


<p>Fifth Judicial District</p> <p>Department of Correctional Services</p> <p>Policy and Procedural Manual</p>			<p>Approval Date: 4-23-14</p> <p>Approved By:</p> <p> Sally Kreemer, Director Fifth Judicial District Department of Correctional Services</p>
<p>Division: Administration</p> <p>Unit(s): All Units</p>	<p>Subject: PREA 13 – Audits and Corrective Action</p>		<p>Effective Date: 4-23-14</p> <p>Review Dates: N/A Revision Dates: N/A Origination Date: 4-23-2014</p>
<p>PREA Standards:</p>	<p>115.293</p> <p>115.403</p> <p>115.501</p>	<p>115.401</p> <p>115.404</p>	<p>115.402</p> <p>115.405</p>

PURPOSE

To establish policy in regard to Prison Rape Elimination Act (PREA) compliance audits and corrective action.

POLICY

It is the policy of the Fifth Judicial District Department of Correctional Services to provide a safe, humane and secure environment, free from the threat of sexual violence and sexual harassment for all offenders, by maintaining a program of education, prevention, detection, response, investigation, prosecution and tracking. The Fifth Judicial District Department of Correctional Services has zero tolerance for sexual violence of any kind.

APPLICABILITY

This policy applies to all employees, prospective employees, interns, volunteers and contractors of the Fifth Judicial District Department of Correctional Services and will be maintained current by the District Director or designee.

PROCEDURES

I. Audits of Standards § 115.293

- A. The Department shall have PREA audits pursuant to §§ 115.401 through 115.405.
- B. Frequency and Scope of Audits § 115.401
 - 1. During the three-year period starting on **August 20, 2013**, and during each three-year period thereafter, the Department shall ensure that each facility operated by the Department is audited at least once.
 - 2. During each one-year period starting on **August 20, 2013**, the Department shall ensure that at least one-third of each facility type operated by the Department is audited.
 - 3. The Department of Justice may send a recommendation to a Department for an expedited audit if the Department has reason to believe that a particular facility may be experiencing problems relating to sexual abuse. The recommendation may also include referrals to resources that may assist the agency with PREA-related issues.

4. The Department of Justice shall develop and issue an audit instrument that will provide guidance on the conduct of and contents of the audit.
5. The Department shall bear the burden of demonstrating compliance with the standards.
6. The auditor shall review all relevant policies, procedures, reports, internal and external audits and accreditations for each facility.
7. The audits shall review, at a minimum, a sampling of relevant documents and other records and information for the most recent one-year period.
8. The auditor shall have access to, and shall observe, all areas of the audited facilities.
9. The auditor shall be permitted to request and receive copies of any relevant documents (including electronically stored information).
10. The auditor shall retain and preserve all documentation (including, *e.g.*, video tapes and interview notes) relied upon in making audit determinations. Such documentation shall be provided to the Department of Justice upon request.
11. The auditor shall interview a representative sample of offenders and of staff, supervisors and administrators.
12. The auditor shall review a sampling of any available videotapes and other electronically available data (*e.g.*, Watchtour) that may be relevant to the provisions being audited.
13. The auditor shall be permitted to conduct private interviews with offenders.
14. Offenders shall be permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.
15. Auditors shall attempt to communicate with community-based or victim advocates who may have insight into relevant conditions in the facility.

II. Auditor Qualifications § 115.402

- 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 Department (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.
- B. All auditors shall be certified by the Department of Justice. The Department of Justice shall develop and issue procedures regarding the certification process, which shall include training requirements.
- C. No audit may be conducted by an auditor who has received financial compensation from the Department being audited (except for compensation received for conducting prior PREA audits) within the three years prior to the Department's retention of the auditor.
- D. The Department shall not employ, contract with or otherwise financially compensate the auditor for three years subsequent to the Department's retention of the auditor, with the exception of contracting for subsequent PREA audits.

III. Audit Contents and Findings § 115.403

- A. Each audit shall include a certification by the auditor that no conflict of interest exists with respect to his or her ability to conduct an audit of the Department under review.

- B. Audit reports shall state whether agency-wide policies and procedures comply with relevant PREA standards.
- C. For each PREA standard, the auditor shall determine whether the audited facility reaches one of the following findings: Exceeds Standard (substantially exceeds requirement of standard); Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period); Does Not Meet Standard (requires corrective action). The audit summary shall indicate, among other things, the number of provisions the facility has achieved at each grade level.
- 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 offender or staff information from their reports, but shall provide such information to the Department upon request, and may provide such information to the Department of Justice.
- F. The Department shall ensure that the auditor's final report is published on the Department's website if it has one, or is otherwise made readily available to the public.

IV. Audit Corrective Action Plan § 115.404

- A. A finding of "Does Not Meet Standard" with one or more standards shall trigger a 180-day corrective action period.
- B. The auditor and the agency shall jointly develop a corrective action plan to achieve compliance.
- C. The auditor shall take necessary and appropriate steps to verify implementation of the corrective action plan, such as reviewing updated policies and procedures or re-inspecting portions of a facility.
- D. After the 180-day corrective action period ends, the auditor shall issue a final determination as to whether the facility has achieved compliance with those standards requiring corrective action.
- E. If the agency does not achieve compliance with each standard, it may (at its discretion and cost) request a subsequent audit once it believes that it has achieved compliance.

V. Audit Appeals § 115.405

- A. The Department may lodge an appeal with the Department of Justice regarding any specific audit finding that it believes to be incorrect. Such appeal must be lodged within 90 days of the auditor's final determination.
- B. If the Department determines that the Department has stated good cause for a re-evaluation, the Department may commission a re-audit by an auditor mutually agreed upon. The Department shall bear the costs of this re-audit.
- C. The findings of the re-audit shall be considered final.

VI. State Determination and Certification of Full Compliance § 115.501

- A. In determining pursuant to 42 U.S.C. 15607(c)(2) whether the State is in full compliance with the PREA standards, the Governor shall consider the results of the most recent Department audits.

- B. The Governor's certification shall apply to all facilities in the State under the operational control of the State's executive branch, including facilities operated by private entities on behalf of the State's executive branch.