

PREA

Fact Bulletin

Audits



NATIONAL
PREA
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CENTER

PREA* Fact Bulletin

**The National Prison Rape Elimination Act was passed unanimously by Congress and signed into law by President George W. Bush in September 2003, to prevent, detect and respond to sexual abuse of inmates in confinement facilities. The National PREA standards to prevent, detect and respond to sexual abuse became effective August 20, 2012.*

The PREA Fact Bulletin series is an American Jail Association project funded by the National PREA Resource Center (PRC). Each Bulletin covers a specific topic relative to meeting PREA compliance. The intent of the Bulletins is to be a quick and general guide, and not an all inclusive and comprehensive coverage of the topic. The topics for the Bulletins were selected based on input from the field about the issues that present unique challenges for jails as they work toward PREA compliance, and to clarify issues that present the most questions. More information on these topics can be obtained by using the resources noted at the end of each bulletin.

AUDITS

Tips for using this Fact Bulletin:

- It is important that you read and understand the definitions of terms. In particular, see PREA standard §115.5 for definitions of “agency” and each type of facility. The definitions are the same in all four sets of standards. You can find these definitions at this link:
<http://www.prearesourcecenter.org/training-technical-assistance/prea-101/prisons-and-jail-standards>
- The PREA Audit standards are §115.401, §115.402, §115.403, §115.404, and §115.405. These can be found at
<http://www.prearesourcecenter.org/sites/default/files/content/prisonsandjailsfinalstandards.pdf>

1. What is the intent of the PREA Audit?

The PREA standards are intended to guide an agency in effectively preventing, detecting, responding, and monitoring of sexual abuse and sexual harassment of persons in confinement facilities. The audit is intended to determine compliance with PREA standards and help agency and/or facility officials understand non-compliance findings and make corrections to reach compliance.

The PREA audit is not intended as an adversarial process. Auditors are trained to be helpful and provide guidance during this process. The PREA audit is not just about policies and procedures. It is a comprehensive review and assessment of a facility’s policies, procedures, and practices. Some of the questions an auditor seeks to answer during the PREA audit include, but are not limited to: How well does a facility address the risk of sexual abuse and sexual harassment of inmates? How effective is the response to allegations of sexual abuse and sexual harassment? Does staff have an understanding of the impact of sexual abuse and sexual harassment? Are inmates fully informed of their right to be free from sexual abuse and sexual harassment and are they aware of and comfortable with the methods to report allegations?

2. What facilities are required to have audits in order to be in compliance?

Every facility that is covered by PREA, (i.e. prisons, jails, community confinement facilities, juvenile facilities and lockups) is required to have an audit in order to be compliant.¹ The one exception to this

¹ Standard §115.401(a)

requirement relates to lockups: lockups that do not hold detainees overnight are not required to have an audit (Standard 115.193). To learn more about what constitutes “overnight” see the following FAQ: <http://www.prearesourcecenter.org/node/3219>

3. Who conducts audits?

PREA Standard §115.402 Auditor Qualifications states:

(a) An audit shall be conducted by:

- (1) A member of a correctional monitoring body that is not part of, or under the authority of, the agency (but may be part of, or authorized by, the relevant State or local government);*
- (2) A member of an auditing entity such as an inspector general’s or ombudsperson’s office that is external to the agency; or*
- (3) Other outside individuals with relevant experience.*

In addition to these criteria, every PREA auditor must meet all of the certification aspects required by the U.S. Department of Justice.

Certain restrictions apply for auditors concerning audits:

- *No audit may be conducted by an auditor who has received financial compensation from the agency being audited (except for compensation received for conducting prior PREA audits) within the three years prior to the agency’s retention of the auditor [Standard 115.402(c)].*
- *The agency shall not employ, contract with, or otherwise financially compensate the auditor for three years subsequent to the agency’s retention of the auditor, with the exception of contracting for subsequent PREA audits [Standard 115.402(c)].*

4. What are the requirements to be a DOJ-certified PREA Auditor?

Detailed information about the specific requirements to become a DOJ-certified PREA Auditor can be found at: <http://www.prearesourcecenter.org/audit/auditor-qualifications-and-application>

In summary, PREA certified auditors must have:

- *Three years of significant auditing, monitoring, quality assurance, investigations, or substantially similar experience with the facility type or standards in which the applicant seeks certification.*
- *A bachelor’s degree, or a high school degree and equivalent career-related experience.*
- *References from professionals in the field related to a relevant set of standards.*
- *Passed a background records check.*
- *Completed a 40-hour PREA auditor certification training session, provided by the National PREA Resource Center (PRC).*
- *Passed an examination at the end of the 40-hour training session.*

5. When does our facility have to be audited?

PREA standard §115.401, Frequency and Scope of Audit states that:

- *During the three-year period starting on August 20, 2013, and during each three-year period thereafter, the agency shall ensure that each facility operated by the agency, or by a private organization on behalf of the agency, is audited at least once.*
- *During each one-year period starting on August 20, 2013, the agency shall ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, is audited.*

“Facility type” means the type of facility as defined by the standards. There are five types, and four different sets of standards (adult prisons and jails, lockups, community confinement facilities, and juvenile facilities). Please note that prisons and jails while considered separate facility types share one set of standards. The chart below illustrates when a facility must be audited during a given audit cycle. Every facility must receive an audit at least every three years.

Audit Cycle beginning August 20, 2103 and ending August 19, 2016	Year 1	Year 2	Year 3
	One third of each facility type within an agency must be audited.	The second third of each facility type within an agency must be audited.	The last third of each facility type within an agency must be audited.
Audit Cycle beginning August 20, 2106 and ending August 19, 2019	One third of each facility type within an agency must be audited.	The second third of each facility type within an agency must be audited.	The last third of each facility type within an agency must be audited.
Audit cycles continue in three-year increments.			

Below are some examples of the audit cycle looking across an agency's facility types and facility numbers. The table illustrates how the agency should have its facilities audited in any given three-year audit cycle. If you have a question about your agency and its facilities regarding the audit cycle, please contact the PRC at <http://www.prearesourcecenter.org/about/contact-us>

	Facility(s) to be audited in Year 1	Facility(s) to be audited in Year 2	Facility(s) to be audited in Year 3
Agency “A” has one adult jail	One adult jail		
Agency “B” has 4 adult jails	2 adult jails	1 adult jails	1 adult jails
Agency “C” has 12 adult jails, 17 community confinement facilities, and 2 juvenile facilities	4 adult jails 6 community confinement 1 juvenile	4 adult jails 6 community confinement 1 juvenile	4 adult jails 5 community confinement
Agency “D” has 1 adult jail, 1 juvenile facility, and 1 community confinement facility	1 adult jail 1 community confinement 1 juvenile		

For more information on the audit cycle please see the following FAQs:

<http://www.prearesourcecenter.org/node/3215>

<http://www.prearesourcecenter.org/node/3231>

<http://www.prearesourcecenter.org/node/3283>

6. How do we get an audit and how do we find an auditor?

Each agency must decide when its facilities will have an audit, and then identify an auditor to contract with for the audit(s). All certified PREA auditors are listed on the PRC website at:

<http://www.prearesourcecenter.org/audit/list-of-certified-auditors>.

An agency is free to contact any and all auditors within the parameters of a jurisdiction's procurement regulations. If the agency is required to use an Request for Proposal (RFP) when contracting with anyone outside of the agency, the PRC will send out the RFP to all auditors upon request.

The agency is encouraged to negotiate very carefully with an auditor. There are many considerations when negotiating a contract including the rate and method of payment for services, expenses, timelines, additional services, responsibilities of each party (i.e. the agency and the auditor), corrective action planning (if necessary), follow-up, etc. The PRC website has provided a sample

auditing contract to guide an agency with the contract development. These provisions are not all inclusive and every agency should refer to their jurisdiction's contract provisions for additional guidance. The sample contract can be found at:

<http://www.prearesourcecenter.org/sites/default/files/library/sampleauditingcontractprovisions5-29-2014.doc>

Please note: An agency may contract with the same auditor to conduct audits of all of the agency's facilities.

7. What does an audit entail?

There are basically three parts to an audit. These are: the Pre-Audit, the On-Site Audit, and the Post-Audit.

The Pre-Audit phase occurs after the agency/facility has selected and contracted with the auditor and before the auditor arrives on site. The following describes some of the activities that will occur during the Pre-Audit phase:

- Initial contacts between the agency PREA Coordinator and/or Compliance Manager and the auditor.
- Agency posts the notice of audit (6 weeks notice required)
- Agency completes the Pre-Audit Questionnaire and submits to auditor
 - http://www.prearesourcecenter.org/sites/default/files/content/prisons-jails_pre-audit_questionnaire_fillable_0.pdf
- Auditor reviews the documents and information submitted in the Pre-Audit Questionnaire
- Agency prepares for the on-site auditor visit which may include arranging for interviews, selecting an interview location, etc.

Please note: the Pre-Audit phase must last at least six (6) weeks to allow sufficient time for notice of audit, but might be even longer at the request of the auditor to ensure sufficient time to review all submitted documentation in the Pre-Audit Questionnaire.

During the on-site visit the auditor will conduct:

- Site review – a thorough and detailed tour in order to allow the auditor access to all areas of the facility
- Additional document review – this may include, but is not limited to: training files, investigations files, and critical incident documentation
- Interviews with staff, inmates, and others – a list of the different interviews that will be conducted in an adult jail can be found at: <http://www.prearesourcecenter.org/audit/adult-prisons-and-jails>

During the Post-Audit phase, the auditor will:

- Complete the Auditor Compliance Tool
- Submit an Interim Report to the agency (Note: this can be the final report if no corrective action is required)
- Work with agency to develop a corrective action plan, if necessary. Instruct the agency to initiate the corrective action period, if necessary (up to 180 days)
- File a final report at the end of the corrective action period

Throughout the entire audit the auditor will use the information collected to populate the Auditor Compliance Tool:

http://www.prearesourcecenter.org/sites/default/files/content/prison_jails_auditor_fillable_compliance_tool_reader_extended_version.pdf

To learn more about the audit process, and to access the audit instrument documents, visit the Audit page on the National PREA Resource Center's (PRC) website:
<http://www.prearesourcecenter.org/audit>

8. What is the "corrective action"?

If the auditor finds that a facility is not in compliance with any of the PREA standards, corrective action is required, and a corrective action period will be initiated. The corrective action period is a maximum of 180 days beginning after the auditor submits the Interim Report to the facility. The corrective action period is sufficiently long to give the facility time to come into full compliance with those standards, or specific provisions of a given standard, that were deemed insufficient. The auditor will work with the facility to develop a corrective action plan. As soon as the facility has reached compliance with the standards requiring remediation, the corrective action period can conclude, and the final PREA Audit Report will be completed.

9. How long does an audit take?

There is no way to predict exactly how long an audit will take. Multiple factors which impact the length of time for an audit include, but are not limited to:

- The size and location of the facility
- The completeness of the information provided in the Pre-Audit Questionnaire
- How well the agency/facility has worked to implement the PREA standards
- The amount of on-site work required
- The length of the corrective action period, which may include an additional site visit(s)

In general, an average audit will take about 5 to 7 business days of the auditor's time. Most audits will require at least 2 to 3 days of these days in preparation work by the auditor off-site, approximately 3 full days on-site, and approximately 2 to 3 days to complete the interim/final auditor report. Remember, these numbers are only estimates based on average size facilities. A facility with 10 beds will require less time than a facility with 1000 beds or more. Additional work will take more time. For example, if there are several standards that need corrective action, a longer time may be necessary to work with the agency to develop and implement corrective actions.

10. How much does an audit cost?

Auditors set their own fees. The U.S. Department of Justice (USDOJ) certifies the auditors, and manages appeals and complaints, but does not set the fees for auditors. Auditors are independent and are neither employees of nor contractors for the USDOJ.

It is important that agencies have detailed discussions with auditors concerning fees and costs before selecting an auditor. All auditors receive the same training and are certified by the USDOJ. The only difference is the type of certification; auditors are certified for adult or juvenile facilities or both, depending on their experience and qualifications.

Keep in mind that many factors impact the total cost of the audit such as the size of the facility, the auditor's fee structure (hourly, daily, etc.), the amount of work completed by the auditor for the corrective action period (if applicable), and the expenses incurred by the auditor (travel, hotel, etc.). Given the potential for great variation, it is important to discuss these costs in detail as part of the contracting process.

11. When is our audit complete and what is in the auditor report?

An audit is complete when the auditor has issued the final report:

http://www.prearesourcecenter.org/sites/default/files/content/prison_jails_auditor_report_final_2015_no_logo.docx

The final report is completed by the auditor within 30 days of the completion of the audit which includes the corrective action period. <http://www.prearesourcecenter.org/frequently-asked-questions>

The contents of the report are described in the following standard:

§ 115.403 Audit contents and findings.

(b) Audit reports shall state whether agency-wide policies and procedures comply with relevant PREA standards.

(d) Audit reports shall describe the methodology, sampling sizes, and basis for the auditor's conclusions with regard to each standard provision for each audited facility, and shall include recommendations for any required corrective action.

(e) Auditors shall redact any personally identifiable inmate or staff information from their reports, but shall provide such information to the agency upon request, and may provide such information to the Department of Justice.

(f) The agency shall ensure that the auditor's final report is published on the agency's website if it has one, or is otherwise made readily available to the public.

Once the agency has received the final report, it has 90 days to publish the report on the agency's website or otherwise made readily available to the public.

<http://www.prearesourcecenter.org/node/3829>

12. Resources

To achieve compliance with PREA standards, it is extremely helpful to use all of the tools available. The information provided in this Fact Bulletin is a quick guide and does not contain the complete language of the PREA standards. It is recommended that agencies and facilities use the following additional resources and websites:

Audit Instrument page for all four facility-type audit instruments:

<http://www.prearesourcecenter.org/node/1754>

Audit Instrument page for Adult Prisons and Jails Audit Instrument:

<http://www.prearesourcecenter.org/audit/adult-prisons-and-jails>

Individual components of the Adult Prisons and Jails Audit Instrument:

Pre-Audit Questionnaire

http://www.prearesourcecenter.org/sites/default/files/content/prisons-jails_pre-audit_questionnaire_fillable_0.pdf

Auditor Compliance Tool

http://www.prearesourcecenter.org/sites/default/files/content/prison_jails_auditor_fillable_compliance_tool_reader_extended_version.pdf

Instructions for Facility Tour

http://www.prearesourcecenter.org/sites/default/files/content/instructions_for_pre_auditor_tour_prisons_and_jails_final.pdf

Interview Protocol for Agency Head or Designee

http://www.prearesourcecenter.org/sites/default/files/content/prisons_jails_pre_auditor_agency_head_or_designee_interview_protocol_final.pdf

Interview Protocol for Warden or Designee

http://www.prearesourcecenter.org/sites/default/files/content/prisons_jails_pre_auditor_warden_or_designee_interview_protocol_final.pdf

Interview Protocol for PREA Coordinator and PREA Compliance Manager

http://www.prearesourcecenter.org/sites/default/files/content/prisons_jails_prea_audit_prea_compliance_man_coord_protocol_final.pdf

Interview Protocol for Specialized Staff

http://www.prearesourcecenter.org/sites/default/files/content/prisons_jails_prea_audit_specialized_staff_interview_protocol_final_revised_confidentiality.pdf

Interview Protocol for Random Staff

http://www.prearesourcecenter.org/sites/default/files/content/prisons_jails_prea_audit_random_staff_interview_protocol_final_revised_confidentiality_0.pdf

Interview Protocol for Inmates

http://www.prearesourcecenter.org/sites/default/files/content/prisons_jails_prea_audit_inmate_interview_protocol_final_revised_confidentiality.pdf

Final Auditor Report Template

http://www.prearesourcecenter.org/sites/default/files/content/prison_jails_auditor_report_final_2015_no_logo.docx

Audit Process Map

http://www.prearesourcecenter.org/sites/default/files/content/prea_audits_process_map_prisons_and_jails_final.pdf

Checklist of Documentation

http://www.prearesourcecenter.org/sites/default/files/content/prisons_jails_prea_audit_checklist_of_documentation_final.pdf

Other important resources:

Archived webinars <http://www.prearesourcecenter.org/training-and-technical-assistance/archived-webinars>

Toolkit for Jails <https://s3.amazonaws.com/static.nicic.gov/Library/026880.pdf>

Latest interpretive guidance and information in the FAQ section of the PREA Resource Center website <http://www.prearesourcecenter.org/faq>.

For more information and assistance please visit

www.prearesourcecenter.org

www.aja.org