

Subject: PREA AUDIT SYSTEM

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PURPOSE

The purpose of this policy is to provide a process for auditing the Youth Rehabilitation and Treatment Centers (YRTC) to ensure compliance with Prison Rape Elimination Act, Juvenile Facility Standards as promulgated by the United States Department of Justice.

GENERAL

As YRTCs implement standards for the purpose of establishing and maintaining a zero tolerance position toward sexual abuse and sexual harassment it is imperative that there is audit process to determine compliance with standards. The audit process as noted below establishes; 1) frequency and scope of audits; 2) Auditor qualifications; 3) Audit content and findings; 4) Audit corrective action plan; 5) Audit appeals; and 6) State compliance.

PROCEDURES

I. Frequency and scope of audits.

(1) During the three-year period starting on August 20, 2014 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.

(2) During each one-year period starting on August 20, 2014 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.

(3) The Department of Justice may send a recommendation to an agency 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 YRTC/agency shall bear the burden of demonstrating compliance with the standards.

(6) The auditor shall review all relevant YRTC/ agency-wide policies, procedures, reports, internal and external audits, and accreditations for each facility type.

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(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 inmates, residents, and detainees, 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 inmates, residents, and detainees.

(14) Inmates, residents, and detainees 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.

(1) An audit shall be conducted by:

- (a) 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);
- (b) A member of an auditing entity such as an inspector general's or ombudsperson's office that is external to the agency; or
- (c) Other outside individuals with relevant experience.

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(2) 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.

(3) 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.

(4) 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.

III. Audit contents and findings.

(1) 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 agency under review.

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

(3) 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.

(4) 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.

(5) 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.

(6) 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.

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IV. Audit corrective action plan.

(1) A finding of “Does Not Meet Standard” with one or more standards shall trigger a 180-day corrective action period.

(2) The auditor and the YRTC/ agency shall jointly develop a corrective action plan to achieve compliance.

(3) 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.

(4) 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.

(5) 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.

(1) An agency 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.

(2) If the Department determines that the agency has stated good cause for a re-evaluation, the agency may commission a re-audit by an auditor mutually agreed upon by the Department and the agency. The YRTC/agency shall bear the costs of this re-audit.

(3) The findings of the re-audit shall be considered final.

VI. State determination and certification of compliance.

(1) 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 agency audits.

Department of Health & Human Services

DHHS

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(2) 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.

REFERENCE:

- I. Attachments – None
- II. PREA Standards
115.393 115.401 115.402 115.403 115.404 115.405 115.501

APPROVED:



**Tony Green, Deputy Director
Office of Juvenile Services**

EFFECTIVE: January 1, 2014

SUMMARY of REVISION

- AR is new and designed to make YRTC's aware of the auditing process required to determine compliance with PREA standards.