that are victims of sexual abuse or sexual harassment shall have an option to report the incident to a designated staff member other than an immediate point-of- contact line officer. [**5-ACI-3D-15**] [§115.54]
- Q. Inmates under the age of eighteen (18) years old will not be assigned to housing in the same housing unit as adult inmates but will be housed in the Youthful Inmates Management Unit at Central New Mexico Facility. Inmates under the age of eighteen (18) will have direct sight/sound contact with staff in areas outside of the housing unit. [§115.14]
- R. Inmates with disabilities and inmates who are limited English proficient shall have access to all aspects of the Department's efforts to prevent, detect and respond to sexual abuse and sexual harassment. [§115.16]
- S. The agency shall not use inmate interpreters to assist disabled or limited English proficient inmates in participating in efforts to prevent, detect, and respond to sexual abuse and sexual harassment, except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first responders, or investigation of the inmate's allegations, is prohibited. [§115.16]
- T. Each facility shall develop, document, and make 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. In calculating adequate staffing levels and determining a need for video monitoring, facilities will take into consideration
1. Generally accepted detention and correctional practices;
 2. Any judicial findings of inadequacy;

3. Any finding of inadequacy from Federal Investigative agencies;
4. Any findings of inadequacy from internal and external oversight bodies; all components of the facility's physical plant (including blind spots);
5. The composition of the inmate population
6. The number and placement of supervisory staff; institution programs occurring on a particular shift;
7. Any applicable State or Local laws, regulations or standards; the prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
8. Any other relevant factors.

At least one time per year, the facility will hold a meeting to assess, determine and document whether adjustments are needed to the staffing plan, the facility's deployments of video monitoring systems and other monitoring technologies; and the resources the facility has available to commit to ensure adherence to the staffing plan. At the conclusion of the meeting, documentation of the review shall be forwarded to the Agency Level PREA Coordinator for review. **[§115.13]**

- U. The agency shall train security staff in how to conduct cross-gender (Male Officer to Female Inmate, or Female Officer to Male Inmate) pat down searches and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs. **[§115.15]**
- V. The facility shall document all strip searches in commonly used areas such but as not limited to booking, receiving, kitchen, medical and conducted food service.
- W. Operation and Use of Body Scanner Devices
 1. The Chief of Security or designee shall:
 - ensure staff assigned to the operation of a body scanner device are trained in the proper use of the scanner prior to assignment;
 - work collaboratively with each respective Shift Commander/designee to identify and maintain an adequate contingency of trained staff to cover each shift's operational needs;
 - coordinate body scanner training;
 - maintain a list of current authorized users. Copies of the list shall be maintained at each site where the body scanner is located and in Master Control.
 2. Body scanning shall be conducted by a staff member of the same gender as the individual being scanned.
 3. During a body scan, staff of the opposite gender shall not view the body scanner monitor.
 4. Accommodations can be made for transgender and intersex inmates when requested by the inmate. Each request shall be documented by the PREA Coordinator and signed by the requesting inmate.
- X. Staff members shall not conduct cross-gender (Male Officer to Female Inmate, or Female Officer to Male Inmate) strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners. The facility shall document all cross-gender strip searches and cross-gender visual body cavity searches. The facility shall not permit cross-gender pat-

down searches by male officers of female inmates, absent exigent circumstances. All cross-gender pat-down searches of female inmates will be documented. In the event that these types of searches should occur, an SIR shall be generated documenting the need for the search. **[§115.15]**

Y. Inmates shall be afforded the opportunity to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. **[§115.15]**

Z. Staff members of the opposite sex of the inmate population in their facility must announce their presence when entering an inmate housing unit. These announcements must be logged into the housing unit daily log for that unit. **[§115.15]**

AA. The agency shall not hire or promote anyone who may have contact with inmates and shall not enlist the services of any contractor who may have contact with inmates, who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution. NMCD shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates. Before

hiring new employees who may have contact with inmates, the agency shall; Perform a criminal background records check; and make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

The agency shall also perform a criminal background record check before enlisting the services of any contractor who may have contact with inmates. The agency shall conduct criminal background records check at least every five years of current employees and contractors who may have contact with inmates. The agency shall ask all applicants and employees who may have contact with inmates directly about previous misconduct in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. **[§115.17]**

BB. When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect the inmates from sexual abuse. When installing or updating a video monitoring system, electronic surveillance system or other monitoring technology, the agency shall consider how such technology may enhance the agency's ability to protect inmates from sexual abuse. **[§115.18]**

CC. Prior to contact with any inmate, any employee, volunteer and/or contractor will have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection and response policies and procedures. **[§115.31] [§115.32]**

DD. The agency shall maintain documentation confirming that volunteers and contractors understand the training they have received. **[§115.32]**

EE. The agency shall document, through employee signature or electronic verification, that

employees understand the training they have received. [§115.31]

FF. Medical, Mental Health, and Investigative Staff must take the training class for their respective specialized areas concerning PREA. The agency will maintain documentation that these specialized staff members have been trained. [§115.34]. [§115.35].

GG. Each year, bi-annually in March and September, the Facility PREA Compliance Manager will complete the Internal PREA Compliance Assessment Tool, form *CD-150100.1* and return the form to the Agency PREA Coordinator.

HH. Monthly, the Facility Compliance Officer (at Public Facilities) and the Contract Monitor (at Private Facilities), will complete the Screening for Risk of Sexual Victimization & Abusiveness, form *CD-150100.2* and return the form to the Agency PREA Coordinator.



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

CD-150101 Inmate Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA Alisha Tafoya Lucero, Cabinet Secretary	Issued: 06/05/85 Effective: 06/19/85	Reviewed: 07/17/2023 Revised: 07/17/2023
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AUTHORITY:

Policy *CD-150100*

PROCEDURES: [2-CO-3C-01]

A. General Information

1. Inmates shall be protected from sexual misconduct, personal abuse, corporal or unusual punishment, humiliation, mental abuse, personal injury, disease, property damage, harassment or punitive interference with the daily functions of living, such as eating and sleeping. Shift supervisors shall make unannounced rounds in housing units to deter staff sexual abuse and sexual harassment. Staff members are prohibited from alerting other staff members that supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility [**5-ACI-3D-08 (M)**] [**2-CI-5A-2**] [§115.13]
2. An investigation shall be conducted and documented whenever a criminal sexual behavior, sexual misconduct or threat is reported. [**5-ACI-3D-11**]
3. All case records associated with claims of sexual abuse and sexual harassment, including incident reports, investigative reports, inmate information, case disposition, medical and counseling evaluation findings and recommendations for post-release treatment and/or counseling shall be retained in a confidential manner and are retained for ten years. [**5-ACI-3D-16**] [§115.89]
5. The Agency shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. [§115.22]
6. In addition to the general training provided to all employees, the agency shall ensure that to the extent the agency itself conducts sexual abuse investigations, that its investigators have received training in conducting such investigations in confinement settings. [§115.34]
7. 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 or sexual harassment or following a criminal finding of guilt for inmate-on-inmate sexual abuse. [§115.78]

B. Staff Reporting: [5-3D-4281-6]

1. Any employee who witnesses or receives information regarding the physical abuse, mental abuse or any sexual misconduct directed towards an inmate shall immediately report the abuse to his or her immediate supervisor, who shall forward the report to the applicable disciplinary authority (e.g., Warden, Region Manager, Bureau Chief, or Division Director) and the Office of Professional Standards (OPS).
2. All employees are required to report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. All reports shall be forwarded to applicable disciplinary authority (e.g., Warden, Region Manager, Bureau Chief, or Division Director) and the Office of Professional Standards (OPS). [§115.61]
3. Apart from reporting to designated supervisors or officials, staff shall not reveal information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions. [§115.61]
4. The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators. [§115.61]
5. Failure to report or knowingly submitting a false report may result in disciplinary action, up to and including dismissal.
6. Employees are encouraged to report misconduct to a higher authority if their direct supervisor may be involved or if the report has not been given the appropriate attention at the reported level. Multiple channels will be made available for reporting including, but not limited to, other disciplinary authorities (e.g., Warden, Region Managers, etc.).
7. Where abuse is found to have occurred, appropriate administrative action against the offending party will be initiated, up to and including dismissal.
8. If the alleged victim is under the age of 18 or considered a vulnerable adult as defined by NMSA 1978, Sections 27-7-16, 27-7-30, the agency shall report the allegation to the designated Child Protective or Adult Protective Services Agency under applicable mandatory reporting laws. [§115.61 (d)]

C. Inmate Reporting:

Inmate(s) who are a witness to or the victim of abuse or sexual misconduct, humiliation, personal injury, disease, property damage, harassment or punitive interference with the daily functions are encouraged to immediately report the incident by: [5-ACI-3D-15]

[§115.51]

- Reporting the incident to any staff member or employee, correctional officer, contract staff or volunteer.
- Filing a grievance.
- Placing a note or memo in any drop box located throughout the facility for classification, medical or mental health staff and/or even mail boxes (please be as specific as possible when submitting information in writing).

- Providing the information either verbally or in writing by any means and to any person with whom the inmate is comfortable making the report.
- Sending the information directly to the Secretary, the Office of Professional Standards, Wardens, Shift Commanders, or District Supervisors and /or Region Managers in the case of probation and parole.

All such reports shall be handled in a confidential manner.

Failure to report or knowingly submitting a false report may result in disciplinary action and will be handled in accordance with *Policy CD-150600 Allegations from Inmates against Corrections Department Staff or Other Inmates*.



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CD-150102 Inmate Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA	Issued: 06/05/85 Effective: 06/19/85	Reviewed: 07/17/2023 Revised: 07/17/2023
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

AUTHORITY:

Policy *CD-150100*

PROCEDURES:

A. Initial Disclosure Within 120 Hours of a Sexual Assault Incident

Within the first 120 hours of a sexual assault incident in the prison population, the following actions will be taken:

1. The affected unit shall be placed on a Type I lock-down and suspension of program services for an appropriate time, (*CD-070701.K.b*).
2. Upon identification of the victim and assailant(s), the facility or program administrator will assure the separation of the victim from his or her assailant(s) (*CD- 170100.S. 7.*). The victim will be asked not to shower, wash their clothes, brush their teeth, or relieve him or herself in order to preserve evidence.
3. A facility health care professional will take a history and conduct an examination to document the extent of physical injury and to determine if there are injuries that merit transfer to another medical facility (*CD-170100.MM*). The purpose of the examination is to determine the patient's stability for transfer to a site that provides forensic examinations. The facility examiner is to be mindful of the need to preserve any objective forensic evidence during the examination.
4. The shift supervisor shall make an immediate verbal report to the Warden, and the Warden shall in turn make an immediate report to the PREA Coordinator, the Director of Adult Prisons and the Director of Health Services (*CD-070701.A.1, CD- 070701.E*). The Warden will also complete the **Referral for Investigation** form to Office of Professional Standards (OPS) as a Level I investigation(*CD-031801.A*).
5. The shift supervisor will use the **Serious Incident Checklist** (*CD-070701.5*) form to ensure that all pertinent documentation of a major incident is completed.
6. The shift supervisor will contact the designated victim advocate.
7. The shift supervisor shall complete section I of the **Facility Response to Sexual Assault Checklist** form (*CD-150102.1*) and submit to the Warden's office. The Warden should complete sections II and III of the checklist and submit it to the Director of Adult Prisons or designee within seven (7) calendar days after the incident.

8. Allegations of sexual abuse and sexual harassment are to be referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. All such referrals will be documented. [§115.22]
9. The facility PREA Compliance Manager must immediately begin victim retaliation monitoring to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigation from retaliation by other inmates or staff. Retaliation Monitoring will be completed utilizing the **Staff Retaliation Monitoring** form (*CD-150102.2*) and once completed at the end of 90 days (or longer when necessary) form will be attached to the incident in the management system and saved in the compliance reporting files. This will also include periodic status checks for the inmates who are being monitored. [§115.67].

B. Investigation

1. A prompt, thorough and objective investigation of an incident involving sexual misconduct shall be completed by an assigned investigator.
2. The assigned investigator shall gather and examine all physical and documentary evidence including reports, records, photographs, equipment, or any other pertinent information, (*CD-031801.D.9*).
3. The assigned investigator will contact all witnesses and schedule an interview with them. The interviews shall be conducted in a thorough, predetermined, and systematic manner regarding all of the allegations, (*CD-031801.D.6*).
4. Investigations involving represented employees will be conducted in accordance with applicable provisions of the Collective Bargaining Agreement (CBA).
5. All allegations of criminal conduct including criminal sexual penetration of an inmate by a staff member must be reported to the appropriate law enforcement authorities by the investigations officer, (*CD-031801.A.4*). The investigations officer will serve as the liaison between the New Mexico Corrections Department (NMCD) and the appropriate law enforcement agency during the course of any continuing investigation, (*CD-031801.G.3*). [5-ACI-3D-14]
6. Once evidence collection and witness interviews are complete, the Warden must prepare a step down plan and submit it to the Director of Adult Prisons for approval. This plan will include time that provides a gradual release such as visits for non-affected areas, pod restrictions, phone calls, etc. This plan will include the date and time frames as well as any extra security staff required, (*CD-070700.K.1*).
7. The assigned investigator will complete the investigation report, form (*CD-031801.2*) within twenty-three (23) calendar days, as per (*CD-031800*).
8. If it is found that an allegation of sexual misconduct was false, the case may be referred

- to law enforcement for prosecution. Any inmate who files a false allegation is subject to disciplinary action (*CD-150600.1*)
9. All written reports pertaining to the administrative or criminal investigation of alleged sexual abuse or sexual harassment are to be retained for as long as the alleged abuser is incarcerated or employed by the agency, plus 5 years, at a minimum. **[115.71]**.
 10. The departure of the alleged abuser or victim from the employment or control of the facility shall not provide a basis for terminating an investigation. **[115.71]**
 11. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as inmate or staff. NMCD will not require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation **[115.71]**.

C. Forensic Examination

1. The Warden or designee will ensure that victims of sexual assault are promptly transferred under appropriate security provisions by Emergency Medical Services or NMCD personnel as is medically appropriate to a community health care facility for treatment and gathering of evidence, (*CD-170100*). This will be at no charge to the inmate. **[§115.21]**
2. The consent of the victim shall be required for any routine emergency examination and treatment offered at the community health care facility, which is not otherwise required by law.
3. The examiner will prepare consent forms, etc. for the examination, (NPSAMFE).
4. The examiner will establish the medical forensic history, (NPSAMFE).
5. The examiner will photograph medical evidence, (NPSAMFE).
6. The examiner will perform the examination and collect medical evidence (NPSAMFE).
7. The examiner will gather toxicology samples for drug testing, (NPSAMFE).
8. The examiner will perform a sexually transmitted infection evaluation and provide for treatment, (NPSAMFE).
9. The examiner will perform a pregnancy risk evaluation and schedule follow-up care, (NPSAMFE).
10. The examiner will provide follow up instructions and release the victim for discharge, (NPSAMFE).

D. After Action and Follow-Up Care

1. The Warden will develop a victim safety action plan.
2. The facility medical director will initiate the 48-hour medical treatment review of the victim (NPSAMFE).
3. A facility mental health professional will perform an evaluation to assess the need for crisis intervention and long-term follow-up, (*CD-170100*).
4. The facility medical director and mental health supervisor will develop a treatment plan for follow-up services, (*CD-170100*).
5. The assigned investigator shall perform a follow-up interview with the victim, (NPSAMFE).
6. The assigned mental health provider will provide access to counseling and advocacy services (NPSAMFE).
7. The classification officer will initiate the reclassification review process for the perpetrator(s).
8. An inmate identified as high risk for sexually assaultive behavior or who has a history of sexually assaultive behavior will be assessed by a mental health or other qualified professional. Inmates identified as at risk for sexual victimization shall be assessed by a mental health or other qualified professional within 14 days of learning of such abuse history and offered treatment when deemed appropriate by mental health practitioners. Inmates at risk for sexual victimization shall be identified, monitored, and counseled. **[5-ACI-3D-13] [§115.81]**. Inmates with a history of sexually assaultive behavior will be identified, monitored, and counseled. (*CD-181000*).

E. Court Referral/Presentation

1. When, during the course of an investigation, the Investigations Officer becomes aware that the facts discovered indicate a violation of criminal law, the Investigations Officer shall immediately report the violations to the Bureau Chief of OPS, and the appropriate disciplinary authority and Deputy Secretary of Operations, (*CD- 031801*).
2. Upon a belief that probable cause for criminal prosecution exists, the Bureau Chief of OPS shall conduct a review to determine the admissibility of compelled statements (*CD-031801*).
3. If, upon completion of review for probable cause and the admissibility of compelled statements, the investigator believes a referral can be made for prosecution, the Bureau Chief of OPS shall consult with the NMCD General Counsel to determine

F. Critical Incident Review

1. The Adult Prisons Director will assign personnel to conduct a Critical Incident Review which will be completed in 14 calendar days, unless otherwise determined by the Director of Adult Prisons. The reporting employee will use the Critical Incident Review form (*CD-070701.3*), and, include all related documentation will be submitted to the Office of General Counsel, (*CD-070701*).
2. The Warden and Facility PREA Compliance Manager shall complete the sexual abuse incident team review at the conclusion of every criminal or administrative sexual abuse investigation, unless the allegation has been determined to be unfounded. A completed report will be submitted to the PREA Coordinator and the Director of Adult Prisons, or designee using the **Sexual Abuse or Assault Incident Review Team** form (*CD-150102.3*). The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical/mental health practitioners. The review team shall:
 - 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 staffing levels in the area during the 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 on the Sexual Abuse or Assault Incident Review Team form (*CD-150102.3*), including but not necessarily limited to determinations made pursuant to paragraphs (2) (a) through (2) (e) of this section; and
 - g) All staff present during the review will sign a **PREA Sexual Abuse Response Team Committee Confidentiality Agreement** form (*CD-150102.4*). **[§115.86]**. The facility PREA Compliance Manager shall compile and document all PREA incidents on the **Monthly PREA Incident Tracking Log**, form (*CD-15102.5*).

**New Mexico Corrections Department
 Internal PREA Compliance Assessment Tool**

Date:	Facility:	Assessment Completed By:
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Prevention Planning 115.11-115.18

115.11 (a)	Questions	Yes, No, N/A?
	Does the facility have a designated Facility PREA Compliance Manager?	
	If so, who is it?	
	Name	
	Email	
	Phone/Cell Phone #	
	Ask random staff if they know who the Facility PREA Coordinator is?	
	Comments:	Compliant, Non-Compliant?

115.12 (a)	Questions	Yes, No, N/A?
	Does the facility have contracts with any agency or individual who has contact with inmates?	
	If so, does contract contain PREA language?	
	Have contractors received criminal background checks?	
	Have contractors been trained?	
	Attach copies of contract	
	Verify/attach additional relevant documentation.	
	Comments:	Compliant, Non-Compliant?

115.13 (a)	Questions	Yes, No, N/A?
	Review facility PREA staffing plan to ensure it covers 11 elements of 115.13 (a)	
	Has facility met with PREA Coordinator within the past year?	

**New Mexico Corrections Department
 Internal PREA Compliance Assessment Tool**

	Review documentation of supervisors/higher level staff conducting unannounced rounds? Observe in person as well.	
	Does the facility prohibit staff from alerting other staff of making unannounced rounds?	
	Attempt to verify the above on all shifts.	
	Comments:	Compliant, Non-Compliant?

115.14 (a)	Questions	Yes, No, N/A?
	Are youthful inmates placed in housing units where they will have sight, sound or physical contact with any adult inmates through use of a shared dayroom, common space, shower area or sleeping quarters?	
	Comments:	Compliant, Non-Compliant?

115.14 (b)	Questions	Yes, No, N/A?
	Are youthful inmates ever within sight, sound or physical contact with adult inmates without direct supervision when outside of housing units?	
	Comments:	Compliant, Non-Compliant?

115.14 (c)	Questions	Yes, No, N/A?
	Are youthful inmates able to have access to large-muscle exercise, special education services and work opportunities?	
	Comments:	Compliant, Non-Compliant?

**New Mexico Corrections Department
 Internal PREA Compliance Assessment Tool**

115.15 (a)	Questions	Yes, No, N/A?
	Has the facility conducted any cross-gender strip or cross-gender visual body cavity searches of inmates?	
	If yes, verify reason and review documentation.	
	Has there been any cross gender pat down searches of female inmates?	
	If yes, verify reason and review documentation.	
	Does the facility have a policy and procedure that enables inmates to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks (this includes viewing via video camera).	
	Observe staff of the opposite gender announcing presence when entering an inmate housing unit. Review supporting documentation.	
	Comments:	Compliant, Non-Compliant?

115.16 (a)	Questions	Yes, No, N/A?
	Were there any instances where inmate interpreters, inmate readers or other types of inmate assistants were used to assist another inmate in interpreting for investigations, interpreting inmate education, reporting, etc.?	
	If so, how many? Review supporting documentation as to why this occurred.	
	Comments:	Compliant, Non-Compliant?

115.18 (a)	Questions	Yes, No, N/A?
	Have there been any substantial expansions or modifications to the facility? If so go visually observe such changes.	
	Has the facility installed a video monitoring system, electronic surveillance system, or other monitoring technology? If so go visually observe such changes.	

**New Mexico Corrections Department
 Internal PREA Compliance Assessment Tool**

	Comments:	Compliant, Non-Compliant?

Overall Determination	Exceeds	Meets	Does Not Meet (include comments regarding corrective actions)

Responsive Planning 115.21-115.22

115.21 (a)	Questions	Yes, No, N/A?
	Were there any inmates that were sent out for a forensic medical exam?	
	Were they offered a victim advocate from a rape crisis center? If not was another type of victim advocate made available?	
	Did the victim advocate accompany the victim during the forensic medical exam?	
	Investigative interview?	
	Did the victim advocate provide emotional support/crisis intervention?	
	Comments:	Compliant, Non-Compliant?

115.22 (a)	Questions	# Resulting in Investigations
	Were there any SA allegations received? If so how many?	
	Were there any SH allegations received? If so how many?	
	Comments:	Compliant, Non-Compliant?

Overall Determination	Exceeds	Meets	Does Not Meet (include comments regarding corrective actions)

New Mexico Corrections Department
Internal PREA Compliance Assessment Tool
Training & Education 115.31-115.35

115.31	Questions	Yes, No, N/A?
	Sample of training records?	
	Other documentation?	
	Random staff Questions (5 random staff): Have you been trained in: -Preventing SA and SH? -The inmate's right to be free from SA, SH and retaliation? -Common reactions to SA & SH? -How to detect and respond to threatened and actual SA & SH? -How to avoid inappropriate relationships with inmates? -How to communicate professionally and effectively with LGBTI inmates?	
115.15	Have staff received I Pat Search training?	
115.15	How many staff were trained? Review training records.	
115.51	How can inmates report?	
115.51	How can staff privately report? (PREA reporting email, Supervisors).	
	Is training tailored to the gender of the inmate at the facility?	
	Are there any staff who haven't received the training at the facility?	
	Training roster with confirmation of understanding?	
	What is the difference between reporting lines?	
115.64	Did 1 st responders receive the PREA 1 st Responder's training?	
	Comments:	Compliant, Non-Compliant?
115.32	Questions	Yes, No, N/A?

**New Mexico Corrections Department
 Internal PREA Compliance Assessment Tool**

	Volunteer/contractor question (1 volunteer & 1 contractor, if applicable). Have you been trained on the department's zero tolerance policy and your responsibilities regarding SA & SH?	
	Training records?	
	Volunteer acknowledgement form?	
	Contractor training roster with confirmation of understanding?	
	Comments:	Compliant, Non-Compliant?

115.33	Questions	Yes, No, N/A?
	Random Inmate question: 1. How do you receive information regarding NMCD's zero tolerance policy, SA, SH, reporting and the right to be free from retaliation? 2. What are the different ways you can report SA, SH and retaliation?	
	Random Staff question: 1. How do inmates receive information regarding NMCD's zero tolerance policy, SA, SH, reporting and the right to be free from retaliation? 2. What are the different ways inmates can report SA, SH and retaliation?	
	*Option: view inmate education process, poster locations, and materials.	
	Are posters with hotline information posted near phones? Are posters strategically placed throughout facility? Does the facility have English & Spanish posters? Are English & Spanish PREA Resource Guides available in the library? Where are inmates able to access NMCD Policy?	
(115.54)	Are visiting posters placed in visiting areas? Are family/friends PREA brochures available?	
	Verify phone systems and TTY work.	
	Inmate education verification forms?	
	Verify format accessibility for: LEP, Deaf, visually impaired and limited reading skills inmates?	
	Interview random LEP, Deaf, visually impaired, and limited reading skills inmates.	

**New Mexico Corrections Department
 Internal PREA Compliance Assessment Tool**

	*Ask if and how they have received education regarding NMCD's zero tolerance policy, how to report SA, SH and retaliation?	
	Comments:	Compliant, Non-Compliant?

115.34/115.71	Questions	Yes, No, N/A?
	Verify training records for investigators assigned to the facility for specialized PREA Investigator interview training.	
	Comments:	Compliant, Non-Compliant?

115.35	Questions	Yes, No, N/A?
	Obtain list of BH clinicians.	
	Verify training records for BH staff Specialized Training	
	Ask random BH clinicians if they have received specialized training regarding SA and SH. -What did the training cover? - Ask about therapy, counseling or other intervention services for sexual perpetrators. -Do you conduct a BH evaluation of inmate-on-inmate abusers and offer treatment if appropriate? -Ask about requirement to report knowledge, suspicions or other relevant info? -Ask if BH clinicians obtain informed consent before -What does evaluation and treatment of inmates who have been victimized entail?	
	Obtain list of Medical staff.	
	Verify training records Medical staff (PREA 1 st Responder's).	
	Ask random Medical staff if they have received specialized training regarding SA and SH. -What did the training cover? -Are SA victims given timely information and access to all lawful pregnancy related services? -How does this occur?	

**New Mexico Corrections Department
 Internal PREA Compliance Assessment Tool**

	Where are inmates sent out for forensic medical exams performed by SANE Nurses (Sexual Assault Nurse Examiners)?	
	Comments:	Compliant, Non-Compliant?

Overall Determination	Exceeds	Meets	Does Not Meet (include comments regarding corrective actions)

Screening for Risk of Sexual Victimization & Abusiveness 115.41-115.43

115.41	Questions	Yes, No, N/A?
	Were all inmates who entered the facility in the past 12 months were assessed SRNS I and II Risk Assessment within 72 hours? If not, why?	
	Verify with documentation (random actual assessments).	
115.81	Were there any inmates that disclosed prior sexual victimization during intake screening? If so, were they referred to BH within 14 days?	
	Verify with relevant documentation.	
115.81	Were there any inmates that disclosed perpetrating prior sexual abuse during intake screening? If so, were they referred to BH within 14 days?	
	Verify with relevant documentation.	
	Were all inmates who entered the facility in the past 12 months were reassessed using the SAB SRNS I and II Assessment within 30 days? If not, why?	
	Verify with documentation (random actual reassessments).	
	Check if any inmates were reassessed for sexual victimization or sexual abusiveness.	
	Verify random transgender/intersex inmates have been reassessed every 6 months using the SRNS I and SRNS II Risk Assessment.	
	Verify reassessment was completed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness	
	Comments:	Compliant, Non-Compliant?

**New Mexico Corrections Department
 Internal PREA Compliance Assessment Tool**

115.42	Questions	Yes, No, N/A?
	How is information used from the risk screening at intake to determine housing, work, education and program assignments of inmates?	
	What is the process for keeping inmates at risk of sexual victimization and inmates who are sexually aggressive separate?	
	Documentation of risk based housing decisions?	
	Are transgender/intersex inmate's views given serious consideration in placement and programming assignments?	
	Documentation of housing assignments of self-identified LGBTI inmates?	
	Comments:	Compliant, Non-Compliant?

115.43/115.68	Questions	Yes, No, N/A?
	Were any inmates who were at risk of sexual victimization held in involuntary restrictive housing for over 24 hours?	
	Were any inmates who were at risk of sexual victimization held in involuntary restrictive housing for longer than 30 days? If so, why?	
	Documentation of in-cell and out-of-cell programs, privileges, education and work opportunities for inmates in involuntary restrictive housing?	
	Verify if documentation is clear as to why there were no alternative housing needs available.	
	Comments:	Compliant, Non-Compliant?

**New Mexico Corrections Department
 Internal PREA Compliance Assessment Tool**

Overall Determination	Exceeds	Meets	Does Not Meet (include comments regarding corrective actions)

Reporting 115.51-115.54

115.52	Questions	Yes, No, N/A?
	Are there any grievances alleging sexual abuse?	
	Are there any emergency grievances alleging substantial risk of imminent sexual abuse?	
	Are there any grievances alleging sexual abuse that resulted in disciplinary action by the agency against the inmate for having filed the grievance in bad faith?	
	Comments:	Compliant, Non-Compliant?

Overall Determination	Exceeds	Meets	Does Not Meet (include comments regarding corrective actions)

Official Response Following an Inmate Report 115.61-115.68

115.61	Questions	Yes, No, N/A?
	Have there been any reports of SA, SH or retaliation incidents?	
	If so, how many and what type? If not, move onto next section.	
	Who conducts retaliation monitoring?	
	Review documentation verifying 30, 60 and 90 day follow-ups.	
	Comments:	Compliant, Non-Compliant?

115.62	Questions	Yes, No, N/A?
	Were there any inmates that were subject to substantial risk of imminent sexual abuse?	
	How long was the amount of time elapsed before action was taken?	
	Comments:	Compliant, Non-Compliant?

**New Mexico Corrections Department
 Internal PREA Compliance Assessment Tool**

115.63	Questions	Yes, No, N/A?
	Were there any allegations made by an inmate that they were sexually abused at another facility? Was a report made within 72 hours after receiving the allegation?	
	Were there any sexual abuse allegations received from another facility that happened at the facility being audited?	
	Comments:	Compliant, Non-Compliant?

115.64	Questions	Yes, No, N/A?
	Were there any allegations that an inmate was sexually assaulted/abused?	
	If so, how many were referred for a forensic medical exam?	
	If so, review incident reports and relevant documentation pertaining to the incident?	
	When reviewing incident reports look for the following: - Victim and perpetrator were separated? - Crime scene was preserved and protected? - Was victim requested not to do anything to destroy physical evidence? (if applicable) - Was perpetrator prevented from taking action that could destroy physical evidence? (if applicable)	
115.82	Review documentation of immediate notification of BH and medical staff.	
115.82	Verify that the inmate received medical and BH services without financial cost to them.	
115.82/83	Victims are offered tests/treatment for STI's and prophylaxis as medically appropriate.	
115.83	<u>If female facility:</u> 1. Female inmates were offered pregnancy tests?	

**New Mexico Corrections Department
 Internal PREA Compliance Assessment Tool**

	2. If pregnancy results, while incarcerated, victims received comprehensive information about medical services available.	
115.83	Facility attempts to conduct a BH evaluation of all know inmate-on-inmate abusers within 60 days of learning of such abuse history and offers treatment if deemed appropriate by BH practitioners.	
	Comments:	Compliant, Non-Compliant?

115.65	Questions	Yes, No, N/A?
	Review institutional plan to coordinate actions taken in response to incidents of sexual abuse, among staff first responders, medical and BH practitioners, investigators and facility leadership.	
	Comments:	Compliant, Non-Compliant?

115.67	Questions	Yes, No, N/A?
	Were there any incidents of retaliation?	
	If so, what were actions taken or the outcome?	
	Comments:	Compliant, Non-Compliant?

Overall Determination	Exceeds	Meets	Does Not Meet (include comments regarding corrective actions)

Investigations 115.71-115.73

115.71	Questions	Yes, No, N/A?
	Comments:	Compliant, Non-

**New Mexico Corrections Department
 Internal PREA Compliance Assessment Tool**

		Compliant?

115.73	Questions	Yes, No, N/A?
	Were there any criminal or administrative investigations of alleged inmate sexual abuse?	
	Of those investigations, how many inmates were notified of the outcome verbally or in writing?	
	Comments:	Compliant, Non-Compliant?

Overall Determination	Exceeds	Meets	Does Not Meet (include comments regarding corrective actions)

Discipline 115.76-115.78

115.78	Questions	Yes, No, N/A?
	Were there any administrative findings of inmate-on-inmate rape, sexual assault or sexual harassment ?	
	Were there any criminal findings of guilt of inmate-on-inmate sexual assault or unlawful sexual contact?	
	Comments:	Compliant, Non-Compliant?

Overall Determination	Exceeds	Meets	Does Not Meet (include comments regarding corrective actions)

Data Collection and Review 115.86-115.89

115.86 (a)	Questions	Yes, No, N/A?
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**New Mexico Corrections Department
 Internal PREA Compliance Assessment Tool**

	Were there any incidents of sexual abuse?	
	If so, was the status of the investigation (Substantiated, Unsubstantiated, Unfounded)?	
	How many substantiated?	
	How many unsubstantiated?	
	How many unfounded?	
	Did facility prepare a report for each incident?	
	Did the facility make recommendations for improvement, corrective action, purchase additional technology, etc.?	
	Comments:	Compliant, Non-Compliant?

Overall Determination	Exceeds	Meets	Does Not Meet (include comments regarding corrective actions)

**New Mexico Corrections Department
 Screening for Risk of Sexual Victimization & Abusiveness**

Facility: _____ Date: _____

Compliance Manager: _____

PREA Compliance Manager: _____

Screening for Risk of Sexual Victimization & Abusiveness 115.41-115.43

115.41	Questions	Yes, No, N/A?
	Were all inmates who entered the facility in the past 12 months were assessed SRNS I and II Risk Assessment within 72 hours? If not, why?	
	Verify with documentation (to equal 5% of your facilities inmate population, document on attached tracking form)	
115.41	Were there any inmates who disclosed prior sexual victimization during intake screening? If so, were they referred to BH within 14 days?	
	Verify with relevant documentation and attach hereto.	
115.41	Were there any inmates who disclosed perpetrating prior sexual abuse during intake screening? If so, were they referred to BH within 14 days?	
	Verify with relevant documentation and attach hereto.	
	Were all inmates who entered the facility reassessed using the SRNS I and II Assessment within 30 days? If not, why?	
	Verify with documentation (random actual reassessments).	
	Verify random transgender/intersex inmates have been reassessed every 6 months using the SRNS I and SRNS II Risk Assessment.	
	Comments:	

**New Mexico Corrections Department
Internal PREA Compliance Assessment Tool**

115.42	Questions	Yes, No, N/A?
	Is information used from the risk screening at intake to determine housing, work, education and program assignments of inmates?	
	Documentation of risk based housing decisions?	
	Are transgender/intersex inmate's views given serious consideration in placement and programming assignments?	
	Documentation of housing assignments of self-identified LGBTI inmates?	
	Comments:	

115.43/ 115.68	Questions	Yes, No, N/A?
	Were any inmates who were at risk of sexual victimization held in involuntary segregation for over 24 hours?	
	Were any inmates who were at risk of sexual victimization held in involuntary segregation for longer than 30 days? If so, why?	
	Documentation of in-cell and out-of-cell programs, privileges, education and work opportunities for inmates in involuntary restrictive housing?	
	Verify if documentation is clear as to why there were no alternative housing needs available.	
	Comments:	

Overall Determination	Exceeds	Meets	Does Not Meet (include comments regarding corrective actions)

Attach copies of all documents, logs, sign-in sheets, emails, screening documentation, referrals to Behavioral Health, etc that were used to substantiate your findings.

Please complete 5% of the inmate population for your facility and forward to the State PREA Coordinator by the 15th of each month.

**NEW MEXICO CORRECTIONS DEPARTMENT
Facility Response to Sexual Assault Checklist**

Facility: _____

Date of Incident: _____

I. Shift Supervisor	
Initials	Action
	Place unit on Type-I lockdown and suspend programming (CD-070701.K.b)
	Shift Supervisor separate victim from assailant (CD-170100.OO)
	Request victim not to shower, brush teeth, wash clothes, relieve themselves; ensure the perpetrator does not do any activity to destroy any evidence such as shower, brush teeth, wash clothes, relieve themselves. (CD-150100)
	Escort victim to medical for acute injury evaluation and treatment (CD-170100OO)
	Shift Supervisor report incident immediately to Warden and Facility PREA Compliance Manager (CD-170100)
	If requested by the victim, the Shift Commander will call a Victim Advocate. [115.21]
	If the victim is transported for a SANE Exam, the Shift Commander will call a Victim Advocate [115.21]
	Shift Supervisor complete the <i>Serious Incident Report and Checklist</i> (CD-070701.5)

Shift Supervisor: _____ / _____

Date: _____

Print/Sign

II. Warden	
Initials	Action
	Warden secures transport for victim to local medical facility for SANE Exam (CD-170100.MM)
	Warden report incident to PREA Coordinator, Director of Adult Prisons and Director of Health Services (CD-070701.A.1)
	Warden complete the <i>Referral for Investigation</i> form to OPS (CD-031801.A)
	Warden alert local law enforcement (CD-031801.A.4)
	Warden develop step-down plan (CD-070700.K.1)
	Warden develops a victim safety action plan (CD-150102).
	Facility medical director initiates the 48-hour medical treatment review of the victim (CD-150102)
	Facility mental health provider evaluate need for crisis intervention and long-term follow-up care (CD-170100.MM)
	Facility medical director and mental health supervisor develop treatment plan for follow-up services (CD-170100.G)
	Classification Officer initiates re-classification review process for perpetrator (CD-143000)
	Facility mental health provider assesses perpetrator for monitoring/counseling (CD-181000.B)
	Facility PREA Compliance Manager immediately begins Victim Retaliation Monitoring Form for all staff and inmates involved who cooperated or reported.
	Within 30 days of Conclusion of Investigation, Complete a Sexual Assault Review Team Review. Send Review form and all confidentiality agreements to the PREA Coordinator and Director of Adult Prisons or designee.

Warden: _____ / _____

Date: _____

Print/Sign

III. Director of Adult Prisons Division	
Initials	Action
	Director of Adult Prisons assigns personnel to conduct a Critical Incident Review (CD-070701.3)
	The Critical Incident Review is submitted to the Office of General Counsel (CD-070701.H)

Director of Adult Prisons
Division/Designee: _____ / _____

Date: _____

Print/Sign

NEW MEXICO CORRECTIONS DEPARTMENT

Retaliation Monitoring

The facility will monitor any inmate who has reported or cooperated in an investigation regarding a sexual abuse or sexual harassment matter. This will be completed by the Facility PREA Compliance Manager for a period of 90 days following a report. If an inmate is transferred the PCM at the receiving facility will continue retaliation monitoring.

Date of Incident: _____

OPS Case No.: _____

Facility Name: _____

Inmate Name: _____ NMCD#: _____

30 Day Review – Date: _____

Housing: _____ Was this a change? (Yes/No): _____

Disciplinary Reports (Yes/No): _____ Type: _____

Programming Changes: _____

Negative Performance Reviews or Reassignments: _____

Was any retaliation identified (Yes/No): _____

If so, please describe corrective action:

Person Completing Form: _____ Date: _____

60 Day Review – Date: _____

Housing: _____ Was this a change? (Yes/No): _____

Disciplinary Reports (Yes/No): _____ Type: _____

Programming Changes: _____

Negative Performance Reviews or Reassignments: _____

NEW MEXICO CORRECTIONS DEPARTMENT
Retaliation Monitoring

Was any retaliation identified (Yes/No): _____

If so, please describe corrective action:

Person Completing Form: _____ Date: _____

90 Day Review – Date: _____

Housing: _____ Was this a change? (Yes/No): _____

Disciplinary Reports (Yes/No): _____ Type: _____

Programming Changes: _____

Negative Performance Reviews or Reassignments: _____

Was any retaliation identified (Yes/No): _____

If so, please describe corrective action:

Person Completing Form: _____

Date: _____

Closeout

Copy must be placed in Facility PREA Investigation File and forwarded to the PREA Coordinator.

NEW MEXICO CORRECTIONS DEPARTMENT
Sexual Abuse or Assault Incident Review Team

An incident review team must complete the review within thirty (30) days of the conclusion of any law enforcement or administrative investigation with a finding of substantiated or unsubstantiated.

Incident Date: _____ Incident Time: _____
Facility Name: _____
Incident Location: _____

Lead Reviewer Information

First Name: _____ Last Name: _____
Phone Number: _____ Title: _____
Report Date: _____

Review Team Members

#	Name (First and Last)	Title and Role (e.g. Investigator)
1.		
2.		
3.		
4.		
5.		

Incident Details

Brief Summary / Nature of Incident:

**NEW MEXICO CORRECTIONS DEPARTMENT
 Sexual Abuse or Assault Incident Review Team**

	Victim Info	Alleged Perpetrator Info
Name <i>(First and Last)</i>		
Inmate Number		
Race		
Date of Birth		
Gender		
LGBTI identification, status or perceived status <i>(Yes/No/Unk)</i>		
Language Spoken		
Known Disabilities		

Criminal Investigation Details

Was a criminal investigation conducted? _____ (Yes/No)

Investigation Finding: _____
 (Substantiated/Unsubstantiated/Unfounded/Pending)

Date of Findings: _____

Law Enforcement Agency Name: _____

Administrative Investigation Details

Was an administrative investigation conducted? _____ (Yes/No)

Investigation Finding: _____
 (Substantiated/Unsubstantiated/Unfounded/Pending)

Date of Findings: _____

Administrative investigation conducted by(name): _____

Incident Review Findings

Group Dynamics

1	Was the incident or allegation motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status or perceived status; or gang affiliation; or motivated or otherwise caused by other group dynamics at the facility? If yes, describe and detail any remedial information to prevent such occurrences in the future.	_____ (yes/no)
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Comments:

Staffing

2	Was any information available which should or could have alerted staff that the incident might occur? E.g. information from inmate/resident risk assessment, past issues between inmates/residents, history of fighting, prior incidents, etc. Describe.	_____ (yes/no)
Comments:		
3	At the time of the incident, did staffing in that area meet levels required by staffing plans, post orders, etc.? Describe staffing at the incident location.	_____ (yes/no)
Comments:		
4	Are there any changes or additions to current staffing that may help prevent similar incidents or allegations in the future?	_____ (yes/no)
Comments:		
<i>Physical Plant</i>		
5	Have any prior substantiated allegations of sexual abuse or assault occurred in the same area of the facility? If yes, describe and provide dates.	_____ (yes/no)
Comments:		
6	Consider whether physical barriers or layout within the area may have in any way facilitated the abuse. If yes, explain and discuss what changes can be made.	_____ (yes/no)
Comments:		
7	Would monitoring technology, or augmented monitoring technology, have been useful in preventing or responding to this incident? If so, how?	_____ (yes/no)
Comments:		
<i>Incident Response</i>		
8	Once the incident was detected, was staff response timely and appropriate?	_____ (yes/no)
9	Were policies and procedures followed in this case (protection duties, responder duties regarding preservation of evidence, reporting, coordinated response, etc.)?	_____ (yes/no)
10	Describe the staff response to the incident and any deviations from established policies or procedures.	_____ (yes/no)
		(yes/no)

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 Sexual Abuse or Assault Incident Review Team**

Comments:		
11	Were appropriate medical care, mental health counseling and/or other health services offered to the victim after the incident was reported? Describe the services offered.	_____ (yes/no)
Comments:		
12	Were appropriate victim advocacy services offered to the victim after the incident was reported? Describe the services offered.	_____ (yes/no)
Comments:		
13	If any of the alleged victims or perpetrators has a disability (including a mental illness) or is limited English-proficient, were appropriate steps taken to ensure the inmate/resident(s) had access to all aspects of the facility's efforts to prevent, detect, and respond to sexual abuse? Explain what services or accommodations were provided.	_____ (yes/no)
Comments:		
14	Describe reclassification and housing decisions for both the victim and alleged perpetrator following the allegation.	
Victim(s): None _____ Alleged Perpetrator(s): -		
15	Were any additional measures necessary to protect staff, contractors, volunteers, or detainees against retaliation for reporting or complaining about the incident, or participating in the investigation? Please describe and, if retaliation occurred, describe how the facility responded.	_____ (yes/no)
Comments:		
16	Are there any other changes in policies or practices at this facility that might help better prevent, detect, or respond to incidents of this nature in the future? If yes, please describe.	_____ (yes/no)
Comments:		

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17	Did this incident result in the review or revision of any facility policies or procedures? If so, what policies or procedures were reviewed and/or revised as a result, and how were they implemented?	
		(yes/no)

Comments:

Recommendations

List all recommended changes in policies, procedures, and/or practices identified through the questions above, and describe exactly how each recommendation was implemented.

#	<i>Recommendation Description</i>	<i>Method of Implementation</i>
1		
2		
3		
4		

Copy must be placed in Facility PREA File and forwarded to the PREA Coordinator.



NEW MEXICO CORRECTIONS DEPARTMENT

Cabinet Secretary
Alisha Tafoya Lucero

4337 State Road 14, Santa Fe, NM 87508 - PO Box 27116, Santa Fe, NM 87502-0116
Phone: 505.827.8645 Fax: 505.827.8533 www.cd.nm.gov

PREA Sexual Abuse Response Team Committee

CONFIDENTIALITY AGREEMENT

By signing below, I understand that the information viewed is required to be held confidential by me. This Agreement does not involve matters of public concern and the New Mexico Corrections Department has adequate justification for restricting communications of this information. Committee members will have access to confidential investigations, personnel, medical, mental health or personal records/information.

The information is being provided to you in either electronic and/or paper format. By signing this document, you agree not to print, forward, show, provide, discuss or disclose any of the information contained in any of these documents or information exchanged between committee members to anyone. Committee members may exchange confidential information electronically, written or verbally or in person solely for the purpose of gaining information needed to review incidents.

I understand that the consequences of violating this Agreement may include corrective and/or disciplinary action up to and including termination of my employment, and potential criminal or civil legal liability for violation of state or federal confidentiality laws.

By signing this Agreement I confirm that I have no conflict of interest or perceived conflict of interest on an incident being reviewed. Conflicts of interest include such things as being part of or named in an incident, socializing with the staff member involved in an incident, being related to the staff member or inmate involved in the incident. If there is a conflict of interest on an incident, I agree to remove myself from the review of the incident including leaving the room where the incident is reviewed. I have read and understand the Confidentiality Agreement and agree to abide by this agreement. My signature below is evidence of the foregoing and is freely given.

Employee Signature: _____ Date: _____

Printed Name: _____ Date: _____

Review Chair Signature: _____ Date: _____

New Mexico Corrections Department
MONTHLY PREA INCIDENT TRACKING LOG

Facility Name		PREA Facility Monitor	Month/Year			Signature	
Date Reported	Type of Incident Inmate on Inmate Staff on Inmate	Incident Category Sexual Abuse/Assault, Sexual Activity, Sexual Harassment, Undue Familiarity	Alleged Victim	Alleged Perpetrator	OPS Case Number	Disposition Substantiated Unsubstantiated Unfounded Pending	Date of Conclusion of Investigation

Undue Familiarity cases can only be matters with Staff and Inmates
 Any Substantiated or Unsubstantiated Disposition prompts a Sexual Abuse Response Team Review to be completed and shall be forwarded with this tracker to the PREA Coordinator at the end of each month.
 Ensure that once an investigation has begun, the Victim Retaliante Monitoring form is completed and forwarded once complete to the PREA Coordinator.

New Mexico Corrections Department
MONTHLY PREA INCIDENT TRACKING LOG

Date Reported	Type of Incident Inmate on Inmate Staff on Inmate	Incident Category Sexual Abuse/Assault, Sexual Activity, Sexual Harassment, Undue Familiarity	Alleged Victim	Alleged Perpetrator	OPS Case Number	Disposition Substantiated Unsubstantiated Unfounded Pending	Date of Conclusion of Investigation

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