THE PREA CLOCK IS TICKING!
THE WHO, WHEN, AND HOW
OF JAIL AUDITS

Notice of Federal Funding and Federal Disclaimer – This project was supported by Grant No. 2010-RP-BX-K001 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.
Introductions

• Tom Talbot, Senior Policy Advisor, PREA Management Office, Bureau of Justice Assistance

• Tara Graham, National PREA Resource Center (PRC)

• Elizabeth Layman, American Jail Association
Today’s Agenda: Webinar—Part 1

1. Resources Available From PRC
2. The Timeline and Requirements for Audits
3. How Prison Rape Elimination Act (PREA) Compliance Is Measured
4. About Auditors: Who They Are, How to Be an Auditor, and How to Retain an Auditor
5. Audit Process
6. Questions and Answers
Next Webinar: Part 2—October 16, 2014
(2:00–3:30 p.m. EDT)

Demystifying the Jail Audit Prep and Process

1. Preparing for the Audit
2. PREA Coordinator Role
3. Audit Preparation Team
4. Working With Your Auditor
5. Audit Instrument Content and Examples
6. Interview Protocols
7. Facility Tour
8. Questions and Answers
National PREA Resource Center
What is the National PREA Resource Center?

Mission and Methods

PRC’s mission is to assist adult prisons and jails, juvenile facilities, lockups, community corrections, and tribal facilities in their efforts to eliminate sexual abuse by increasing their capacity for prevention, detection, monitoring, responses to incidents, and services to victims and their families.

- Website and resource library
- Training and technical assistance (TTA)
- Grant program
- Audit support and auditor training
Training and Technical Assistance

**Targeted TTA**

- Curricula
- Videos
- Fact sheets
- Case law summaries
- Other resources, such as PREA Essentials webpage

**Field-Initiated TTA**

- Customized assistance, onsite or remote
- Conference presentations and workshops

*Jurisdictions can request assistance by completing the web form. Click on the “request assistance” tab on the PRC website homepage ([www.prearesourcecenter.org](http://www.prearesourcecenter.org)).*
TTA Resources

Curricula Update

- Specialized training: investigations
- Specialized training: medical and mental health
- PREA for tribal facilities
- Gender-responsive strategies: adults
- Gender-responsive strategies: juveniles
- Inmate education video and facilitator’s guide
- Human resources and administrative investigations
- Employee training
- Victim services
Additional Resources

Recently Released Resources

- Third-party reporting fact sheet
- Legal resources related to confidentiality, including frequently asked questions and a 50-state survey on relevant confidentiality laws (coming soon)

Forthcoming Fall 2014

- PREA in Action webinar—Keeping LGBTI Individuals Safe
- Resources for prosecutors
- Analysis of relevant sexual assault laws
- Three graphic novels (comic books) for inmate education
TTA Topics

Resource Development 2014–2015

• Individuals with disabilities
• Minimizing the use of protective custody
• PREA coordinator contacts and listserv management
• Outreach to jails and law enforcement
• Inmate education
• External reporting and support services
• Staffing plans
• Youthful inmates
• Trauma related to sexual abuse in confinement
• Cross-gender supervision
• Field-initiated TTA
PRC’s Audit Work

• Development of audit instrument and online tools

• Communications regarding the audit process

• Running an auditor application process
  » Review qualifications
  » Refer qualified and trained individuals to US Department of Justice (DOJ) for certification
  » Background checks (completed by DOJ/FBI)

• Training auditors
Audit Requirements and Timeline
Do jails and other local facilities have to have an audit to be in compliance?

YES!

- PREA is a law.

- PREA standards apply equally to locally operated facilities (e.g., lockups, jails, juvenile detention centers, and locally operated residential community confinement facilities).

- Audits are required for full compliance with PREA standards.

- The statute imposes certain financial consequences on states that do not comply with the standards (5.0% possible reduction in certain federal grants). However, for local facilities or facilities not operated by the state, PREA provides no direct federal financial penalty for not complying.
Incentives for Jails to Comply

Despite the lack of 5% grant reduction that applies to states, there are other incentives for jails to elect to comply.

- May influence the standard that *courts will apply in legal and constitutional claims*.
- Major accreditation organizations may need to comply with the standards as a condition of accreditation.
- Facilities that contract to hold state or federal inmates risk losing those contracts.
<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
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<tbody>
<tr>
<td>August 20, 2012</td>
<td>Effective date PREA standards are applicable to state and local facilities.</td>
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<tr>
<td>August 20, 2013</td>
<td>First three-year audit cycle begins.</td>
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<tr>
<td>October 1, 2013</td>
<td>First date on which federal grant funds may be impacted (FY 2014).</td>
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<tr>
<td>August 19, 2014</td>
<td>End of first year of the three-year audit cycle—one third of each facility type must be audited.</td>
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<tr>
<td>August 19, 2015</td>
<td>End of second year of the three-year audit cycle—second third of each facility type must be audited.</td>
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<tr>
<td>August 19, 2016</td>
<td>First three-year audit cycle complete. All facilities must be audited.</td>
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Compliance and PREA Auditors
How will compliance be measured?

Facilities must meet all standards to be in compliance.

For each standard, a determination is made whether the facility:

• Exceeds standard;
• Meets standard; or
• Does not meet standard.
How will compliance be measured?

Use the audit instrument for details about:

- What the auditor will need to assess compliance;
- How the auditor will determine compliance; and
- Each step of the audit process.
Who can conduct audits?

Audits must be conducted by PREA auditors, certified by the DOJ.

A full list of certified auditors and their contact information can be found on the PRC website.

www.prearesourcecenter.org/audit/list-of-certified-auditors
Who can conduct audits?

§ 115.402 Auditor qualifications

(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); or

(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.
Who can conduct audits?

§ 115.402 Auditor qualifications

(c) 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.

(d) 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.
Auditor Certification

To be certified, auditors must:

- Meet specified qualifications;
- Pass a criminal background records check;
- Complete a 40-hr PREA auditor certified training session; and
- Pass the final exam.

Auditors can receive one of two certifications.

- 349 total certified auditors
- 296 certified for adult facilities
- 115 certified for juvenile facilities
- 62 certified for both adult and juvenile facilities

Additional trainings

- September 29 to October 3: Columbia, South Carolina
- November 3–7: Columbia, South Carolina
- Three trainings in 2015 (dates and locations TBD)

Apply online at
www.prearesourcecenter.org/audit/auditor-qualifications-and-application
Auditors: DOJ Responsibilities

- The DOJ will conduct random auditor peer reviews and reviews when there is a concern about auditor effectiveness.
- PREA auditors must be recertified by the DOJ every three years.
- Auditors are subject to decertification for cause.
- Auditors are required to maintain all documents, notes, media, and other information used in making their audit determinations.
Retaining an Auditor

Each agency should develop its own process to find an auditor, consistent with PREA Standard 115.402.

- Must be a PREA certified auditor and meet the requirements of §115.402.
- If using an independent auditor, careful and detailed contract negotiations should occur between the agency and the selected auditor.
- Audit price should be negotiated between the auditor and facility to be audited.
- Contact and contract with your auditor. If you send out RFPs, PRC will sent them to all auditors upon request. You may also use the list on your own to filter out location and certification type and email auditors individually.
Retaining an Auditor

• Certified PREA auditors will perform the PREA audits as independent contractors unless they have or create an arrangement to conduct audits through another entity, such as their current employer, an external governmental entity, the American Correctional Association, or other accreditation body.

• Circular audits are permissible (more details next).

• The DOJ is not involved with the contracting, scheduling, or fee schedules associated with PREA audits.
PREA Audits
How do we prepare for an audit?

• Make the decision: Are you committed to PREA standards implementation?
• Read the standards (including the preamble)
• Assess your operations through a self-assessment
• Use the Toolkit for Jails
• Develop an action plan
• Use the audit instrument
• Find an auditor
What if we did not audit by August 2014?

• Continue to work to implement and comply with PREA standards.

• Conduct the audit as soon as the facility is ready; in order to be compliant, you have to be audited.

• Follow the next audit cycle for the timing of the next audit for that facility.

• Example: You have only one facility. The first audit will be conducted in January 2015 (second year of audit cycle) but should have been conducted by August 2014 (first year of audit cycle). Conduct the next audit in the first year of the next audit cycle, even if three years have not passed.
Circular Audits

• Direct reciprocal agreement is not permitted.

• Circular agreements are permitted.
  » Example:
    1. Miami-Dade County Jail audits Broward County Jail.
    2. Broward County Jail audits West Palm Beach County Jail.
    3. West Palm Beach County Jail audits Miami-Dade County Jail.

• No agency in a circular agreement may hold inmates in its own facilities for the agency that performs its audits.

• Agencies who enter into circular audit agreements should work with a legal department to establish contracts that specify details such as potential auditor compensation (if any), who has responsibility for travel expenses, indemnification specifics, etc.
### The PREA Audit Process—Overview

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<tr>
<th>Pre-Audit</th>
<th>Audit</th>
<th>Post-Audit</th>
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<tr>
<td><strong>Post Notice of Upcoming Audit</strong>&lt;br&gt;(post notice at facility with auditor's contact info 6 weeks prior to the audit for confidential communication)</td>
<td><strong>Facility Tour</strong>&lt;br&gt;<strong>Instructions/guidance for conducting tour</strong></td>
<td><strong>Auditor Compliance Tool</strong>&lt;br&gt;Response for each measure based on:&lt;br&gt;• Review of policies/procedures;&lt;br&gt;• Review of documentation;&lt;br&gt;• Review of data;&lt;br&gt;• Interviews with inmates and staff; and&lt;br&gt;• Tour of facility.</td>
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<td><strong>Communicate with Community-Based or Victim Advocates</strong></td>
<td><strong>Additional Document Review</strong></td>
<td><strong>Auditor uploads additional documentation gathered onsite.</strong></td>
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<td><strong>Agency/Facility Questionnaire</strong>&lt;br&gt;Completed by PREA Coordinator/PREA Compliance Manager with input from agency head, warden, etc., as necessary.</td>
<td><strong>Staff Interviews</strong>&lt;br&gt;<strong>Agency head (or designee)</strong></td>
<td><strong>Determination of compliance with each standard:</strong>&lt;br&gt;• Guidelines provided for auditors&lt;br&gt;• Auditors provide commentary with justification for decision</td>
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<tr>
<td><strong>Instructions for completing</strong></td>
<td><strong>PREA Coordinator</strong></td>
<td><strong>Overall determination of compliance (guidelines provided to auditor).</strong></td>
</tr>
<tr>
<td><strong>Agency/facility information (name, address, contact info, etc.)</strong></td>
<td><strong>PREA Compliance Manager</strong>&lt;br&gt;&lt;<strong>Warden (or designee)</strong>&lt;br&gt;&lt;<strong>Random sample of staff</strong>&lt;br&gt;&lt;<strong>Specialized staff</strong>&lt;br&gt;&lt;<strong>Inmate Interviews</strong></td>
<td><strong>Auditor Report</strong>&lt;br&gt; (auditor generates final report and sends it to agency no later than 30 days after completion of on-site audit)</td>
</tr>
<tr>
<td><strong>Information requested by standard:</strong>&lt;br&gt;• Provide questions from audit tool and data&lt;br&gt;• Upload policies/procedures and open-text of pages/sections indicating location of specific policy information required by standard; and&lt;br&gt;• Upload documentation requested.</td>
<td></td>
<td><strong>Corrective Action Plan</strong>&lt;br&gt; (180 days CA period – begins the day that the agency receives the interim report)</td>
</tr>
<tr>
<td><strong>Initial Auditor Review and Discussions With PREA Compliance Manager</strong>&lt;br&gt;Auditor reviews agency/facility responses to pre-audit questionnaire and has follow-up call(s) with PREA Compliance Manager to get clarification and explain the audit process.</td>
<td></td>
<td><strong>Final Report</strong>&lt;br&gt; (final report delivered to agency within 30 days of completion of corrective action period)</td>
</tr>
<tr>
<td><strong>Auditor Review of Submitted Agency/Facility Questionnaire and Policies/Procedures</strong>&lt;br&gt;Auditor begins Auditor Compliance Tool</td>
<td></td>
<td><strong>Agency Appeal</strong>&lt;br&gt; (agency has 90 days from receipt of final report to appeal audit findings to DOI)</td>
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*Notations:*
- **Post-Audit**
- **Audit**
- **Pre-Audit**
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Demystifying the Jail Audit Prep and Process

Register at:

https://www3.gotomeeting.com/register/900458510
Questions?
Resources and More Information

For more information about the National PREA Resource Center, visit www.preameresourcecenter.org. Direct questions to info@preameresourcecenter.org.

For assistance, contact one of the following.

Tara Graham  
Senior Program Specialist  
tgraham@nccdgglobal.org

Sarah True  
Program Associate  
strue@nccdgglobal.org

For more resources and assistance, contact www.aja.org.
If your agency has a designated PREA coordinator, please share his/her contact information with the American Jail Association at www.aja.org.