

NATIONAL
PREA
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CENTER



BJA
Bureau of Justice Assistance
U.S. Department of Justice

PREA COMPLIANCE AUDIT INSTRUMENT – INTERVIEW GUIDE FOR SPECIALIZED STAFF

Lockups

August 11, 2014

GUIDELINES FOR AUDITORS: SPECIALIZED STAFF INTERVIEWS

Selecting specialized staff for interview:

Per the instructions for random staff interviews, the auditor shall request a list of staff sorted by assignment (e.g., supervision in housing units) and by shift on the first day of the site visit. The auditor shall select, at random, staff from the list of specialized staff below and request that these persons be brought for an interview on a subsequent day to be determined.

The auditor will request to interview specialized staff, including:

- Agency contract administrator;
- Non-medical staff involved in cross-gender strip or visual body cavity searches;
- Administrative (human resources) staff;
- Volunteers who may have contact with detainees
- Contractors and inmates who work in the facility who may have contact with detainees;
- Investigative staff;
- Staff who perform screening for risk of victimization and abusiveness;
- Staff on the incident review team;
- Designated staff member charged with monitoring retaliation;
- First responders, both law enforcement and non-law enforcement;
- Security staff; and
- Intake staff.

Interviews shall be conducted in a setting where staff will feel free to talk without being overheard by other staff. At large facilities or those with many different housing units, auditors may choose to interview additional staff to develop a more comprehensive assessment. The decision regarding total number staff to be interviewed should take into consideration the time available for interviews with both detainees and staff during the visit.

Informing Staff of the Audit's Purpose and Reason for Their Requested Participation

Prior to interviewing each staff person, the auditor should communicate the following to him or her:

“Thank you for meeting with me. My name is [NAME]. I have been hired by the [NAME OF CORRECTION AGENCY] to conduct an assessment of whether or not this facility is in compliance with standards that have been established by the federal government to prevent sexual abuse and sexual harassment. Although the [NAME OF CORRECTION AGENCY] hired me, I am an independent auditor and not under the authority of [NAME OF CORRECTION AGENCY]. I have been certified by the U.S. Department of Justice to conduct this assessment. I would like to ask you some questions about facility policies and practices. Your participation is voluntary, and you may choose not to answer any or all of the questions.”

“As a matter of professional conduct, I will do my very best to protect the confidentiality of the information that you provide to me. Under no circumstances can I be required to turn over my interview notes to the facility if they ask me for them. As I conduct my interviews, I will not be discussing what you tell me with any facility staff. However, you should be aware that if the U.S. Department of Justice wants to examine any of the information that I collect during this audit. I must provide it to them if they ask.

“You should also know that for the final report that I will give to the facility at the end of this audit, I am prohibited from including any personally identifying information of yours in it. The only way that my report could include personally identifying information is if I make a mistake and include it, and I can assure you that I will not make such a mistake. If my final report ends up including personally identifying information by mistake, I have to provide it to the agency if they ask.

“If you experience any negative consequences for talking with me, such as retaliation or threatened retaliation, please do not hesitate to contact me. I can be reached at **[THIS SHOULD BE THE SAME CONTACT INFORMATION PROVIDED IN ADVANCE OF THE AUDIT VISIT THAT SOLICITS INMATE COMMENTS]**.”

“Do I have your permission to ask you some questions?”

IF YES, CONTINUE WITH INTERVIEW GUIDE.

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AGENCY CONTRACT ADMINISTRATOR

1. How do you monitor new and renewed contracts for confinement services to determine if the contractor complies with required PREA practices? [115.112]
2. Have PREA compliance results been completed for each contract entered into agreement within the past 12 months? [115.112]
3. Have contract facilities completed and submitted PREA compliance results? [115.112]
 - a. If not, are they scheduled to be completed within the contracting agency's three-year cycle?

NON-MEDICAL STAFF INVOLVED IN CROSS-GENDER STRIP OR VISUAL BODY CAVITY SEARCHES

If there is no dedicated position/person responsible for conducting these searches, this question can be asked as part of the Random Staff interview.

1. What urgent circumstances would require cross-gender strip searches and visual body cavity searches? [115.115]

ADMINISTRATIVE (HUMAN RESOURCES) STAFF

1. Does the facility perform criminal record background checks and consider pertinent civil or administrative adjudications for all newly hired employees who may have contact with detainees and all employees, who may have contact with detainees, who are considered for promotions? Do you do this for any contractor who may have contact with detainees as well? [115.117]
2. Does the facility consider prior incidents of sexual harassment when determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with detainees? [115.117]
3. What system does the facility presently have in place to conduct criminal record background checks of current employees and contractors who may have contact with detainees? Are these background checks conducted at least once every five years? [115.117]
4. Does the facility ask all applicants and employees who may have contact with detainees about previous misconduct described in section (a)* in written applications for hiring or promotions, and in any interviews or written self-evaluations conducted as part of reviews of current employees? [115.117]
5. Does the facility impose upon employees a continuing affirmative duty to disclose any such previous misconduct? [115.117]
6. When a former employee applies for work at another institution, upon request from that institution, does the facility provide information on substantiated allegations of sexual abuse or sexual harassment involving the former employee, unless prohibited by law? *(Probe for information about laws that would prohibit such information transfer)* [115.117]

**Previous misconduct from section (a): (1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);(2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or (3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.*

VOLUNTEERS WHO MAY HAVE CONTACT WITH DETAINEES

1. Have you received training on: *(115.131 and 115.121)*
 - a. The agency's zero-tolerance policy and detainees' right to be free from sexual abuse and sexual harassment;
 - b. The dynamics of sexual abuse and harassment in confinement settings, including which detainees are most vulnerable in lockup settings;
 - c. The right of detainees and employees to be free from retaliation for reporting sexual abuse or harassment;
 - d. How to detect and respond to signs of threatened and actual abuse (*Note. 115.121(b) also requires that volunteers receive training regarding how to detect and respond to victims of sexual abuse*);
 - e. How to communicate effectively and professionally with all detainees; and
 - f. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

CONTRACTORS AND INMATES WHO WORK IN THE LOCKUP WHO MAY HAVE CONTACT WITH DETAINEES

1. Have you been notified of the agency's zero-tolerance policy on sexual abuse and sexual harassment? (Probe: that they understand the policy.) [115.132]

INVESTIGATIVE STAFF

If the agency conducts its own investigations of allegations of sexual abuse, ask the following questions:

1. Did you receive training specific to conducting sexual abuse investigations in confinement settings? [115.134 and 115.171]
2. If YES, can you describe it briefly? [115.134 and 115.171]
3. Did the training topics include: [115.134]
 - Techniques for interviewing sexual abuse victims?
 - Proper use of Miranda and Garrity warnings?
 - Sexual abuse evidence collection in confinement settings?
 - The criteria and evidence required to substantiate a case for administrative or prosecution referral?
4. Does agency policy require that allegations of sexual abuse or sexual harassment be referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior? *(Note: The referral agency may include the agency itself, if it conducts its own criminal investigations.)* [115.122]
5. How long does it take to initiate an investigation following an allegation of sexual abuse or sexual harassment? [115.171]
6. What would be the first steps in initiating an investigation and how long would they take? [115.171]
7. Please describe the investigation process. [115.171]
8. How do you handle anonymous or third-party reports of sexual abuse or sexual harassment? Are they investigated differently? [115.171]
9. Please describe any direct and circumstantial evidence you would be responsible for gathering in an investigation of an incident of sexual abuse. *(Probe: See if these include physical and DNA evidence, electronic monitoring data, interviews, and prior complaints and reports of sexual abuse.)* [115.171]
10. When you discover evidence that a prosecutable crime may have taken place, do you consult with prosecutors before you conduct compelled interviews? [115.171]
11. On what basis do you judge the credibility of an alleged victim, suspect, or witness? [115.171]
12. Would you, under any circumstances, require a detainee who alleges sexual abuse to submit to a polygraph examination or truth-telling device as a condition for proceeding with an investigation? [115.171]
13. When do you refer cases for prosecution? *(Note to auditors: the standard requires referrals when there are substantial allegations of conduct that appear to be criminal)* [115.171]

14. a) How do you proceed when a staff member alleged to have committed sexual abuse terminates employment prior to a completed investigation into his/her conduct? [115.171]
- b) How do you proceed when a victim who alleges sexual abuse or sexual harassment or an alleged abuser leaves the facility prior to a completed investigation into the incident? [115.171]
15. When an outside agency investigates an incident of sexual abuse in this facility, what role do you play? [115.171]

Questions #16 and 17 are for investigators who conduct administrative investigations specifically:

16. What efforts do you make during an administrative investigation to determine whether staff actions or failures to act contributed to the sexual abuse? [115.171]
17. Do you document administrative investigations in written reports? What information do you include in those reports? [115.171]
18. Are criminal investigations documented? What is contained in that report? *(Probe: See if reports include thorough descriptions of physical, testimonial, and documentary evidence, as well as attached copies of documentary evidence.)* [115.171]
19. What standard of evidence do you require to substantiate allegations of sexual abuse or sexual harassment? [115.172]

STAFF WHO PERFORM SCREENING FOR RISK OF VICTIMIZATION AND ABUSIVENESS

1. Do you screen detainees for risk of sexual abuse victimization by other detainees or sexual abusiveness toward other detainees? [115.141]
2. What does the risk screening consider? *(Probe: Do staff ask the detainee about his or her own perception of vulnerability? Do they consider: (1) Whether the detainee has a mental, physical, or developmental disability; (2) The age of the detainee; (3) The physical build and appearance of the detainee; (4) Whether the detainee has previously been incarcerated; and (5) The nature of the detainee's alleged offense and criminal history?)* [115.141]

INCIDENT REVIEW TEAM

Does the review team:

1. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility? [115.186] (By “transgender,” I mean: people whose gender identity and/or gender expression does not match the sex and/or gender they were assigned at birth; by “intersex,” I mean: an individual born with external genitalia, internal reproductive organs, chromosome patterns, and/or endocrine systems that do not seem to fit typical definitions of male or female; by “gender non-conforming,” I mean: individuals who express their gender in a manner that breaks societal norms for one’s gender (e.g., someone who identifies as a girl/woman but wears clothing typically assigned to boys/men).)
2. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse? [115.186]
3. Assess the adequacy of staffing levels in that area during different shifts? [115.186]
4. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff? [115.186]

DESIGNATED STAFF MEMBER CHARGED WITH MONITORING RETALIATION

Note: If no staff members are charged with monitoring retaliation at the facility, these questions should be addressed to the Facility Head instead:

1. What role do you play in preventing retaliation against detainees and staff who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations? (*Probes: Housing changes or transfers, removal of alleged abusers, emotional support services*) [115.167]
2. Can you describe the different measures you take to protect those detainees and staff from retaliation? [115.167]
3. Do you initiate contact with detainees who have reported sexual abuse? If so, how often? [115.167]
4. What do you look for to detect possible retaliation? What do you monitor? [115.167]
5. If there is concern that potential retaliation might occur or has occurred, what do you do to remedy such retaliation? [115.167]

LAW ENFORCEMENT STAFF AND NON-LAW ENFORCEMENT STAFF WHO HAVE ACTED AS FIRST RESPONDERS

1. Can you describe the actions you take as a first responder to an allegation of sexual abuse? (*Probe: See if any of the following actions are included*) [115.164]
 - a. Separating the alleged victim and abuser;
 - b. Preserving and protecting any crime scene until appropriate steps can be taken to collect any evidence;
 - c. Requesting that the alleged victim not take any actions that could destroy physical evidence (such as washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating), if the abuse occurred within a time period that still allows for the collection of physical evidence; and
 - d. Ensuring that the alleged abuser does not take any of the above actions that could destroy physical evidence, if the abuse occurred within a time period that still allows for the collection of physical evidence; and
 - e. (If not law enforcement staff) Immediately notifying law enforcement staff.

SECURITY STAFF

1. If vulnerable detainees are identified during screening, do you take actions to protect those detainees? (115.113)
 - a. If so, what are those actions? (Probe: heightened protection, to include continuous direct sight and sound supervision, single-cell housing, or placement in a cell actively monitored on video by a staff member sufficiently proximate to intervene.)
 - b. If no, why not? (Probe: feasibility.)

INTAKE STAFF

1. Do you provide detainees with information about the zero-tolerance policy on sexual abuse regarding sexual harassment, during their intake? [115.132]