



THE UNIVERSITY OF
NEW MEXICO

**Bernalillo County
Metropolitan Detention
Center: Prison Rape
Elimination Act
Standards Review**

Revised July 2022

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Introduction

The 2003 Prison Rape Elimination Act (PREA) requires that federal, state, and local correctional facilities maintain and enforce a zero-tolerance policy toward sexual abuse and sexual harassment for both inmate-on-inmate and staff-on-inmate misconduct. On October 1, 2020 the Metropolitan Detention Center (MDC) was through a competitive process awarded funds by the Bureau of Justice Assistance to address, enforce, and monitor PREA and its standards. The Bureau of Justice Assistance grant was awarded in an effort to assist counties and/or cities that are seeking to review and improve upon their implementation of PREA standards. For the MDC, this included establishing new PREA investigator positions as permanent staff, supporting facility upgrades and increasing surveillance, facility supplies such as shower curtains, and print materials for inmate education. These items support maintaining full compliance with PREA standards, improving PREA education for inmates that emphasizes reporting methods, streamlining contractor and volunteer training, improving data collection and management, and identifying specific populations especially vulnerable to sexual abuse.

Our study and this report review PREA standards and procedures in practice at the MDC. This included a review of the PREA screening tool used at the MDC, both for structure of the tool and the effectiveness of the tool in identifying potential victims or perpetrators of sexual violence. We also analyzed disciplinary incidents that relate to PREA and reviewed the process of classification as it relates to PREA, and PREA incidents. In addition, we separately surveyed MDC staff and inmates and held a focus group with MDC classification staff. This report contains a set of recommendations that includes changes to the PREA screening tool and to PREA policies and procedures.

The Prison Rape Elimination Act

The Prison Rape Elimination Act (PREA) was passed unanimously by Congress and signed into law by President George W. Bush in September 2003. In addition to the zero-tolerance policy for any kind of sexual assault in U.S. correctional facilities, PREA also establishes and updates standards for the prevention, treatment, and reporting of sexual assault in federal, state, and local correctional facilities.

The National Rationale For PREA. The literature suggests that the major driver behind the legislation came from moving and emotional testimonies from prison rape survivors and the families of deceased victims. Other factors in the debate included concern over prison rape potentially increasing HIV-AIDS infection rates (see Prout and Ross, 1988, pp. 186-191 and Struckman-Johnson, 2013, p. 340) and support under President George W. Bush's administration (see Bourke, 2007, pp. 355-356; Dumond 2006). However, the bill also gained momentum from other more directly political-institutional developments. For example, Congress may have felt that the time was opportune to enact reforms in a policy area that the corrections system had let languish for too long and in which it had made only minor,

“piecemeal” improvements (Bourke , 2007, p. 353; see Struckman-Johnson, 2013, p. 340)¹. Additionally, lawmakers may have been spurred into action to head off potentially adverse prisoner litigation on mainly Fourth (illegal search and seizure) and Eighth Amendment (“cruel and unusual punishment”) grounds. Bourke notes that since the 1970s prisoners had begun winning scattered lawsuits against prison officials for causing, if indirectly, the sexual victimization of prisoners, such as by intentionally placing a highly vulnerable inmate in a cell with a known sex offender. At the same time, some courts had even thrown out indictments when judges believed a particular defendant would almost certainly be victimized in custody (Bourke, 353).

Institutional Consequences. Widespread prison rape and other forms of sexual assault are damaging to the institutional integrity and internal security of a prison (Smith 2020, 2; see Robertson 2011, 830). This is because rampant sexual violence conflicts sharply with the core care-and-custodial functions of the prison and because it can beget further acts of violence, including of a sexual nature, as well as retaliatory and preemptive assaults. Indeed, sexual violence would appear to set into motion cycles of violence that heighten the already high security risks faced by inmates and correctional officers alike. Sociologists have also studied victimization’s effect on personality and criminal patterns and the collective impact these changes can have on return communities. While Lockwood found that most victims tended to recover psychologically after a “period of months,” others had difficulty replacing the emotional armor needed to survive in prison with the more congenial behavioral expectations of polite society.

Relatedly, criminologists Listwan, Hanley, and Colvin (2012) found that witnessing sexual violence in the final 12 months of a man’s sentence—a variable potentially less prone to response bias than actual victimization—was a significant predictor for arrest after release from prison. The research team also determined a positive correlation between the degree to which an inmate considers a prison coercive or violent and how likely they are to violate parole, be re-arrested, return to prison, or commit a violent felony. Stated more directly, “victimization in prison appears to have an impact on community adjustment” (vii).

Similarly, Morenoff and Harding (2014) observed that communities with high rates of incarceration also have high rates of reintegration and that the two linked phenomena “create a pernicious cycle of decline” (424), with this effect heavily localized in specific neighborhoods and towns. Related literatures include Clear’s (2007) *Imprisoning Communities: How Mass Incarceration Makes Disadvantaged Neighborhoods Worse* (2007) and the chapter, “The Cost to Society At-Large,” in Singer (2013). Finally, while it would seem to be a natural research question, few studies appear to examine whether prison sexual victimization is a significant predictor for the perpetration of sexual violence post-release. Smith briefly mentions that “(t)hose who experience sexual trauma will be likely to import these negative physical and mental health effects back into their communities” (2020, p. 2). However, there are few

¹ For more on the history of PREA, see Arkles 2014, Nielsen 2017, and B. Smith 2020.

analyses directly investigating the correlation between victimization and propensity to perpetrate sexual assault.

PREA mandates that U.S. correctional facilities regularly collect data on sexual assault and report this information to national databases managed by the Bureau of Justice Statistics. PREA also sets a zero-tolerance policy for any kind of sexual assault in U.S. correctional facilities, including staff-on-inmate sexual relations which are considered non-consensual, on their face (see Stern, 2019, pp. 740-741). Another function of the law is to implement panels of experts that formally review sexual assault conditions and administrative practices at specific facilities across the country (see Struckman-Johnson, 2013, p. 350). PREA has created a national clearinghouse for data, analyses, and reports, as well as implemented manuals and training curricula for corrections staff which is managed by the National Institute of Corrections.

Prison rape or sexual victimization has been a major concern for policy makers, corrections, jails, victims, and their advocates. PREA established a national standard for preventing sexual abuse or rape in correctional settings. The Bernalillo County Metropolitan Detention Center (MDC) has had to make improvements or adjustments to policies or procedures to ensure that PREA standards are being met.

Bernalillo County Metropolitan Detention Center Background

The Institute for Social Research (ISR) has been involved with the County in conducting research and providing technical assistance to the MDC since the 1990s. This includes providing research to identify areas for improving public safety in the County and reduce jail crowding (i.e., jail length of stay and bookings on minor charge), bail reform, the use of a public safety assessment, the cost of the jail, the booking and housing of mentally ill individuals, the process of reentry, and technical assistance focused on improving jail operations. A 2015 study that reviewed PREA-related data, such as incident and disciplinary data and PREA training found the MDC did not have a reliable process to document and report PREA-related incidents. Recommendations were made related to reporting, data collection, training, and creating and disseminating policies to all staff and contractors.

PREA Training, Education, Screening, Classification, and Incident Procedures at the MDC

MDC policy requires PREA training to be completed by all staff, contractors, and volunteers who will have contact with inmates at the facility (PREA 27.02). This policy includes a zero-tolerance policy for sexual abuse and harassment, inmates' rights to be free from abuse and harassment, the rights of inmates and employees to be free from retaliation, and requirements for preventing, detecting, and reporting sexual abuse and harassment. Refresher training is provided every two years for staff.

The same policy that mandates staff training requires inmate education, so inmates are informed of the zero-tolerance policy for sexual abuse and harassment and how to report

suspicious or incidents (PREA 27.02). Education is provided via an inmate orientation video, information posters, an inmate handbook, as well as other methods. By policy MDC staff are required to ensure inmates receive comprehensive PREA education within 30-days of intake.

As a matter of policy, within 72 hours of arrival, inmates should be administered the PREA Profile Checklist (ICL 17.00). This screening is based on national standards for PREA intake questions on sexual victimization and abusiveness and are used to identify inmates in either category (PREA Resource Center, 2017). These standards provide the minimum criteria to screen inmates, including questions on the inmates' disability status, age, physical build, previous incarceration, criminal history, appearance, sexuality, history of institutional violence, and history of sexual abuse among others. By policy, there is a classification committee at the MDC consisting of at least three members (ICL 17.00). The committee participates in the annual review of the jail classification plan and reviews complex classification decisions as necessary (ICL 17.00).

When primary classification occurs – meaning the inmate is assigned a security classification – the information from the Checklist is used to help assist in decision-making and to prevent housing potential victims and abusers together. In addition to rescreening for a variety of reasons (regular reviews or reviews for disciplinary findings), security classifications may also be subject to an override based on individual circumstances.

MDC policy requires that all allegations of sexual abuse, sexual harassment, and retaliation are investigated (PREA 27.07). PREA investigators are required to have specialized training that is documented and maintained. This training includes interviewing techniques, evidence collection techniques, and criteria and quality of evidence for criminal investigation. Policy dictates that any allegation sent to the PREA department requires review to confirm the incident is sexual abuse, sexual harassment, or retaliation. Allegations that meet the definition then proceed through the investigation process, ultimately resulting in a finding of either pending, substantiated, unfounded, or unsubstantiated. As defined by MDC policy (PREA 27.07), a substantiated allegation is an allegation that was investigated and determined to have occurred. An unfounded allegation is one that was investigated and determined to not have occurred. Finally, an unsubstantiated allegation was investigated but there was insufficient evidence to determine if it did or did not occur.

A review of these policies and procedures – which involved both staff and inmates – provided the ISR a more complete understanding of PREA standards at the MDC. The MDC is currently experiencing security staffing shortages with a vacancy rate of approximately 45%. Security staffing shortages have created challenges for classification staff in several ways. First, a lack of security has meant classification staff at times cannot access inmates because of limited corrections staff to provide security for classification staff. Second, because of limited corrections staff, inmates have been placed in fewer housing pods than they might normally when there are more staff and hence a greater ability to staff more pods and spread-out inmates. In units with more inmates and fewer corrections staff to provide security, there was

less privacy for classification staff and inmates for more private screening. In the focus group one respondent noted inmates were “sardined”. Finally, there were fewer housing options for separating inmates as needed, so groups may not be as effectively separated as they would have been with more security staff.

Current Study

The ISR was contracted in July 2021 to review how PREA is implemented at the MDC and to evaluate PREA policies and practices. We analyzed data related to PREA, including screening data, disciplinary data, classifications data, and PREA incidents and outcomes. PREA screening data is used to identify inmates at a greater risk of potential sexual abuse or victimization. Disciplinary data is reviewed as some violent incidents, dependent on the finding, require a rescreening and may change an inmates PREA classification. PREA incident findings were reviewed as were classifications data, which were impacted by the screening. In addition, MDC staff were surveyed to better comprehend their understanding of PREA policies and procedures, the screening and screening process, and vulnerable populations at MDC. A focus group with classification staff was held to discuss PREA policy, PREA and classifications, and vulnerable inmates. Finally, inmates at the MDC were surveyed to assess inmate knowledge of PREA, PREA information received during the inmates’ stay, inmates’ views on the screening process, and the conditions faced by the MDC’s most vulnerable subpopulations. This combination of methods allowed for a more complete understanding of PREA practices at the MDC, including how inmates and staff understand PREA. These are described in more detail below.

Review of MDC Data

Inmates at the MDC are screened shortly after arrival using the PREA Profile Checklist. These screenings are intended to identify potential victims or perpetrators of sexual violence to assist classification staff with housing inmates. By policy, inmates are rescreened for a variety of reasons, including periodic reviews, changes in legal status, biannual placement and programming assignments for transgender or intersex inmates, or specific disciplinary incidents. In addition, an inmate can be involved in a PREA incident, either as a victim or a perpetrator. Rescreening, either during a period review, or as the result of a disciplinary or PREA incident can result in a change of identification as a potential victim or perpetrator of sexual violence.

PREA screening results can impact the classification of an inmate, though these results are only one part of the screening process used to classify inmates. Other factors used for classification include physical/mental health conditions, suicide risk, and legal status (ICL 17.00). The goal of the inmate classification is to classify inmates to the lowest security or custody level that will ensure the safety of staff and inmates. The custody level dictates what other custody levels inmates can have custody with as well as what privileges an inmate may be able to access.

The goal of analyzing screening data was to assess the use of the PREA screening to accurately identify vulnerable populations and the rescreening of inmates as required by policy. Further, PREA incidents were reviewed as well as classification data and disciplinary data. These data are provided in Appendix Table B1, including from where the data was collected and the timeframe of the data. The data sources and data are described in more detail below.

Inmate Level Data. Data was compiled from three sources: the Northpointe Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) system, the Offender Management System (OMS), and the Incident Tracking System (ITS). The OMS is the current jail management system used at the MDC and was implemented in December 2020. For some items, data was in both Northpointe and the OMS, with some historical data having been transferred into the OMS. Data was cleaned and combined wherever possible. Each dataset is described in more detail below.

PREA Screening Data. PREA screenings administered from 2018 to 2021 were compiled from both Northpointe and the OMS. Variables included the type of screening (i.e., initial and rescreening), the inmate booking number, screening date, answers to screening questions, final scores, and potential victim or abuser flags. Some screenings were in both data systems, so the screening was not unique but duplicated with the same screening dates and scores. These duplicated screenings were removed from analysis.

Additional data quality concerns included multiple screenings at slightly different times with differing scores and/or or missing responses to screening questions. Using the combined data, screenings were selected based on whether the screening was complete – without all question responses the PREA scores cannot be calculated – and unique screenings were selected based on the completeness and uniqueness of the data. If there were multiple screenings within a few minutes or hours, the second screening was selected based on the assumption that there was an update or correction to the screening. In addition, booking data was merged to the screening data and when possible incorrect and missing data from the screening was replaced with booking data. Arrival and release information was reviewed and screenings that occurred within study time frame were retained for analysis.

Disciplinary Incident Data. Particular types of violent disciplinary incidents can trigger a rescreening and impact an inmates' classification. Disciplinary data was collected from both the Internal Tracking System and the OMS, where most of the historical data had been transferred. Data was available for incidents occurring between February 27, 2020 and December 2021. The variables included a unique disciplinary incident number, incident date, inmate name, a description of where the incident took place, an infraction code, infraction description, and if the infraction code is one of the identified codes that according to policy may result in a rescreening depending on the outcome of the incident.

Classification Data. Inmates in the MDC were classified using the Decision Tree Jail Inmate Classification System (JICS) through Northpointe. The questions on the JICS and the PREA

screening tool have limited overlap. The JICS was formatted differently, relying on a series of questions with yes/no answers to select a final score rather than calculating a score based on responses to create a flag. The JICS questions asked about current offense, prior offense, escape history, number of prior felony convictions, detainers, warrants, or pending cases, known past or present institutional behavioral problems, if the inmate was pre- or post-sentence, if the charge level was felony or misdemeanor, and if the inmate had employment and family ties. Classification data was exported from Northpointe for January 2018 through December 2021. While the information for the JICS questions was not available, variables provided included the custody level represented by a score of (1-9), classification reason, if an override occurred, and the classification date. Any classifications without a corresponding MDC booking, missing information, or that were duplicated were removed from analyses.

PREA Incident Data. PREA related incidents included all allegations of sexual abuse, sexual harassment, and retaliation. These incidents at the MDC were investigated by a PREA investigator and were tracked in the Internal Tracking System (ITS). The data included the incident date, type, and findings for incidents occurring between 2018 and 2020. Data from 2021 were unavailable for analysis.

Data Synthesis. The combination of these data allows for a more complete review of PREA. This includes analyzing PREA screening data, disciplinary incidents that may trigger a rescreen, PREA incidents and outcomes, and classifications data as it relates to PREA. Assessing the PREA screening included a review of the questions on the tool. In addition, the responses and information available provided a flag that was used to identify potential abusers or potential victims. While screenings occur for a variety of reasons – arrival at the facility, 30-day reviews, changes in charges – they can also occur when an inmate is found guilty of certain violent disciplinary incidents in the jail. These disciplinary incidents have the potential to add the final point necessary for an inmate to qualify as a potential abuser. This flag is considered when housing inmates along with the custody level, which is constructed using questions primarily different from the PREA screening. Finally, PREA incidents provide an overview of the number of incidents reported at the MDC.

MDC Staff Survey

The staff survey was designed to ascertain MDC staff's understanding of PREA policies and procedures, the screening and classification process, and vulnerable populations at the MDC. The online survey and reminder emails were sent to an email list for all current staff at the MDC, including medical and health contractors. Questions were designed to gauge staff member's understanding of PREA and feelings towards PREA practices at MDC, such as risk actors that would identify an inmate as a potential aggressor or potential victim. A set of 65 questions asked participants about their knowledge of PREA practices and situations that might qualify as rape or sexual assault. The 65 questions consisted of one general question, six true or false questions covering PREA policies and procedures, 22 questions that asked participants which factors affect an inmate's classifications as either a potential abuser or a potential victim,

and 36 questions that asked participants to gauge whether a specific situation would be considered rape or sexual assault. Finally, there were four questions for classification staff only, for a total of up to 69 questions related to PREA. There were ten additional demographics and staff information questions. The survey contained 79 questions.

Staff Focus Group

A focus group was conducted with MDC classification staff. All 6 eligible classification staff (excluding supervisors) were involved in the focus group. Lunch was provided and participation was voluntary. Three ISR staff were in attendance; the facilitator, cofacilitator, and a note taker. Questions were designed to gain a more in-depth understanding of classification staff member's understanding of PREA policies, MDC staff views on and confidence in these policies, and staff training, and inmate education. The focus group covered the PREA screening tool and vulnerable inmates.

Inmate Survey

The inmate survey was designed to collect basic inmate information, inmate knowledge of PREA and PREA information received during the inmates' stay, inmates' views on inmate and screening processes, and the conditions faced by the MDC's most vulnerable subpopulations. The inmate survey included 50 questions. The first 15 questions covered information such as age, length of time spent in the facility, race, gender, sexual orientation, current charges and education. The next 5 questions asked about information regarding PREA policies and what information about PREA was received during the booking process. The next 10 questions asked inmates how strongly they agreed or disagreed to statements about sexual harassment and abuse within jail and prison facilities and their willingness to report issues or sexual violence to staff. Another 10 questions asked inmates questions on the frequency of sexual assault abuse and harassment in addition to other policy questions and the final 10 questions asked inmates to identify whether a series of scenarios would be construed as rape/sexual assault.

Inmates were excluded for a variety of reasons including medical and/or behavioral health disorders, being housed in the Psychiatric Acute Care (PAC), or being unable to complete the survey in English. We estimated 880 inmates were eligible for the survey. With the help of the MDC PREA Administrator nine housing units spanning all custody levels (General Population, Close Custody, Step Down Units, and High Risk/Special Handling/STG/Discipline) were selected that included both male and female pods. The inmate survey was advertised to inmates verbally by housing unit managers, through tablets the inmates can access during recreation time, and flyers that were posted in various locations throughout the facility approximately a week prior to the arrival of ISR staff to administer surveys.

Packets were distributed in envelopes in the pods and ISR staff informed inmates of the consent form provided with the packet, emphasizing that the survey was anonymous and no identifying information was being collected. Inmates who elected to participate could complete

the survey and ISR staff were available to answer questions about the forms. Once completed, inmates were asked to return the survey in the sealed envelope. Inmates were provided a six-ounce cup of soda and a donut for participating. Nine jail pods were visited, three women’s and six men’s, with visits being staggered across several days because of the amount of time involved to complete the survey. Inmates were also informed that questions could be skipped, and that the inmate could stop the survey at any time, at which point ISR staff would void the survey and not use the data. Surveys were also excluded if they contained suspicious data such as responses made by drawing a line through a column of responses on each page. Three hundred and thirty inmates completed the survey.

Results

PREA Screening Data

Data from the PREA Profile Checklist included a series of yes/no questions that provide a score and associated flag for potential victimization and abuse (see Appendix A). This information is one factor used to classify inmates and assign housing to maintain inmate and staff safety and facility security. Screening data was provided from Northpointe for screenings administered between January 2018 to December 2020 and the OMS for screenings December 2020 to December 2021. In addition to the intake screening, rescreening can occur for a variety of reasons including a 30-day review, a misconduct screening, an incident of sexual assault, six-month review, or other reason such as a mandated review for vulnerable groups. There were 62,390 unique bookings with 78,333 screenings: 63,364 from Northpointe and 14,969 from the OMS.

The screenings at the MDC were primarily administered for intake purposes (78.9%) (see Table 1). An additional 17.0% were conducted as part of a 30-day review, 2.2% were done as a rescreening after a misconduct report and 1.6% were done after an inmate returned to the MDC from another facility. The remaining screenings .3% were either missing/other/unknown or related to incidents of sexual assault, both accounting for less than .01% of screenings.

Table 1. Number of Screenings by Reason

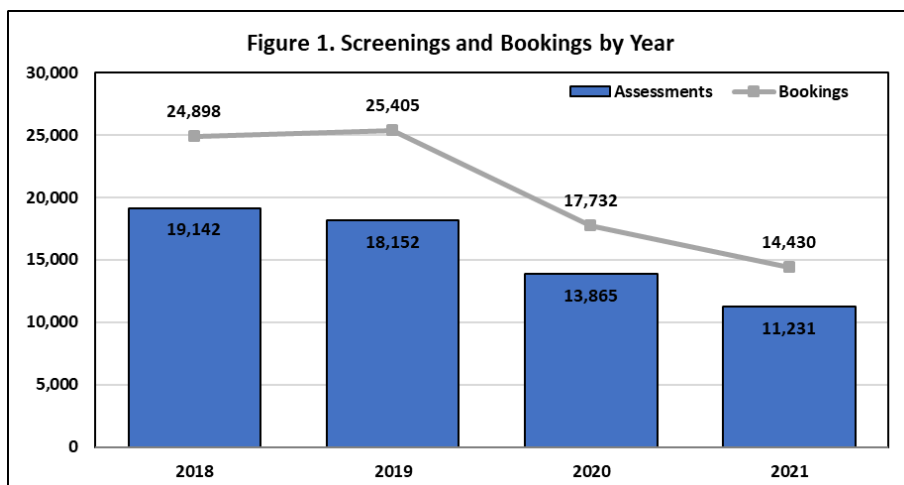
Reason	Count	Percent
Intake Screening	61,823	78.9%
30 Day Review	13,337	17.0%
Misconduct Screening	1,695	2.2%
Facility Return	1,217	1.6%
Other/Missing/Unknown	239	0.3%
Incident of Sexual Assault	22	0.0%
<i>Total</i>	<i>78,333</i>	<i>100.0%</i>

Figure 1 below shows the number of bookings with one or more completed screenings by year compared to the number of total bookings by year. The earliest booking for each screening was

selecting and organized by the year of screening and booking. The number of screenings and bookings decreased over the last three years. The large decrease in bookings and screenings was in 2020 and 2021, mostly due to the COVID-19 pandemic. Between 76.9% and 78.2% of bookings annually had one or more screenings, with the exception of 2019, when the percentage decreased to 71.5%. Typically, this occurred because an inmate was released before being screened or inmate refused to complete the screening.

Figure 1

PREA Screenings and Bookings by Year



The *PREA Standards in Focus* (PREA Resource Center, 2017) provides the minimum criteria for inmate screening to identify inmates at risk for sexual victimization or risk of sexual abuse. Each of these includes a series of questions or factors. These factors were reviewed for the earliest screening on each of the 62,390 bookings from 2018 to 2021 (see Tables 2 and 3).

The victimization factors were primarily in line with PREA standards (see Table 2). While the *PREA Standard in Focus* does not suggest determining if the inmate has participated in consensual sexual activity during prior incarcerations, this question was rarely answered in the affirmative. With only .01% of bookings with an affirmative response regarding consensual activity, the inclusion of this additional item has little impact. Several factors were asked across multiple questions. While the national standard mandates determining whether the inmate previously experienced sexual victimization, the MDC screening does this using two separate questions, one asking if there is a history of sexual abuse and the other is the inmate is a survivor of sexual assault in a correctional facility. While the use of two separate questions is not prohibited and the latter question is rarely answered in the affirmative (0.6%), additional questions extends the amount of time it takes to administer the screening and adds additional opportunities for an inmate to be scored as a potential victim. Additionally, the PREA standard mandates determining if an inmate is or is perceived to be gay, lesbian, bisexual, transgender,

intersex, or gender nonconforming. In the screening, there are three separate questions related to this factor.

A non-violent criminal history was the most common victimization factor (45.1%). This was followed by if the inmate had a physical/developmental disability or mental illness at (18.9%). Next 15.7% of screenings included an inmate who was either under the age of 25 or over the age of 55. The remaining factors accounted for between 6.2% of the population for those with a history of sexual abuse down to .01% the population for those with a history of facility consensual activity

Table 2. Possible Victimization Factors for Earliest Screening

Question	Total Yes	Percent Yes
Is the inmate a survivor of sexual assault in a correctional facility?	376	0.6%
History of facility consensual sexual activity during prior incarceration?	59	0.1%
Inmate is under the age of 25 or over the age of 55?	9,824	15.7%
Inmate is small in physical stature?	3,015	4.8%
Inmate has physical/developmental disability or mental illness?	11,799	18.9%
Is this the inmate's first incarceration?	2,329	3.7%
Does the inmate identify as being Lesbian, Gay, or Bi-Sexual?	1,672	2.7%
Does the inmate identify as being Gender Non-Conforming, Transgender, or Intersex?	202	0.3%
Does the inmate have any prior convictions for sex offenses against an adult or child?	1,234	2.0%
Is there any history of sexual abuse?	3,883	6.2%
Does the inmate express concern regarding their vulnerability in the facility?	991	1.6%
Is the inmate's criminal record exclusively non-violent?	28,108	45.1%
Does the inmate's dress or appearance appear to be Gay, Lesbian, Bi-Sexual, Transgender, Intersex, or Gender Non-Conforming?	350	0.6%
Is the inmate detained solely for civil immigration purposes?*	0	0.0%

*This is one of the PREA victimization factors, however, the MDC does not house any individual with an ICE (Immigration and Customs Enforcement) hold.

Like the victimization factors, the abusive factors included those listed in the PREA standards with some modifications and additions (see Table 3). The MDC screening tool added several factors. The first added factor was if the current or pending charge was for a sexual offense, which was answered in the affirmative in 1.1% of screenings. Another added factor was whether the inmate had any gang affiliation. This accounted for a higher degree of inmates (4.9%). The factor with the most affirmative responses was if the inmate had a history of domestic violence (40.5%). While the PREA standards mandate consideration of prior convictions for violent offenses, there is an additional question on the MDC screening regarding any history of domestic violent. The large number of inmates with an affirmative response to this question compared to the portion of inmates with a conviction for a violent offense (23.9%) suggests this question duplicates a portion of the count from the history of the violent offenses.

The addition of this factor increases the potential abuser score. Another factor is the history of prior institutional violence or abuse, which is in two questions in the PREA screening and is modified to sexually aggressive behavior (0.5%) or a history of prior institutional violence (0.2%) in the MDC screening. Only a small portion of inmates reported a history of sexual abuse toward others (2.7%).

Table 3. Possible Abusive Factors for Earliest Screening

Question	Total Yes	Percent Yes
Is there any history of sexually aggressive behavior toward other inmates or staff while housed in a correctional facility?	319	0.5%
Is there a history of prior institutional violence?*	103	0.2%
Is the current charge or any pending charge for a sex offense?	694	1.1%
Does the inmate have any history of sexual abuse toward others?	1,690	2.7%
Does the inmate have any convictions for a violent offense?	14,895	23.9%
Does the inmate have any history of Domestic Violence?	25,282	40.5%
Does the inmate have any gang affiliation?	3,030	4.9%

*This was only collected in the OMS and was not used for calculating the victimization score in the Northpointe system.

The number of individuals who were flagged as a potential abuser or victim based on the screening was calculated by year (see Table 4). There was a large decrease in the portion of screened inmates with the abuser flag, dropping from 17.2% in 2018 and 14.6% in 2019 to 5.8% and 3.6% in 2020 and 2021. This occurred due to a policy change at the MDC in January 2020 when the cutoff for potential abusers was increased from a minimum of 2 points to 3 points. By raising the threshold for potential abusers, the portion of inmates that qualified for this category was reduced by over 75% from 2018 and 2019 to 2021. During the four years of screenings, there was very little change in the portion of screenings with a potential victim flag. The portion of the population with this flag was between 6.5% and 7.0% of the population each year from 2018 to 2021.

Table 4. Potential Victim or Abuser Flags by Year

Year	Bookings w/ Screening by Year	Victim Flag		Abuser Flag	
		Count	Percent	Count	Percent
2018	19,142	1,337	7.0%	3,293	17.2%
2019	18,152	1,172	6.5%	2,652	14.6%
2020	13,865	908	6.5%	804	5.8%
2021	11,231	760	6.8%	404	3.6%

Rescreening due to disciplinary incidents can result in a change of the flags used for classification purposes.

OMS Disciplinary Data. Per MDC policy, there are 16 incident types that result in a rescreening in the event an inmate is found guilty of the infraction. These include murder, kidnapping,

aggravated battery or assault against staff, sexual abuse, sexual misconduct, or sexual harassment. Disciplinary data from ITS and OMS included 9,026 incidents between February 27, 2020, and December 31, 2021, for 3,029 individuals across 3,785 bookings. Of the 9,026 incidents, there were 2,568 incidents that could have initiated a rescreening depending on the findings (28.5%). This rescreening could result in a new score and new abuse or victimization flags.

Table 5 displays the highest infraction code for each disciplinary incident. According to MDC policy, 111 Battery is considered a Class I Offense which is considered more serious than from 201 Battery, a Class II Offense. Incidents with 111 Battery as the highest offense accounts for the highest portion of incidents (43.3%) An additional 29.6% had 201 Battery as the highest infraction followed by 9.1% with 110 Assault Against Staff as the highest infraction. These three infractions accounted for 82% of all infractions.

Table 5. Rescreening Incidents by Highest Infraction Code

Infraction	Count	Percent
102 - Manslaughter	1	0.0%
103 - Taking of Hostages or Kidnapping	4	0.2%
105 - Aggravated Battery against Staff	43	1.7%
106 - Aggravated Battery	73	2.8%
107 - Aggravated Assault Against Staff	27	1.1%
108 - Aggravated Assault	25	1.0%
109 - Battery Against Staff	153	6.0%
110 - Assault Against Staff	234	9.1%
111 - Battery	1,112	43.3%
112 - Engaging in a Riot	35	1.4%
113 - Escape with Force	3	0.1%
115 - Sexual Abuse	8	0.3%
116 - Sexual Misconduct	39	1.5%
201 - Battery*	760	29.6%
203 - Sexual Harassment	51	2.0%
<i>Total</i>	2,568	100.0%

Findings for the infractions were stored separately from the discipline data and were not available for this study. Although the findings were not available for each incident, an alternative method was used to estimate what portion of disciplinary incidents resulted in a rescreening. For bookings with one of the above listed incidents, a comparison was made between the incident that occurred during the booking and misconduct screenings that occurred to estimate if the incident required a new screening. If there was both an incident of the type identified in Table 5 and a screening for misconduct, we assumed the finding for the incident was guilty and resulted in a rescreening. For the 2,568 incidents with one or more of the potential rescreening infraction codes, there were 1,615 unique bookings. Once screenings for misconduct involving incidents of sexual assault were reviewed, there were approximately 354 bookings (21.9%) with at least one incident with an infraction for which the inmate was

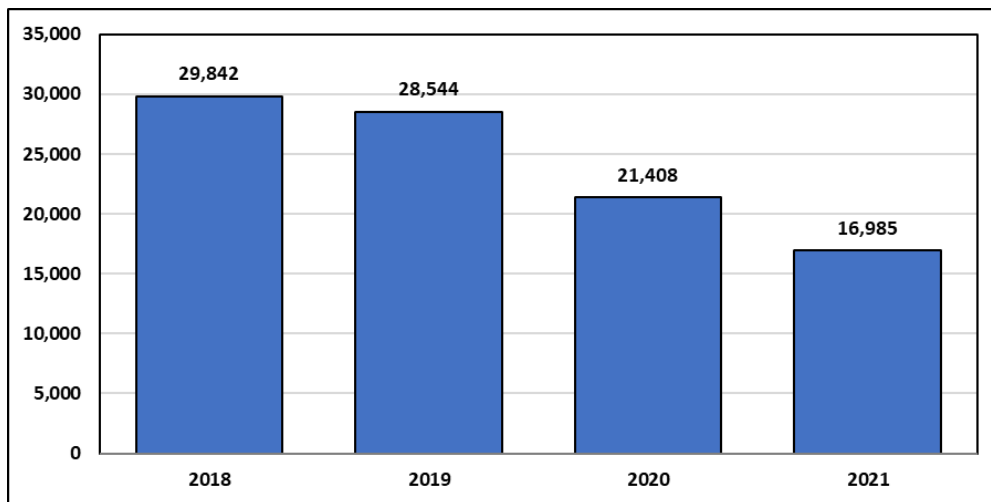
found guilty, resulting in the need for a rescreening. This is an estimate based on available data which does not include findings for the incidents.

Whether it is the initial screening or a rescreening due to policy or a disciplinary incident, the potential victimization and abuser flags were part of the classification process and were used to help classify and house inmates.

Inmate Classification Data. Inmate classification is the assignment of a security classification that is used assign inmate housing. As described above, the MDC uses the JICS to assign a custody level using questions that asked about current offense, prior offense, escape history, number of prior felony convictions, detainers, warrants, or pending cases, known past or present institutional behavioral problems, if the inmate was pre- or post-sentence, if the charge level was felony or misdemeanor, and if the inmate had employment and family ties. While responses to individual questions were not provided, the relevant classification data, including the custody level, was exported from Northpointe for January 2018 through December 2021.

The PREA screening information is used to assist in the classification and housing process and help prevent housing potential victims and potential abusers together. Classification data was retrieved from Northpointe and was cleaned and matched to corresponding booking data. There were 96,779 unique classifications for 68,904 bookings for analysis. The number of classifications by year has decreased over time, from as many as 29,842 classifications in 2018 to 16,985 in 2021 (see Figure 2).

Figure 2. *Classifications by Year*



Inmates are assigned by Classification Officers a custody level between 1 and 9, where 6, 7, 8, and 9 are considered minimum security, 3, 4, and 5 are medium security, and 1 and 2 are considered maximum security. Table 6 below shows the custody level by year. There were 42 classifications with level 1, of which 35 were in 2018 and 7 in 2019, and none in 2020 or 2021.

There were 6,664 classifications with level 2 which have consistently comprised between 6.6% and 7.3% of all classifications by year. Of all classifications, 37.5% were level 6, and 33.6% were level 3.

Table 6. Classifications by Year

	Classification Year				Total
	2018	2019	2020	2021	
1-High	35	7	0	0	42
2-Close	2,095	1,919	1,413	1,237	6,664
3-High Medium	9,307	9,242	7,618	6,361	32,528
4-Medium	5,929	5,705	3,930	3,471	19,035
5-Medium Pre	331	226	151	139	847
6-Minimum Pre	11,610	11,042	8,029	5,643	36,324
7-Minimum	38	32	13	9	92
8-Low	248	158	94	64	564
9-Very Low	249	213	160	61	683
Total	29,842	28,544	21,408	16,985	96,779

At times, a custody level may be overridden by classification personnel. This occurred in approximately 4.8% of all classifications. Table 7 reports overrides by the custody level that occurred between 2018 and 2021. The largest number of overrides were assigned to level 3 (37.2%), followed by level 4 (35.5%). While some overrides were assigned based on reasons that included assaultive threats toward staff, increased risk of escape, if the inmate was developmentally disabled, or if the inmate was considered mentally unstable, the majority of classification overrides (98.2%) were administrative². These overrides were automatic and require classifying New Mexico Corrections Department inmates and inmates detained on “Steps” violations or serving a sentence of three days or less at a custody level of at least level 2 (ICL 17.00).

Table 7. Overrides by Custody level

² There were 3 overrides for assaultive threats toward staff, 28 developmentally disabled, 17 hold, detainer for assaultive felony offense, 19 new charges may be added and the remaining 15 were for other reasons.

	Override	Percent
1-High	0	0.0%
2-Close	899	19.4%
3-High Medium	1,724	37.2%
4-Medium	1,643	35.5%
5-Medium Pre	95	2.1%
6-Minimum Pre	213	4.6%
7-Minimum	30	0.6%
8-Low	15	0.3%
9-Very Low	13	0.3%
Total	4,632	100.0%

While the PREA screening and classification questions were not the same, there is a relationship between the two. The classification and PREA data were combined to assign each custody level with the associated PREA screening information. PREA screening data was assigned to each classification if it occurred on or before the classification date³. For approximately 21.0% of bookings, there was no PREA information that could be matched to the classifications data (see Table 8). This occurred at higher rates for classifications in 2018 and 2019, at 26.4% and 21.8% respectively. In 2020 and 2021, the number of classifications without a corresponding PREA screening was 15.8% and 16.7%. This could have occurred for a number of reasons such as an inmate having refused to complete a PREA screening or the PREA screening having occurred outside of the timeframe when data was collected.

There were 76,462 classifications with related PREA screening information (see Table 8). Of these classifications, 84.2% had neither the potential abuser nor potential victim flag. There were 7,856 classifications with a potential abuser flag, the majority of which were custody level 3 (67.3%) or level 2 (20.4%). The potential victim flag was present for 4,616 classifications. These classifications were comprised primarily of level 6 (55.9%), level 3 (25.0%), and level 4 (15.6%). This potential abuser flags were centered primary at level 3 and 2 while the potential victim flags were centered instead around 6, 3, and 4.

To put it a different way, minimum security inmates had a custody level of between 6 and 9. In this group, 3.3% of screenings had a potential abuser flag and 56.4% had a potential victim flag. By comparison, inmates with a medium security custody level had higher rates of both flags, with 76.3% of inmates with a potential abuser flag and 41.4% had a potential victim flag and those with a high custody level had a potential abuser flag of 20.4% and a potential victim flag of 2.1%. This indicates that inmates generally responding affirmatively to PREA questions relating to violent behavior were in higher custody levels than inmates who did not.

Table 8. PREA Flags by Custody Level

³ A window of 3 days was allowed to allow for manual entry of forms.

Custody Level	Potential Abuser Flag	Percent Flag in Custody Level	Potential Victim Flag	Percent Flag in custody Level	Security Group	Total Percent Abuser Flag	Total Percent Victim Flag
1-High	6	0.1%	0	0.0%	High	20.4%	2.1%
2-Close	1,599	20.4%	99	2.1%			
3-High Medium	5,288	67.3%	1,156	25.0%	Medium	76.3%	41.4%
4-Medium	694	8.8%	721	15.6%			
5-Medium Pre	12	0.2%	35	0.8%			
6-Minimum Pre	249	3.2%	2,580	55.9%	Minimum	3.3%	56.4%
7-Minimum	2	0.0%	0	0.0%			
8-Low	2	0.0%	14	0.3%			
9-Very Low	4	0.1%	11	0.2%			
<i>Total</i>	7,856	100.0%	4,616	100.0%	<i>Total</i>	100.0%	100.0%

While PREA screenings and classifications are used to help keep inmates, staff, and the community safe there is no means by which to guarantee PREA incidents will not occur.

PREA Sexual Assault Incident Data. PREA incident data from the ITS covered 2018 to 2020 and included incidents of sexual abuse, sexual harassment, or retaliation. Data for 2021 was entered into the OMS but was not available to the ISR. The MDC staff attempted to gain access to this but was unable to get this information from the IT department. Incidents from 2021 were not available. There were 328 PREA-related incidents, 115 incidents in 2018, 116 in 2019, and 97 in 2020.

Of the 328 incidents the majority (66.8%) were identified as sexual abuse (see Table 9). Just over one in four incidents were identified as sexual harassment (26.2%) and the remaining 7.0% were retaliation. Table 9 also reports who was involved in the incident. Of the 219 allegations of sexual abuse, 73 were inmate on inmate, 126 were staff on inmate, and 20 were unspecified. Of the 86 allegations of sexual harassment, half (43) were inmate on inmate and the other half were staff on inmate.

Table 9. PREA Related Incidents by Type

	Retaliation	Sexual Abuse	Sexual Harassment	Total
Inmate on Inmate	3	73	43	119
Staff on Inmate	20	126	43	189
Unspecified	0	20	0	20
Total	23	219	86	328

Table 10 displays the type of alleged aggressor. The largest number of allegations involved a uniformed staff member as the aggressor (48.8%) followed by an inmate as the aggressor

(34.5%). There were 11.3% categorized as other with the remaining aggressors accounting for up to 6 persons (1.8%) or less per category.

Table 10. Alleged Aggressor by Type

	Count	Percent
Uniformed Staff	160	48.8%
Inmate	113	34.5%
Other	37	11.3%
Med	6	1.8%
Other Contractor	5	1.5%
Non-Uniformed Staff	4	1.2%
PSU	3	0.9%
<i>Total</i>	328	100.0%

Table 11 displays the finding of each incident if it was pending or after it was investigated. As defined by MDC policy, a substantiated allegation is an allegation that was determined to have occurred. An unfounded allegation was determined to not have occurred, and an allegation was considered unsubstantiated if there was insufficient evidence determine if it did or did not occur. Of the 23 retaliation allegations, one was pending, one was substantiated, 13 were unfounded, and eight were unsubstantiated. Of the 219 allegations of sexual abuse, the majority (124) unfounded. There were 83 sexual abuse allegations that were unsubstantiated 12 substantiated. Of the 86 sexual harassment allegations, eight were substantiated, 39 were unfounded, and another 39 were unsubstantiated. Overall, of the 328 incidents, 6.4% were substantiated, and the majority, 53.6%, were unfounded and 39.6% were unsubstantiated.

Table 11. Finding by Type of Incident

	Finding				Total
	Pending OPS Investigation	Substantiated	Unfounded	Unsubstantiated	
Retaliation	1	1	13	8	23
Sexual Abuse	0	12	124	83	219
Sexual Harassment	0	8	39	39	86
<i>Total</i>	1	21	176	130	328

In general, the majority of PREA related incidents occur between uniformed staff and inmates or between inmates (83.3%) and the majority of all types of incidents, whether retaliation, sexual abuse, or sexual harassment, were determined to be unfounded or unsubstantiated. Inmate on inmate incidents were approximately twice as likely to be unsubstantiated (56.3%) as staff on inmate incidents (26.6%). Staff on inmates' incidents were found to be unfounded at nearly twice the rate as inmate on inmate, 69.1% compared to 32.8%. Finally, inmate on inmate incidents were over two and a half times more likely to be substantiated than staff on inmate incidents (at a rate of 10.9% compared to 4.3%).

Staff Survey

The staff survey was designed to gather information that could be used to report how staff understand PREA policies and procedures, their understanding of the screen and screening process, and vulnerable populations at MDC. The staff survey included topics such as PREA policies and procedures, the screening and classification process, and vulnerable populations at the MDC. The staff survey was sent to 443 staff members including medical and health staff. Of 443 staff members who were invited via email to take the survey, 125 staff answered one or more PREA related question (28.2%). Of the 125 respondents, 45 identified as administrative staff, seven identified as classification staff, four as facility/maintenance staff, five as medical or mental health, 63 identified as security, and one did not identify their status. Staff survey results are presented by survey section.

The response rate for on the survey varied from 85.6% to 47.2% by question and from 76.0% and 52.8% by section (see Table 12). Response rates decreased as respondents progressed in the survey by section. The highest response rate (76.0%) was in the first section, which included questions on PREA policies. The response rate decreased with each subsequent survey section. We believe this may have occurred for two reasons. First, as the length of time increased to complete the survey respondents may have dropped out. Second, it may be that respondents were less comfortable responding to certain topics and/or some questions in sections were more challenging and led to respondents dropping out. Combined these two reasons may have led to lower response rates for certain sections of the survey.

Table 12. Response Rate by Section

Section	Response Rate
Understanding of PREA Policy	76.0%
PREA Screening Factors	64.8%
PREA Practices	56.0%
Facility and Work Satisfaction	55.2%
Potential PREA Scenarios	52.8%

Understanding of PREA Policy. The first question asked respondents to identify the PREA acronym. Almost all respondents (97.2%) correctly identified the acronym. Table 13 reports respondents understanding of PREA policies using a series of true or false statements. Almost all respondents (98.9%) correctly identified that a written PREA policy existed. Responses to statement five (revealing information on a sexual abuse report) and statement six (required to report abuse rather than suspicious behavior or secondhand information) were also answered correctly by a large majority of respondents (83.0% and 79.8%, respectively). Statement two pertaining to staff announcing their presence in a unit of the opposite gender had 61.7% of staff answering correctly. Only 17% of staff correctly answered that providing education to inmates regarding their PREA rights was required within 60 days of intake. This may be due to respondents not being involved directly in the classification or screening process. A small

percent of respondents (29.8%) correctly responded to the question regarding reporting knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurs in the facility. It is unclear why staff generally did not select the correct response on when to report potential instances of sexual abuse. By policy, these incidents should be reported immediately (verbally to a supervisor and in writing by their shift end). It is possible that the inclusion of items in the statement such as suspicions along with incidents created confusion.

Table 13. PREA Policy Staff Survey Results

Statement	True or False	Percent Answered Correctly
An agency shall have a written policy mandating zero tolerance toward sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct.	TRUE	99.0%
Sometimes staff of the opposite gender might want to announce their presence when entering an inmate-housing unit.	TRUE	61.7%
Within 60 days of intake, MDC 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.	FALSE	17.0%
MDC requires all staff to report within 48 hours and according to policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurs in the facility.	FALSE	29.8%
Staff are not allowed to reveal any information related to a sexual abuse report to anyone other than a designated supervisor or official, and a witness of the officer's choice to the extent necessary.	TRUE	83.0%
Staff are required to report only about incidents of sexual abuse or sexual harassment they have witnessed, staff should not make a report based on suspicious behavior or secondhand information regarding an incident of sexual abuse or sexual harassment.	FALSE	79.8%

PREA Screening Factors. Respondents were asked to rate the importance of the factors on the PREA screening, ranging from not very important to very important. The responses were assigned a value of one through five with one being the least important and five being the most important. An average score for is provided in Tables 14 and 15.

For possible victim factors, respondents agreed overall on the importance of all factors (see Table 14). Respondents' agreement was highest for factors related to a history of previous sexual abuse and if the inmate was a survivor of sexual assault in a correctional facility, both with an average score of 4.8. The average score remained high for many other factors, including if the inmate had a history of consensual sexual behavior in the facility (4.6), the age of the inmate (4.3), the physical stature of the inmate (4.3), and if it was the inmates first incarceration (4.6). The score was also high if the inmate identified as being lesbian, gay or bi-

sexual (4.5), if the inmate identified as gender non-conforming, transgender, or intersex (4.6), prior convictions for sex offenses (4.6), if the inmate expressed concern regarding their vulnerability (4.7), and if the inmate was perceived as being lesbian, gay or bisexual (4.5). Only slightly less important was if the inmate had a physical or mental disability (3.6), if the inmate's criminal record was non-violent (3.7), and if the inmate was detained for civil immigration purposes (3.4). This last was expected as the MDC does not detain inmates for this purpose.

Table 14. Staff Rating of Victimization Factors

	Average Score (1-5)
Is the inmate a survivor of sexual assault in a correctional facility?	4.8
History of facility consensual sexual activity during prior incarceration?	4.6
Inmate is under the age of 25 or over the age of 55?	4.3
Inmate is small in physical stature?	4.3
Inmate has physical/developmental disability or mental illness?	3.6
Is this the inmate's first incarceration?	4.6
Does the inmate identify as being Lesbian, Gay, or Bi-Sexual?	4.5
Does the inmate identify as being Gender Non-Conforming, Transgender, or Intersex?	4.6
Does the inmate have any prior convictions for sex offenses against an adult or child?	4.6
Is there any history of sexual abuse?	4.8
Does the inmate express concern regarding their vulnerability in the facility?	4.7
Is the inmate's criminal record exclusively non-violent?	3.7
Does the inmate's dress or appearance appear to be Gay, Lesbian, Bi-Sexual, Transgender, Intersex, or Gender Non-Conforming?	4.5
Is the inmate detained solely for civil immigration purposes?	3.4

Respondents agreed on the importance of all of the abusiveness factors (see Table 15). All factors had a score of 3.9 or more, with the highest agreement of 4.8 for a history of sexually aggressive behavior toward inmates or staff in a correctional facility. Respondents had an average score of 4.7 if the current or pending charge was for a sexual offense or if the inmate had a history of sexual abuse. The average score for the remaining factors was 4.5 if an inmate had a history of prior institutional violence, prior convictions for a violent offense (4.2), a history of domestic violence (4.0), and if the inmate has any gang affiliation (3.9)

Table 15. Staff Rating of Abusive Factors

Is there any history of sexually aggressive behavior toward other inmates or staff while housed in a correctional facility?	4.8
Is there a history of prior institutional violence?	4.5
Is the current charge or any pending charge for a sex offense?	4.7
Does the inmate have any history of sexual abuse toward others?	4.7
Does the inmate have any convictions for a violent offense?	4.2
Does the inmate have any history of Domestic Violence?	4.0
Does the inmate have any gang affiliation?	3.9

Overall, respondents to the MDC staff survey felt the factors on the PREA screening contributed to the identification of potential victims of sexual abuse as well as potential sexual abusers.

PREA Practices. In Table 16, respondents were asked to rate how strongly they agreed with each statement concerning PREA practices. The possible responses were Strongly Disagree, Somewhat Disagree, Neutral, Somewhat Agree, or Strongly Agree. Responses were assigned a value between one and five and averaged for each question.

Respondents most strongly agreed that increased or enhanced supervision by staff could be effective at preventing sexual assault between inmates as could staff training, with average scores of 4.5 and 4.3, respectively. There was also strong agreement that behavioral health need and histories of trauma placed inmates at a higher risk of victimization, with an average score of 4.1. and that respondents felt prepared to deal with PREA violations (4.1). Respondents also agreed with MDC PREA policies (4.0), felt familiar with those policies (4.4), and that institutional policies and procedures could help prevent sexual assault between inmates (4.0).

There was also agreement by respondents for other statements. Respondents agreed sexual orientation affected the risk of sexual violence (3.8) and recognized the vulnerability of LGBTQ+ people to sexual violence (3.8). It was also agreed that staff were well trained about PREA (3.8), that the MDC provides effective victim services (3.8), and that staff used professional language to establish a safe environment and institutional culture (3.8). There was also agreement that MDC staff were equipped to respond effectively to sexual violence (3.7) and respondents felt inmates were willing to confide in them (3.5).

There were several statements for which agreement was more neutral. Respondents did not agree or disagree generally that inmates were willing to report incidents of sexual violence (3.0). Overall, respondents neither agreed or disagreed that nonconsensual sexual acts among staff and inmates were rare (2.9). While the overall score was 2.9, it is important to note that a large portion of respondents disagreed (27.5%) or strongly disagreed (15.9%) with this statement. This means a total of 43.4% of respondents felt nonconsensual sexual acts among staff and inmates were not rare or phrased in another way they thought they occurred. This is an important finding. Similarly, respondents neither agreed nor disagreed that staff sexual harassment of inmates was rare with an average score of 2.7. While the overall score was 2.7, it is important to note that a large portion of respondents disagreed (24.6%) or strongly disagreed

(21.7%) with this statement. This means a total of 46.3% of respondents felt staff sexual harassment of inmates among staff and inmates was not rare. This is also an important finding.

Respondents somewhat disagreed that abusive sexual between staff and inmates was rare (2.4). While there was generally disagreement that this was rare, meaning that these events were common, nearly one in four respondents agreed (15.9%) or strongly agreed (7.2%) that this sexual abuse was rare. Finally, respondents disagreed that nonconsensual sexual acts among inmates was rare (2.0). Only 3.4% of respondents agreed to any degree that these nonconsensual acts were rare.

Table 16. Staff Survey Rating Statements

Question	Average Score (1-5)
Sexual orientation affects the risk of sexual violence	3.8
Staff recognize the vulnerability of LGBTQ+ people to sexual violence	3.8
People who are incarcerated are more likely to have behavioral health needs and histories of trauma than people who are not, placing them at even higher risk of sexual victimization	4.1
Staff training can prevent help prevent sexual assault between inmates.	4.3
Increased or enhanced supervision by staff can be effective in preventing sexual assault between inmates.	4.5
Staff are well trained about PREA	3.8
In general, I agree with MDC's policies regarding PREA	4.0
I am familiar with PREA policies	4.4
Institutional policies and procedures can help prevent sexual assault between inmates.	4.0
MDC staff are equipped to effectively respond to sexual violence	3.7
We are prepared to deal with PREA violations	4.1
Inmates are willing to confide in me	3.5
Inmates are willing to report incidents of sexual violence	3.0
Staff use professional language to establish a safe environment and institutional culture	3.8
MDC provides effective victim services	3.8
Nonconsensual sexual acts (i.e. rape or penetration) among inmates are rare	2.0
Nonconsensual sexual acts among staff and inmates are rare	2.9
Abusive sexual contact (i.e. intentional sexual touching; sexual acts; indecent exposure, invasion of privacy, or voyeurism; and/or romantic relationships between staff and incarcerated people) among staff and inmates is rare	2.4
Staff sexual harassment (i.e., demeaning references to gender, sexually suggestive or derogatory comments, and/or profane or obscene language or gestures) of inmates is rare	2.7

Potential PREA Scenarios. Respondents were asked to respond to scenarios and identify if the situation would be considered rape/sexual assault. In general, staff believed the majority (60%)

of situations would be considered PREA related, with the exception of four statements (see Table 17). When asked if they believe two men having sex in their cell at night would be considered rape or sexual assault, 51.5% responded yes and 25.8% responded maybe. When asked if they believed two men having sex who are good friends would be considered rape or sexual assault 48.5% said yes and 30.3% said maybe. When asked about two men having sex who are known homosexuals, 48.5% of staff would consider it rape or sexual assault and 30.3% said maybe. Finally, when asked about two men having sex and one is a known homosexual, but the other is not, 55.4% of staff would consider it rape or sexual assault and 32.3% said maybe. For the remaining questions, staff generally identified situations as rape/sexual assault where inmates were asked for sex in exchange for protection (77.3%), a sex offender against boys being pressured into having sex by another inmate (81.8%), in exchange for commissary goods (83.1%), and under threat of identification as an informant (93.9%).

This indicates respondents found that sex in some circumstances between inmates may be interpreted differently based on an exchange of protection, goods, threats, or use of force.

Table 17. Staff Survey Rating Potential PREA Scenarios

Question	Yes	No	Maybe
An inmate is asked for sex by another inmate in exchange for protection.	77.3%	6.1%	16.7%
A man in prison for sex offending against boys is pressured to have sex by another inmate.	81.8%	3.0%	15.2%
An inmate is persuaded to have sex in exchange for commissary goods such as cigarettes and magazines.	83.1%	6.2%	10.8%
An inmate is asked for sex and is threatened with the fact that if he does not cooperate, the other inmates will be told that he is an informant.	93.9%	1.5%	4.5%
A new inmate wants to join a certain gang. In order to be initiated, he must have sex with all of the other members of the gang. He complies and is initiated.	84.8%	6.1%	9.1%
An inmate known for sexually assaulting other inmates is forced to have sex by one of his previous victims.	90.8%	3.1%	6.2%
Two cellmates have sex in their cell at night, and neither have sex with other inmates.	51.5%	22.7%	25.8%
Two men are found having sex. They are known to be good friends.	48.5%	21.2%	30.3%
Two men are found having sex. Both are known homosexuals.	48.5%	21.2%	30.3%
Two men are found having sex. One is a known homosexual and one is not.	55.4%	12.3%	32.3%

Facility and Workplace Satisfaction. The next section asked respondents to rate their satisfaction with the facility and work (Table 18). For a series of statements, respondents were asked how strongly they agreed or disagreed with a series a statements and these were assigned a score of one through five and then averaged. Overall respondents averaged a 3.2 in response to the statement on if the MDC was the best jail in the state of New Mexico. There was more agreement as to whether respondents would rather be stationed at the MDC than

any other facility (3.6) and there was general agreement that respondents wanted to continue working at the MDC (3.9).

For a second set of statements, respondents were provided a series of statements and asked if they felt the statement never applied, rarely, sometimes, often, or all the time. These were assigned a value of one through five, with one being the least often, and averaged. Respondents generally felt they had an ability to deal effectively with the problems of inmates (3.7) and a feeling that they were positively influencing other people’s lives through their work (3.6) between some of the time and often. To a slightly lesser degree, respondents felt a sense of accomplishment after working closely with inmates (3.3) and a feeling that they could create a relaxed atmosphere with inmates (3.4).

Overall, respondents replied neutrally or somewhat positively to questions about workplace satisfaction, with slightly better responses to questions related to work satisfaction.

Table 18. Rating Facility and Work Satisfaction

Rating Facility	
Statement	Average Score (1-5)
This facility is the best jail in the state of New Mexico.	3.2
I would rather be stationed at this facility than any other I know about.	3.6
I would like to continue working at this facility.	3.9
Rating Work Satisfaction	
Statement	Average Score (1-5)
An ability to deal very effectively with the problems of inmates.	3.7
A feeling that you are positively influencing other people’s lives through your work.	3.6
A feeling of accomplishment after working closely with inmates.	3.3
A feeling that you can easily create a relaxed atmosphere with inmates	3.4

Summary. The staff survey included topics such as PREA policies and procedures, the screening and classification process, and vulnerable populations at the MDC. Based on the survey responses, there were some policies and procedures that some staff did not fully understand, such as how quickly a PREA incident should be reported or when an additional inmate training should be completed. The surveyed staff did agree overall on the important of the PREA screening factors, both for potential victimization and potential abuse. Respondents did agree that supervision and staff training could prevent sexual assault between inmates and felt confident in their knowledge of PREA policies and prepared to deal with PREA violations. While respondents felt prepared to deal with PREA incidents and confident in their abilities, it was also clear there was neither agreement or disagreement that inmates were willing to report incidents of sexual violence. The most interesting finding was the degree to which respondents disagreed about nonconsensual acts between staff and inmates. While 43.4% of staff disagreed

to some degree that these incidents were rare, 23.0% of inmates disagreed that these incidents were rare.

Overall, the survey shows staff were relatively confident in the PREA policies at the MDC and in the content of the PREA screening tool. There is less confidence in the likelihood that inmates would report incidents of sexual abuse or harassment which a decent portion of respondents felt were not uncommon. This is concerning as it indicates that either inmates were underreporting such incidents, staff were over estimating incidence of abuse, or a combination of the two. There is a lack of clarity on the definition of what types of incidents qualify as a PREA incident, which may be impacting the responses to several of these related questions.

To gain additional insight into the PREA screening and classification process and procedures, a focus group was conducted with classification staff.

Staff Focus Group

The focus group with classification staff was intended to better understand the PREA screening and classification process and procedures. Topics included PREA policy, classification, and vulnerable inmates.

PREA Policy. Focus group members described the PREA classification process as beginning at intake during which inmates are screened and this information is used in the classification process. Focus group members discussed the policy and generally agreed the policy was complete and that the policy was clear and detailed. Focus group members understood they had 72 hours to interview an inmate after arrival, though the inmate had the right to refuse the screening. If the initial screening was refused, focus group members noted staff attempt to complete the screen two times on subsequent days, although it was noted that “a lot” of inmates left before the 72 hours had ended. In fact, some inmates were released before they left the booking area, so classification staff had no need to administer the screening.

Focus group members described the classification hours and process. Classification staff work every day, including weekends and holidays, typically from 8 a.m. to 5 p.m. Inmates arriving outside of staff work hours are held in intake pods until classification staff can conduct interviews. Classification staff are provided a list of new arrivals each day, and from that list they begin gathering all the inmates’ basic information, including name, booking number, current location, and a move list showing the inmates recent cell locations. Group members stated that it was at times difficult to track down inmates because they were being moved frequently.

There was general agreement among focus group members that information provided by inmates on the screening was not always complete or accurate. Information that is inaccurate may be either intentional, such as an inmate not admitting to previous violent convictions or other factors on the screen or inmates may not be able to answer all the questions. For

example, a focus group member described an incident with an inmate with mental health issues who declared they had a history of sexual offense convictions when this was not the case. Focus group members felt inmates were at times dishonest and when they thought this occurred they conducted additional research to correctly score the screen. A few staff members suggested an automated, or at least partially automated process instead of collecting information using an interview format could improve the reliability of the scoring data.

PREA and Classifications. Focus group members noted that PREA is a small part of the classification process, although the vulnerability and abuse flags from the screening are used to in the classification process. Group members indicated they initiate the screening process and research background information. Once the initial screening is completed, there is little direct involvement between classification staff and inmates. When asked if it makes sense for classification staff to conduct PREA interviews, one staff member stated they were surprised they were the ones collecting the information, given that some of it is sensitive and “very personal” in nature. Other staff members also mentioned they felt uncomfortable at times with this portion of the policy. One staff member said: “it’s like being a cop and they want me to go to a crime scene, but I’m not a cop. And I don’t know what to do with the information once I get there.” Focus group members said they were not trained to deal with some of the responses they receive from inmates that sometimes include detailed and graphic descriptions of sexual abuse, and staff were unsure how to help inmates with their abuse. Several staff discussed how hard it was to hear some of these inmates providing details of a history of sexual assault. Focus group members indicated the typical response was to ask if the inmate would like to speak to somebody in PAC, at which point classification staff can provide the inmate with a referral.

The focus group discussion included some of the challenges posed by COVID-19. Focus group members agreed the main issue was the lack of privacy when screening inmates. Focus group members described how they relied on the availability as well as the willingness of correctional officers in the pods to escort inmates out of their cells, and due to quarantine and isolation rules staff often had to interview inmates in their cells. Shared cells afford little to no privacy and, as one group member commented, inmates could become “defensive” very quickly when asked about topics such as sexuality and sexual abuse, especially if another inmate was able to overhear their answers, making inmates reluctant to complete the PREA screening or answer the questions accurately. Inmates who had been in the MDC with enough frequency to expect the PREA screening know what PREA is and are, according to classification staff, more comfortable with the questions than inmates new to the MDC.

Focus group members were asked to discuss PREA based questions are included in the screening form. Group members described many of the screening topics, including feeling vulnerable in the facility, if they had been previously sexually assaulted in a facility, if it was the first booking, history of mental illness, prior violent convictions, including domestic violence, sexuality, gender orientation, if an inmate was transgender, and age. Focus group members said that the PREA screening was a fairly long and detailed form in order to identify if an

individual should be classified as a victim or an abuser. Group members believe it's an excellent tool if inmates answer the questions honestly, though staff felt this was not always the case. Staff utilize resources such as the Offender Management System (OMS) or Secured Odyssey Public Access (SOPA) when inmates provide incomplete jail or court history. One staff member said that while they know some of the inmate's answers may not be true (an inmate claiming they do not have a previous violent offense, for instance, when in fact they do), they record all of the inmates answers verbatim on the paper form, and then when they complete the form, they enter the corrected information and leave their initials to denote they recorded something other than what the inmate said. One focus group member described how they felt some of the questions were redundant and that some of the questions don't need to be asked because some of the answers were available to staff in official documents. They also discussed that some inmates become frustrated with the length of the screening, again bringing up the idea that some of the screening could be automated.

Vulnerable Populations. When asked about vulnerable populations, focus group members brought up concerns about transgender inmates. One group member thought there should be a PREA staff person in Receiving Discharge Transfer (RDT) asking some of the screening questions before inmates are placed in intake pods. This would allow an opportunity for transgender inmates to be sent to an intake pod in line with their gender identity. At times, transgender inmate have been housed in the wrong pod or sometimes have been placed in the Special Housing Unit (SHU) and isolated.

Staff also talked about the difficulty in situations where, in their opinion, an individual looks like they are one gender, but wish to be housed in the opposite gender's unit. At this point classification staff will generate a file, reach out to other resources such as a transgender community associate to see if they have anything on file, and then it is sent to the classification committee. The committee is also helpful in situations where an inmate has violent charges and is also vulnerable. The committee includes PREA staff, security personnel, medical staff, PAC, STG (Security Threat Group), STIU (Security Threat Intelligence Unit), and, if the issue revolves around a transgender inmate, a transgender community associate can be added to the committee.

Regarding vulnerable populations, focus group members discussed their perceptions of inmates and whether they are homosexual, bisexual, transgender, etc. Some group members felt it was not their place to make this kind of judgement call and others said they had been in classification long enough that they were easily able to tell based on the inmate's manner of dress, accessories, or mannerisms. There was disagreement between focus group members about whether you could visually identify an inmate as gay, lesbian, bisexual, transgender, etc., with about half of the staff feeling comfortable making this decision and half not feeling comfortable.

Focus group members were asked about access to information on vulnerable inmates. Only PREA personnel have access to the screening information and in the OMS, MDC staff can view

the abuser or vulnerability flag. Group members were asked to estimate the size of the vulnerable population in the MDC. A couple of group members estimated that it was approximately 10% for both vulnerable and abusive inmates, or somewhere around 100 inmates. A member stated that those numbers may not be entirely accurate, "just because somebody is gay, lesbian, or bisexual or transgender does not mean that they're vulnerable or weak... they run shit." The same person brought up that they had a problem with that question on the classification survey generating a flag because some of these "vulnerable" populations are the first ones to "kick your ass." While some group members appeared to be indicating exceptions to the view of general vulnerability, another focus member noted there are numerous studies to show that those populations are more vulnerable to being sexually assaulted. The two group members settled on saying that there is no black and white way to run a jail, that that's why these systems and committees are in place, because there are "so many factors that those questions probably should help with, but they don't," that everyone is a special case and that they do the best they can with the information that they have. When group members were asked about other populations they had seen during their time in classifications that were particularly victimized, they mentioned mentally ill people, particularly young people, older adults, and first-time inmates. The focus group confirmed that all these vulnerabilities are captured within the classification process.

One topic that was brought up organically within the focus group, was changes that could make their jobs easier. Multiple group members mentioned having dedicated PREA personnel to do the screenings and rescreening rather than having these done by classification staff. The group felt that this would help streamline their own processes, "it's just too much for all of us to be doing all this." The issue of understaffing and pod closures due to staffing shortages that has resulted in inmates being "sardined" into one pod was reiterated. As discussed previously, because of corrections staff shortages inmates have been placed in fewer housing pods than they might normally when there were more staff and hence a greater ability to staff more pods and spread-out inmates. The focus group further mentioned limited access to housing types, such as dorm housing, due to staff shortages. This type of housing, according to the focus group, would allow for easier access to inmates and greater privacy.

Summary. Based on the focus group with MDC classification staff, there was general agreement that the PREA policies at the MDC were clear and detailed. While a portion of inmates cannot be screened because they are released quickly and/or some refuse to complete the screening, inmates were screened according to policy. Classification staff expressed concerns with tracking inmates in the facilities and in particular not being able to administer the PREA screening in private. They were concerned with the comfort of the inmate having to answer very personal questions around other inmates, particularly for newer inmates. Focus group members were also uncomfortable with the nature of some of the questions and didn't feel equipped to address some of the topics.

There was general agreement inmates were regularly dishonest or inaccurate in answering screening questions. One proposed solution by classification staff, both to address this issue

and potentially save time in administering the survey, was to automate portions of the PREA screening. Items such as criminal history and a history of institutional violence could be automated allowing for more accurate data and this would reduce staff time in collecting, confirming and updating potentially erroneous data.

Finally, while staff acknowledged the increased vulnerability of inmates identified by the screening process, there was discussion that in some cases individual inmates are not actually vulnerable, regardless of their sexuality or gender identity. Classification is a complicated task. While staff discussed challenges and issues they faced, they were clear on the importance of PREA, the importance of a reliable and valid classification process, and the safety and well-being of inmates in the facility.

Inmate Survey

The inmate survey was designed to collect basic inmate information, assess inmates’ knowledge of PREA and PREA information received during the inmates’ stay, inmates’ views on screening processes, and the conditions faced by the MDC’s most vulnerable subpopulations. Three hundred and thirty inmates took the survey.

Demographics and Basic Information. Of the respondents that selected a gender on the survey, 87 were female (27.4%), 230 were male (72.3%), and 1 identified as a transgender female (0.3%) (see Table 19). The MDC female population is closer to 15.0% (Ferguson, O’Connell, De La Cerda, 2022). Female inmates were purposely oversampled to ensure a large enough sample by gender and custody level.

Table 19. Gender of Inmates Surveyed

Gender	Count	Percent
Female	87	27.4%
Male	230	72.3%
Transgender Female	1	0.3%
<i>Total</i>	318	100.0%

Table 20 shows the race and ethnicity of the respondents. While the survey included race and ethnicity as two separate questions, a combined variable was created. A large majority (72.2%) of inmates reported they were of Hispanic, Latino or Spanish origin. Almost 10% of respondents identified as White (9.8%) and (9.8%) identified as American Indian or Alaskan Native. A smaller portion (2.8%) identified as either Asian or Pacific Islander or had selected multiple races.

Table 20. Race/Ethnicity of Inmates Surveyed

Race	Count	Percent
Hispanic	236	72.2%
White	32	9.8%
Black/African American	18	5.5%
American Indian or Alaskan Native	32	9.8%
Other (Asian or Pacific Islander, Two or More)	9	2.8%
<i>Total</i>	327	100.0%

Survey respondents ages ranged from 18 to 85 years of age (see Table 21). The average age was 34.2 years, and the median age was 32 years. The average age for male and female respondents was 34.1 and 34 years, respectively. The largest age group for the sample 26 to 35 years of age (41.1%). The second and third largest age groups were inmates ages 36 to 45 (25.4%) and 18 to 25 year of age (20.7%). The remaining age groups comprised 12.9% of the respondents.

Table 21. Age by Category of Inmates Surveyed

	Count	Percent
18-25	66	20.7%
26-35	131	41.1%
36-45	81	25.4%
46-55	26	8.2%
56-65	12	3.8%
66+	3	0.9%
<i>Total</i>	319	100.0%

Inmates were asked to select their highest level of education (see Table 22). Slightly more than 30% of survey respondents had less than a high school graduate education and 37.0% had a high school graduate education or equivalent (GED). Almost one in four inmates (23.2%) had some college education and 8.3% (27 inmates) indicated they had a college degree.

Table 22. Education of Inmates Surveyed

	Count	Percent
Less than a high school graduate	103	31.5%
High school graduate or GED	121	37.0%
Some college	76	23.2%
College degree	27	8.3%
<i>Total</i>	327	100.0%

When asked their sexual orientation, 85.4% of respondents identified as heterosexual (see Table 23). Just over ten percent (12.1%) identified as bisexual and 1.5% identified as homosexual. Only two inmates selected other and wrote in their answers; this included asexual and pansexual.

Table 23. Sexual Orientation of Inmates Surveyed

	Count	Percent
Heterosexual/"Straight"	274	85.4%
Bisexual	40	12.5%
Homosexual/"Gay"	5	1.6%
Other*	2	0.6%
<i>Total</i>	321	100.0%

*Written responses for Other included Asexual and Pansexual

The inmates surveyed were primarily male, though female inmates were oversampled. The respondents were largely Hispanic and primarily between the ages of 26 and 45 with an average age of 34.2. Nearly 59% of these inmates had a GED, had graduated high school, or had less than a high school diploma. Most respondents identified as heterosexual.

Bookings and Charges. Inmates were asked to estimate how long they had been in the MDC on their current booking (see Table 24). Nearly a third of inmates (32.7%) indicated between two and six months. A similar portion of inmates indicated they had been in custody for between one and two months (20.9%), between six months and one year (22.4%), and over a year (20.3%). Less than 1.0% of inmates had been in custody for less than a week.

Table 24. Self-Reported Time Spent in the Facility

Length	Count	Percent
Less than one week	3	0.9%
Between one and two months	69	21.5%
Between two and six months	108	33.6%
Between six months and 1 year	74	23.1%
More than 1 year	67	20.9%
<i>Total</i>	321	100.0%

Table 25 reports the estimated number of bookings respondents had within the previous 2 years. Eleven inmates (3.5%) indicated this was their first booking. The largest portion (32.5%) of respondents said they had been in the MDC on one previous booking. The second largest group at 21.5% said that they had two bookings within the last two years and 11.4% reported 3 bookings. Respondents with between 4 and 9 bookings accounted for 23.7% of all respondents and 7.6% had ten or more bookings⁴. Almost two-thirds (66.4%) of respondents reported having been in a facility other than the MDC during their lifetime.

⁴ Several inmates indicated an extremely high number of bookings, up to 74. While this is highly unlikely, there is no way to confirm this information.

Table 25. Self-Reported Number of Bookings in Previous Two Years

Bookings	Count	Percent
0	11	3.5%
1	103	32.5%
2	68	21.5%
3	36	11.4%
4 to 9	75	23.7%
10+	24	7.6%
<i>Total</i>	317	100.0%

Respondents identified the types of charges for their current booking (see Table 26). The largest percentage of inmates were in the jail on a violent offense alone or a violent offense in combination with other charges (43.0%). Excluding violent offenses, drug offenses alone and in combination with property offenses accounted for 26.1% of the respondents. Property offenses alone were selected by 82 inmates (26.1%) and 15 inmates (4.8%) selected other and wrote in responses including offenses not identified such as DWI charges, felon in possession of a firearm charges, probation violations, and warrants.

Table 26. Self-Reported Charges for Current Booking

	Count	Percent
Violent Offense	112	35.7%
Drug Offense	65	20.7%
Property Offense	82	26.1%
Violent Offense and Drug Offense	9	2.9%
Violent Offense and Property Offense	11	3.5%
Drug Offense and Property Offense	17	5.4%
Violent Offense, Drug Offense, and Property Offense	3	1.0%
Other	15	4.8%
<i>Total</i>	314	100.0%

PREA Education and Policies. The next section of the survey asked inmates about the booking process and the PREA information they were provided at booking (see Table 27). Inmates indicated they were informed 60.1% of the time about their right to not be sexually abused or harassed and 65.0% of the time about how to report sexual abuse or harassment, and their right not to be punished for reporting (57.7%). While inmates do not recall receiving this information, the booking process includes distribution of the PREA materials and is also available on the lanyard all inmates are provided. We do not know why inmates answered in this way⁵.

⁵ This corresponds with an additional question regarding information for Table 24 to which 94 inmates (28.5%) responded that information was received within one day and 44 (13.3%) stated it was received within one week.

Table 27. Inmate PREA Education

	Yes	No	Total	Yes (Percent)	No (Percent)
Your right to not be sexually abused or sexually harassed?	190	126	316	60.1%	39.9%
How to report sexual abuse or sexual harassment?	204	110	314	65.0%	35.0%
Your right to not be punished for reporting sexual abuse or sexual harassment?	180	132	312	57.7%	42.3%

Inmates were asked a series of questions related to the PREA screening. When asked if they recalled being screening, 42.3% of inmates recalled being screened, 26.3% did not recall being screened, and 31.4% were not sure.⁶ This was also surprising since 78.2% of inmates were screened in 2021. Inmates were asked if the screening was administered in private or confidentially. Only 29.7% of inmates indicated yes, with the majority (44.1%) indicating it was not in private or confidential. Nearly one in four inmates was unsure if they were assessed privately (26.2%). Approximately half of respondents felt their screening information would be kept confidential (50.8%). Inmates were also asked if they felt they would be disciplined if they did not answer questions on the screening. The large majority (79.3%) indicated this was not the case.

Almost half of all respondents (48.7%) felt staff did not ask questions related to inmate safety. The remaining respondents were either unsure (19.3%) or did not feel that staff asked questions related to inmate safety (32.0%). When inmates were asked if they felt screening responses affected their housing, only 33.3% of inmates affirmed that they did. Inmates were also asked if they felt they were being housed correctly. A larger portion said yes (48.6%) than no (36.2%), with an additional 15.2% being unsure. Finally, inmates were asked questions regarding housing at the MDC in general. When asked if they felt inmates who were potentially vulnerable were housed separately from inmates who may be aggressive, more than half of inmates indicated no 61.2%. This may indicate that inmates have concerns about either their vulnerability or the vulnerability of other inmates that were not addressed adequately by housing or by housing alone.

Inmate Opinion on Sexual Misconduct. One of the last sections of the survey asked for inmates to rate how much they agreed or disagreed with a set of statements relating to sexual misconduct, with the option to skip statements if the statement made them feel uncomfortable. The section covered a number of topics, including nonconsensual and abusive sexual acts between inmates and staff and inmates, willingness to report to and confide in staff, staff harassment/abuse, and sexual orientation and the risk of sexual violence (see Table 28).

⁶ A total of 95 inmates (28.8%) of inmates indicated they recalled all of the questions from the screening.

While the majority of the averages were in the neutral range, there were differences within the variables. There were also some noteworthy differences between Inmates agreed more than twice often as they disagreed that nonconsensual sexual acts among inmates were rare (43.4% agreed compared to 20.9% disagreed) with an average score of 3.3. This diverges from staff who do not believe nonconsensual sexual acts are rare and had an average score of 2.0. Similarly, more inmates agreed that nonconsensual sexual acts between staff and inmates were rare (42.6%) than disagreed (23.0%) (with an average score of 3.3) and staff disagreed to a larger degree than inmates (43.4%), meaning more inmates thought these instances were rare and did not occur than staff. Inmates also agreed that abusive sexual contact among inmates is rare (43.1%) while staff disagreed, indicating that staff believed it was not rare and did occur (56.5%). A similar, though still higher, portion of inmates agreed that abusive sexual contact among inmates was rare (38.8% compared to 31.4%) with an average score of 3.2. Inmate and staff disagreement were somewhat close on the rarity of staff sexual harassment of inmates, but still differed to a noticeable degree (35.0% compared to 46.4%).

In general, inmates were neutral (3.0) regarding reporting incidents of sexual violence or confide their problem to staff (2.6). Inmates agreed at a similar rate that staff talked to them professionally (2.9). Inmates agreed were similarly neutral on whether sexual orientation affects the risk of sexual violence (3.2). Finally, when asked if they agreed if inmates are sometimes forced or pressured to have sex or sexual contact, the average score for the respondents was 2.5.

Overall, based on their responses, inmates were only willing to report sexual violence approximately a third of the time, but also felt that nonconsensual sexual acts in various scenarios were rare in comparison with staff. The variation between staff and inmate responses may indicate a very different view on what constitutes a nonconsensual act and how clearly defined difference types of acts, abuse, and contact are between staff and inmates. The lived experience of an inmate and the practical knowledge of staff members who interact with a series of inmates is vastly different and may contribute to the differences. This is elaborated on further in the discussion section.

Table 28. Inmate Survey Rating Statements

	Average Score (1-5)
1. Nonconsensual sexual acts (i.e. rape or penetration) among inmates are rare.	3.3
2. Nonconsensual sexual acts among staff and inmates are rare	3.3
3. Abusive sexual contact (i.e. intentional sexual touching; sexual acts; indecent exposure, invasion of privacy, or voyeurism; and/or romantic relationships between staff and incarcerated people) among inmates is rare.	3.2
4. Abusive sexual contact (i.e. intentional sexual touching; sexual acts; indecent exposure, invasion of privacy, or voyeurism; and/or romantic relationships between staff and incarcerated people) among inmates and inmates is rare.	3.1
5. Staff sexual harassment (i.e., demeaning references to gender, sexually suggestive or derogatory comments, and/or profane or obscene language or gestures) of inmates is rare.	3.1
6. Inmates are willing to report incidents of sexual violence.	3.0
7. I am willing to confide in staff with my problems.	2.6
8. Staff use professional language when they talk to me.	2.9
9. Sexual orientation affects the risk of sexual violence.	3.2
10. Inmates are sometimes physically forced, pressured, or made to feel they have to have sex or sexual contact.	2.5

Potential PREA Scenarios. The final section of the inmate survey asked inmates to indicate if they believed a particular situation to be rape/sexual assault (see Table 29).

Compared to the staff survey responses, there were fewer affirmative answers. For example, when asked if an inmate is asked for sex by another inmate in exchange for protection, 45.3% of inmates would consider this rape or sexual assault, much lower than 77.3% of staff. When asked if a man who is in prison for sex offending is pressured to have sex by another inmate, 41.3% of inmates would consider this rape/sexual assault, compared to 81.8% of staff. Scenarios that could be considered consensual were less likely to be considered rape/sexual assault among inmates than among staff. For example, if two cellmates have sex in their cell at night, 52.4% of inmates would not consider this rape/sexual assault but 51.5% of staff would consider it rape/sexual assault. Next, if two men are found having sex who are known to be good friends, 52.4% of inmates would not consider this rape/sexual assault and 48.5% of staff would.

Table 29. Inmate Survey Rating Potential PREA Scenarios

	Yes	No	Maybe
An inmate is asked for sex by another inmate in exchange for protection.	45.3%	33.9%	20.9%
A man in prison for sex offending against boys is pressured to have sex by another inmate.	41.3%	34.1%	24.6%
An inmate is persuaded to have sex in exchange for commissary goods such as cigarettes and magazines.	44.7%	32.0%	23.3%
An inmate is asked for sex and is threatened with the fact that if he does not cooperate, the other inmates will be told that he is an informant.	49.6%	30.1%	20.3%
A new inmate wants to join a certain gang. In order to be initiated, he must have sex with all of the other members of the gang. He complies and is initiated.	38.4%	41.2%	20.4%
An inmate known for sexually assaulting other inmates is forced to have sex by one of his previous victims.	42.0%	36.9%	21.2%
Two cellmates have sex in their cell at night, and neither have sex with other inmates.	22.8%	52.4%	24.8%
Two men are found having sex. They are known to be good friends.	19.8%	52.4%	27.8%
Two men are found having sex. Both are known homosexuals.	31.5%	46.5%	22.0%
Two men are found having sex. One is a known homosexual, and one is not.	24.7%	41.2%	34.1%

Inmate views on sexual activity at the MC diverged from the views held by staff, with inmates less likely to consider the scenarios presented as a rape or sexual assault than staff.

Summary. There were several key takeaways from the inmate survey. While inmates were provided PREA educational material as part of the booking process, a comparatively small number seem to recall receiving this information. It is likely due to a variety of issues, including the potentially stressful nature of arriving in the jail, substance use, or behavior health issues. Despite this initial material –including information in the inmate handbook, one on one education at between 20 and 30 days, and PREA posters in the units – inmate survey respondents still seem unclear on several PREA policy points. MDC staff have indicated that in addition to current steps, in the near future they will have access to the televisions in the units and will play the PREA informational videos in units regularly as well. Inmate responses indicated there are concerns regarding PREA data and confidentiality and a lack of willingness to report instances of sexual violence. Most surprising was the difference in inmate and staff surveys. Inmates agreed that various nonconsensual acts, abuse, and harassment were rare more often than staff. Further, inmates were more likely to see potentially consensual acts as a non-PREA incident in comparison with staff and less likely to see the scenarios related to an exchange of goods or services as rape/sexual assault than staff. These differences between inmates and staff should be further explored. In addition, inmates did not recall Standard.

Discussion

The Prison Rape Elimination Act set a national standard for zero-tolerance for sexual abuse and sexual harassment in correctional facilities nationwide. Our study and this report were designed to review staff's understanding of PREA policies and procedures, inmate PREA education, the process for its ability to identify victims or perpetrators of sexual violence, inmate classification, disciplinary incidents that may result in rescreening, and PREA incident data. This was done using a variety of methods including a survey of MDC staff, a focus group with MDC classification staff, an inmate survey, and a review of existing data that included screening data, classifications data, disciplinary data, and PREA incident data. These methods allowed for an in-depth analysis of the PREA at the MDC, from how inmates are screened and classified, how staff view and understand PREA policies and procedures, and how inmate education and screening, and how inmates and staff interpret PREA scenarios.

At the root of PREA procedures and policies at the MDC is staff training. Results of the staff survey indicate that staff were more familiar with some portions of PREA policies than others. Almost all staff (98.9%) were aware the facility should have a written policy and the large majority (83%) know not to reveal information related to a sexual abuse report. However, fewer staff realize they should announce their presence when entering a housing unit of the opposite gender (61.7%) and less than 30% answered correctly regarding the length of time to report a potential incident. In addition, when staff were presented with a series of scenarios and asked to identify if the situation would be considered rape/sexual assault, situations that could be considered consensual in nature were identified as rape/sexual assault approximately half of the time with a large portion identifying these as a maybe. This included situations where two men found having sex were known to be good friends or known homosexuals. While consensual sex is a violation of MDC policy and is considered sexual misconduct, it is not considered rape or sexual assault, which would be a violation of PREA policy. This indicates a potential gray area that needs to be clearly defined and described during trainings. This is included in the list of recommendations below.

Overall, staff agreed the PREA screening of potential victim factors were important, although nearly half of staff do not see a non-violent criminal record as important. There was general agreement among staff that potential abuse factors were important. This suggests staff agree that these questions are important in determining if an inmate is a potential victim or potential abuser. The staff survey results also demonstrated most staff felt sexual assault could be decreased by staff training (79.1%) and increased or enhanced supervision (87.0%) and prevented by institutional policies and procedures (76.8%). Slightly less than two-thirds of respondents agreed staff were well-trained about PREA and a larger percent personally felt they were familiar with PREA policies. Staff also generally felt prepared to deal with PREA violations. There was much less agreement if inmates would be willing to confide in staff or report incidents of sexual abuse, though staff felt a safe environment and institutional culture was provided.

The staff focus group provided additional insight into the screening process. One concern that was expressed and agreed upon was the inability to have privacy at times for administering the screening and the potential for under-reporting by inmates. Staff indicated the nature of the questions was uncomfortable for both themselves and sometimes the inmates, particularly for a first-time offender. Responses to the questions could be detailed and graphic, which caused a degree of discomfort among several members of the focus group. Classification staff recommended separate staff to conduct the PREA screenings, as it is only a portion of what they do on a daily basis and suggested that some portions of the screenings could potentially be automated, as numerous items require manual checks. Overall, classification staff in the focus group were familiar with PREA policies and procedures, though there was some discussion on the subjectivity of specific items, such as whether an inmate “appears” to be lesbian, gay, or bisexual. Frustration with tracking and gaining access to inmates was discussed, as was concern over the length of the screening, and a desire to automate portions of it and streamline the process.

The inmate surveys were administered to inmates in nine pods which represented a range of custody levels. While custody levels were not collected to preserve anonymity for this survey, future research may be modified to collect this information in a safe manner. provided a very divergent view of PREA from staff. The 330 staff surveyed between February and March 1, 2022 accounted for approximately 26% of the MDC population during. When asked questions about PREA educational materials, a large portion of inmates (40.0%) report not receiving information about PREA rules and policies about sexual abuse and harassment upon arrival. While this is likely due in part to circumstances such as the stress surrounding arrest and booking, this information is provided and is also available on a lanyard all inmates are provided. Inmates also indicated the screening was not administered privately in 41.8% of surveys and a slightly higher percent (46.4%) did not feel the information would be kept confidential.

Perhaps the most noteworthy finding was that staff and inmates disagreed on the rarity (or regularity) of nonconsensual sexual acts among inmates, nonconsensual sexual acts among staff and inmates, abusive sexual contact among staff and inmates, and staff sexual harassment of inmates. Table 30 summarizes these findings⁷. Regarding nonconsensual acts among inmates, staff had an average score of 2.0, somewhat disagreeing, which inmates had a score of 3.3., or just a bit above neutral. The comparisons in percentages were more definitive. While 67.8% of staff disagreed that these incidents were rare, only 20.9% of inmates disagreed. For nonconsensual acts between inmates between inmates and staff, the average score was closer (2.9 for staff and 3.3 for inmates) however the difference was in the portion of respondents disagreeing was just over 20% (43.5% for staff and 23.0% for inmates). Regarding abusive sexual contact among inmates, the scores were nearly a point apart at 2.4 for staff and 3.2 for inmates, again the percentages show a very different view more effectively. More than half of the staff (56.5%) disagreed these incidents were rare compared to 27.5% of inmates. The smallest differences were in incidents of staff sexual harassment of inmates. The average score

⁷ There are some differences in percentages due to rounding.

for staff was 2.7 and the average score for inmates was 3.1. Compared to staff at 46.4% disagreement, inmates disagreed at 31.4%. Overall, this means that staff generally find all of these incidents to be less rare, and therefore more common, than inmates.

Table 30. Comparison of Inmate and Staff Survey Rating Statements

	Staff Average (1-5)	Staff Disagreed or Strong Disagreed	Staff Agreed or Strongly Agreed	Staff Average (1-5)	Staff Disagreed or Strong Disagreed	Staff Agreed or Strongly Agreed
Nonconsensual sexual acts (i.e. rape or penetration) among inmates are rare	2.0	67.8%	3.4%	3.3	20.9%	43.4%
Nonconsensual sexual acts among staff and inmates are rare	2.9	43.5%	39.1%	3.3	23.0%	42.6%
Abusive sexual contact (i.e. intentional sexual touching; sexual acts; indecent exposure, invasion of privacy, or voyeurism; and/or romantic relationships between staff and incarcerated people) among inmates is rare.	2.4	56.5%	23.2%	3.2	27.5%	43.1%
Staff sexual harassment (i.e., demeaning references to gender, sexually suggestive or derogatory comments, and/or profane or obscene language or gestures) of inmates is rare	2.7	46.4%	24.6%	3.1	31.4%	38.8%

Only about a third of inmates indicated they would be willing to report sexual violence or confide their problems to staff. When provided with the same scenarios as staff and asked to identify if they were rape/sexual assault, inmates were more likely to identify potentially consensual acts as not being rape/sexual assault and a lower portion of inmates than staff identified scenarios related to the exchange of goods or services as such. This indicates that while staff may have a definition of sexual assault, this is not necessarily be a definition with which inmates agree.

Finally, several types of data from the MDC were analyzed. The PREA screening data showed that most inmates booked into the MDC have one or more screening. A large portion of inmates booked without a PREA screening most likely are not screened because they were released quickly. From 2018 to 2021, nearly one in four inmates (23.8%) were released within 24 hours of arrival with an additional 20.7% release between 24 and 48 hours. In addition, inmates can also refuse to complete the screening. Most screenings were for intake purposes, with the second largest portion being administered for the 30-day review. A small portion of total screenings were conducted as a result of inmate misconduct (1,695 or 2.2%). A review of the factors on the screening showed several factors were modified from the national PREA mandates and there have also been additions that were not part of the mandate. The modified

and additional questions take time to ask and answer and may increase the potential victim and potential abuser score. Some questions, such as may not be related to sexually abusive behavior to a significant degree. The review of screening data also helped to clearly identify a change in procedure at the facility when the minimum points required to flag a potential abuser was changed from 2 to 3, decreasing the portion of inmates with this flag and potentially impacting their classification.

In the classification data, most inmates were assigned into Level 6 (37.5%), Level 3 (33.6%), and Level 4 (19.7%). Overrides were done on a small portion of classifications (3.8%). The classification of space at the MDC is assessed on a weekly basis, but barriers including a include a high vacancy rate among security staff (approximately 45% as of June 2022). This prevents the optimal use of empty space that is available to house inmates most effectively.

Rescreening and changes in classifications can occur as a result of guilty findings for specific types of disciplinary events. There were 2,568 incidents 82.0% of which were 111 Battery, 201 Battery, or 110 Assault Against Staff, it is unknown at this time what the findings were for these incidents. A rough estimate that combined bookings with an incident and bookings with a screening for misconduct showed that approximately 21.9% of 1,615 bookings with a disciplinary action resulted in a rescreening.

While only a portion of disciplinary incidents include sexual abuse or sexual misconduct, PREA incidents were tracked separately from these instances. the majority of PREA related incidents that were investigated occur between uniformed staff and inmates or between inmates (83.3%) and the majority of all types of incidents, whether retaliation, sexual abuse, or sexual harassment, were determined to be unfounded or unsubstantiated. While any substantiated incidents are a cause for concern, 21 over a three-year time frame is a relatively small number in comparison to the total population.

The staff surveys, classification staff focus group, inmate survey, and MDC data review demonstrate that there is room for improvement in several areas. Staff awareness of PREA policies is consistent, particularly when it comes to incidents that may violent policy but do not qualify as violations of PREA. At the same time, inmates have a very different view of the same types of incidents which may be partly situational and partly due to PREA training itself. The screenings administered by classification staff aren't always able to be administered in a private setting (as expressed by staff and inmates), though this appears to be largely a staffing issue. The screening includes questions modified from and in addition to the national PREA mandate. These modifications to the screenings impact scoring, potential victimization and abuser scores, and classifications and custody levels. Improved training for staff and inmates and improving the screening and screening procedures will be key areas for potential improvement at the MDC.

Recommendations

Based on the surveys, focus group, and data review, we propose several recommendations. These include staff training, inmate education, screening procedures, classifications, and disciplinary data.

1. Staff Training
 - a. Provide a universal definition of PREA incidents that is more completely understood by both staff and inmates. This is based upon the finding that staff and inmates were unable to properly categorize scenarios as PREA or non-PREA.
2. Inmate Education
 - a. Continue to emphasize anonymous reporting methods and techniques that build trust between staff and inmates. This is based upon the finding that respondents in the inmate survey reported not receiving materials or having knowledge of various PREA policies despite the efforts of MDC to inform inmates about PREA. We observed that, in addition to materials provided at booking, materials are posted in conspicuous locations in the facility. The PREA Coordinator has reported to us the various means in which information on PREA is provided.
3. PREA Screening
 - a. Recent modifications and continued refinement of the PREA screening tool. As of July 2022, the MDC has developed a new version of the screening tool, which includes several modifications. The screening tool had originally had 21 questions 14 on potential victimization and 7 on potential abuse. There were two questions removed from the possible abuser section, one which asks if there is any gang affiliation and the second which asks if there is a history of sexual abuse towards others. These questions were not part of the national PREA standards and there were other questions included that cover the subject of prior sexual abuse. Two questions were combined, one regarding violent convictions and the other asking if the inmate has a history of domestic violence. The question asking about domestic violence is unclear regarding if a conviction is required, in which case it would qualify under a violent offense or if filed charges with no conviction would qualify. After the form was updated there were four remaining questions in the potential abuser section. Under the potential victimization section, one question was deleted from the possible victim section, which asked if the inmate had a history of consensual sexual activity in the facility. There was also a modification to the physical stature guidelines for women, changing the “small in physical stature” determination from under 5’1” and or less than 115 pounds to under 5’0” and or under 100 pounds. This left a total of 17 questions on the PREA screening. In addition to the additions and changes of the questions, the MDC has added notations for each questions to help staff determine which questions they needed to ask of the inmate directly, which are based on subjective opinion, and which should be completed via a record review. The modifications to the PREA a screening should

shorten the time needed to screen inmates and reduce the need to repeat checks on inmate information. There are several questions that are redundant when compared to the national PREA guidelines as a single question had been broken it into several parts. For example, the PREA mandated question – The inmate is or is perceived to be gay, lesbian, bi-sexual, transgender, intersex, or gender non-conforming – is question 13. There were two additional questions related to whether the inmate identified as lesbian, gay, or bi-sexual (question 7) and if the inmate identifies as gender non-conforming or intersex (question 8). These additional questions may result in identification of inmates as possible victims when they would not qualify but for the inclusion of those questions.

- b. Automate questions from the PREA screening where possible. This will require an investment in time and resources to develop and test reporting with IT. It is unclear at this time how long this would take and if the benefits would be worth the investment.
 - c. Work to improve inmate privacy for PREA screenings. The classification staff focus group discussion noted this issue was largely the result of staffing shortages.
 - d. When manual entry is necessary, include the use of drop downs for items such as the type to limit the variety of and misspellings in the categories. While this has improved with the transition to the OMS, assessing any areas of improvement under the current system may allow for more streamlined entry and reduce data entry error.
 - e. Discuss with staff if there are any areas that may need to be refined in policy. For example, defining specific charges like harassment or stalking as non-violent versus violent.
4. Classification
- a. Increase staffing at the MDC so inmates can be housed more effectively by their custody level. This is supported by the focus group discussion during which classification staff indicated they were unable to house inmates adequately with insufficient staff. Further, this is supported by the high vacancy rate at MDC. We understand that increasing staffing is challenging.
5. Disciplinary data
- a. Combined access to disciplinary findings would improve data quality and allow for confirmation that rescreening occur and to what degree scores may change pre- and post-incidents. Currently, the information systems at the MDC and likely at other facilities in general, there is a disconnect internally between various systems, such as classifications, disciplinary committees, medical, and psychiatric services.

While MDC staff are clear on some PREA policies, some concerns arose during the surveys, focus group, and data review. Inmates are provided PREA information repeatedly and in a variety of forms, yet inmate awareness is an on-going issue. Screenings are used to help guide the classifications process at the facility but have been modified from the national version and

include additional and modified questions that extend the length of time to administer them and impact inmate custody levels. MDC staff generally operate under the mandates of PREA, there is room for improvement, particularly in the areas of staff training and the inmate screening. Adequate staffing would contribute to improvements in several recommendation areas.

One promising avenue for future research is a more in-depth analysis on the differences between inmate and staff views on the regularity versus rarity of sexual abuse and harassment. This divergent view may occur for a variety of reasons. One is that staff and inmates simply hold different opinions on what constitutes PREA versus non-PREA incidents. There may also be greater awareness among staff on incidents experienced by inmates, whether perpetrated by inmates or other staff members or an awareness among inmates that the incidents are in fact rare. Additionally, as the PREA screening tool continues to be modified, continued analysis of the screening tool and the scoring will assist the MDC in meeting the national PREA standards to the highest degree possible.

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Appendix A

Possible Victim Factors

1. Is the inmate a survivor of sexual assault in a correctional facility, including sexual assault or sexual misconduct by a staff member/contractor in a correctional facility, or sexual assault or sexual misconduct by a criminal justice employee or immigration official?
2. History of facility consensual sexual activity during prior incarceration?
3. Inmate is under the age of 24 or over the age of 55?
4. Inmate is small in physical stature. (Men – under 5’5” and less than 140 lbs. Women – under 5’1” and or less than 115 lbs.)
5. Inmate has a physical/developmental disability or mental illness.
6. Is this the inmate’s first incarceration?
7. Does the inmate identify as being Lesbian, Gay, or Bi-Sexual?
8. Does the inmate identify as being Gender Non-Conforming, Transgender, or Intersex?
9. Does the inmate have any prior convictions for sex offenses against an adult or child?
10. Has the inmate previously experienced sexual victimization?
11. Does the inmate express concern regarding their vulnerability in the facility?
12. Is the inmate’s criminal record exclusively nonviolent?
13. The inmate is or is perceived to be gay, lesbian, bi-sexual, transgender, intersex or gender non-conforming.
14. Is the inmate detained solely for civil immigration purposes?

Possible Abusive Factors

1. Is there any history of sexually aggressive behavior toward other inmates or staff while housed in a correctional facility?
2. Is there a history of prior institutional violence?
3. Inmate’s current charge, or any pending charge, for a sex offense.
4. Does the inmate have any history of sexual abuse toward others?
5. Does the inmate have any convictions for a violent offense?
6. Does the inmate have any history of Domestic Violence?
7. Does the inmate have any gang affiliation?

Appendix B

Table B1. *Data Received from MDC for Review*

Data Source	Data Name	Data Details	Time Frame
Northpointe	Screening tool Q & A	Screening that takes place at booking by classification staff. Includes the questions and the inmate answers.	Jan 2018 to Dec 2020
Northpointe	Screening Tool Scores	The scores from the screening that include if the inmate is a potential victim or potential abuser.	Jan 2018 to Dec 2020
Northpointe	Inmate Classification	The final custody level from high to low (1-9, respectively).	Jan 2018 to Dec 2020
Offender Management System (OMS)	Inmate Screenings	The Screening date and reason. Does not include the answers, scores, or classification.	June 2020 (partial) to Dec 2021
Offender Management System (OMS)	Inmate Scores	The Screening date with the Screening score including if the inmate is a potential victim or potential abuser.	June 2020 (partial) to Dec 2021
Offender Management System (OMS)	Screening Questions YES Only	Includes inmates who answered YES to any of the questions on the Screening.	Dec 2020 to Dec 2021
Internal Tracking System (ITS)	Disciplinary Data	Each sexual assault incident is entered into ITS and includes categories to identify if it is related to PREA.	Feb 2020 (partial) to Dec 2021
Offender Management System (OMS)	Disciplinary Data	Includes all events of misconduct by inmates. Includes the infraction description and infraction code.	Feb 2020 (partial) to Dec 2021