



# **The Prison Rape Elimination Act (PREA) and Juvenile Justice**

- Provide an Overview of PREA
- Discuss the PREA Audit Cycle
- Discuss the PREA Audit Process

- 2003 – President George W. Bush Signs the Prison Rape Elimination Act (PREA) into Law
- 2004 – The National Prison Rape Elimination Commission (NRPEC) is Established
- 2009 – The NPREC Releases its Final Report and Proposed Standards to Prevent, Detect and Respond to Sexual Abuse of Incarcerated and Detained Individuals
- 2012 – The Final PREA Rule is Published in the Federal Register
- 2013 – The First 3 year Audit Cycle Begins

# Why is PREA Important?



- In 2012, juvenile correctional administrators reported 865 allegations of sexual victimization in state juvenile systems and 613 in local or private facilities and Indian country facilities
- The number of allegations per year has fluctuated in state juvenile systems and the rate more than doubled, from 19 per 1,000 youth in 2005 to 47 per 1,000 in 2012
- In locally and privately operated facilities, the number of allegations dropped from 2009 to 2011 and then began to rise in 2012. Based on 2-year rolling averages, the rate in 2012 was 13.5 per 1,000 youth, up from 7.2 per 1,000 in 2010
- From 2007 to 2012, nearly 9,500 allegations of sexual victimization of youth were reported in state or local and private facilities. Fifty-five percent involved youth-on-youth sexual victimization and 45% involved staff-on-youth sexual victimization
- Sexual Safety and Facility Liability

# The Audit Cycle



- The First 3 year audit cycle began on August 20, 2013
- The Second 3 year audit cycle runs from August 20, 2016 to August 19, 2019
- Agencies operating more than one facility were required to complete PREA audits of at least 1/3 of their facilities during each year of the 3 year audit cycle
- If a facility was required to be audited during the 1<sup>st</sup> year of the 1<sup>st</sup> audit cycle, but was not audited until the 2<sup>nd</sup> or 3<sup>rd</sup> year, they are required to be audited in the 1<sup>st</sup> year of the 2<sup>nd</sup> audit cycle

- Commitment to Zero Tolerance
- Review the Resources Available
- Complete a Self-Assessment
- Convene a PREA Workgroup at Your Facility
- Contract with an auditor ([PRC List of Auditors](#))

- **What is a PREA Audit?**
  - It is an Audit of Facility Culture
  - It is a Cooperative Effort with the Auditor
- **Positive Attitudes Lead to Success**
  - Believe in the process
  - Leadership must make it a priority to be successful
- **Preparation is Key!**
  - Use all resources available

# Role of the Coordinator



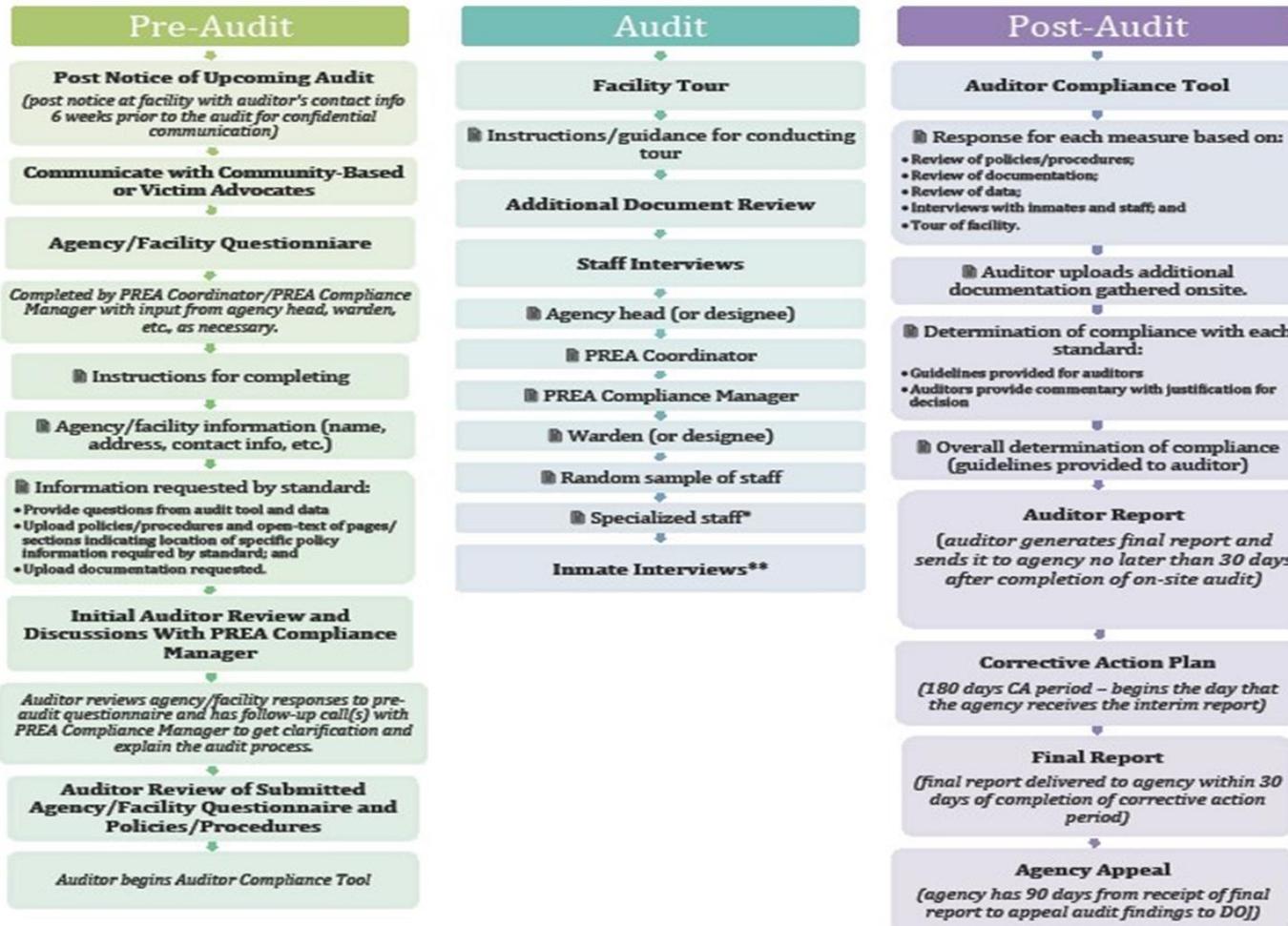
- Main point of contact for auditor
- Prepare, prepare, prepare—do not wait until the audit
- Be familiar with all of the components of the audit instrument
- Know what the auditor will be looking for
- “Self” audit...observe daily operations, look for documentation, check policy, ask staff and inmates questions
- Communication is Key

- Assemble the Team well in advance of the Audit
- Ensure the Team includes various disciplines
  - PREA Coordinator
  - PREA Facility Compliance Manager(s)
  - Facility Administrators
  - Direct Care Supervisors
  - Line Staff
  - Training Staff
  - Medical Staff
  - Mental Health Staff
  - Facility Security Staff
  - Agency Investigators
  - Intake Staff
  - Educational Staff

- After an Auditor is under contract, set the date for the audit
  - Post an audit notice at the facility at least 60 days prior to the on-site portion of the audit
  - Complete the Pre-Audit Questionnaire
  - Be responsive and prompt in communication with the Auditor
  - Follow the Auditor's recommendations before, during and after the audit

- Audit Process Map
- Pre-Audit Questionnaire
- Checklist of Policies/Procedures and Documents
- Facility Tour Instructions
- Auditor Compliance Tool
- Auditor Report Template
- Interview Protocols

# Audit Process Map



# Audit Process (Pre-Audit)



- Post notice of upcoming audit at facility 60 days prior to audit, with auditor's contact information for confidential communication.
- Complete pre-audit questionnaire—done by PREA coordinator and PREA compliance manager(s) with input from agency head, warden, superintendent, and others as needed.
- Initial auditor review—auditor reviews agency/facility responses and documents submitted with pre-audit questionnaire and has follow-up calls with PREA coordinator and/or PREA compliance manager(s) for clarification and to explain audit process.

- Facility tour
- Additional document review – where additional clarification and documentation is still needed after the pre-audit process.
- Interviews
  - Administrators
  - Specialized Staff
  - Randomized Direct Care Staff
  - Residents
    - ❖ Random Sample
    - ❖ Specific Sample

**\*\*Auditor responsible for randomly selecting staff and inmates\*\***

# Audit Process (Post Audit)



- Auditor completes the auditor compliance tool.
- Auditor makes determination of compliance for each standard and provides commentary on what was used in determining compliance.
- Auditor generates interim report and submits to agency.
- Corrective action period begins and can continue up to 180 days.
- Auditor works with the agency to develop a corrective action plan to achieve compliance with standards that were not met.
- Auditor completes final report at the end of corrective action period.
  - Agency makes report available to public.
- Agency appeal must be filed with DOJ within 90 days of receipt of final report.

# Pre-Audit Questionnaire



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# Checklist of Documents



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## AREAS TO BE TOURED:

1. Intake/reception/screening areas
2. All housing units, including cell blocks and dormitories
3. Segregated housing units (SHUs)
4. Healthcare areas (medical and mental health clinics, infirmaries, and housing units)
5. Recreation areas, cafeteria, work areas, and other programming areas (e.g., education or special education areas)
6. Areas where youthful inmates are housed
7. Areas that were renovated, modified, or expanded

## The Auditor will be looking at :

- Are there signs telling residents of their right to be free of sexual abuse?
- Are there signs telling residents how to report incidents of sexual abuse?
- Are signs posted in languages other than English?
- Where are cameras placed?
- Do they have a line of sight into cells and/or toilet and shower areas?
- Is any other monitoring technology used?

# Audit (Facility Tour)



The Auditor will be asking:

➤ Residents:

- ❖ Do you know how to report an incident of sexual abuse?
- ❖ Do supervisory staff walk through this unit? How often?
- ❖ Do staff of the opposite gender knock and announce when they enter the housing unit any time there is a change in the status quo of the gender of supervision?
- ❖ Can you change your clothes, use the toilet, and shower without staff of the opposite gender watching you?

➤ Transgender/Intersex residents:

- ❖ Are you able to shower separately from other residents?

# Facility Tour Instructions



- Majority of auditor's time onsite will be spent conducting interviews.
- Coordinate ahead of time with the auditor concerning where and how the interviews will be scheduled and conducted.
- It is essential to be prepared and structured to be efficient and prompt when conducting interviews.

**Remember that the auditor is responsible for randomly selecting staff and residents to interview.**

# Interview Protocols (Staff)



- Agency Head (or Designee)
- PREA Coordinator
- PREA Compliance Manager(s) at each facility
- Facility Director (or Designee)
- Random Sample of Staff
  - A minimum of 10 Direct Care Staff (more depending on size of facility)
  - Line staff from different units and work assignments

# Interview Protocols (Specialized Staff)



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- Contract administrator/monitor
- Intermediate of higher level facility staff
- Medical and mental health staff
- Non-medical staff who conduct cross-gender strip or visual searches
- Human resources

# Interview Protocols (Specialized Staff)



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- Volunteers and contractors who have contact with inmates
- Investigative staff
- Staff who screen for risk of victimization/abusiveness
- Staff who supervise segregated housing
- Incident review team
- Staff who monitor for retaliation
- Security and non-security staff who have been first responders
- Intake staff

# Interview Protocols (Residents)



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- Random sample:
  - At least 10 residents
  - One per housing unit
  - Others as needed
- Specific sample – resident from each of the following groups:
  - ✓ LGBTI
  - ✓ Disabled Residents
  - ✓ LEP
  - ✓ Residents in Segregated Housing
  - ✓ Residents who Reported Sexual Abuse
  - ✓ Residents who Disclosed Prior Abuse at Screening

# Interview Protocols



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# Auditor Compliance Tool



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## Audit Reports:

- Final audit reports are considered public information
- Agency is required to publish the auditor's final report on its website, or make it otherwise available to the public if there is no website

Final public reports will contain the following general information:

- Number of standards exceeded
- Number of standards met
- Number of standards not met

Each standard will be labeled as:

- **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)

Final public reports will contain the following, more specific information:

- Auditor comments, including corrective actions needed if does not meet standard
- Detailed narrative documenting all that was used to make the determination

# Auditor Report Template



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Download  
the Final  
Report  
Form PDF.

# Corrective Actions



- Upon receipt of auditor's report, if facility has not met all of the standards, a 180-day corrective action period begins (Note: Compliance can be achieved before the 180 days is complete)
- Developing the corrective action plan is a joint process between the agency and auditor
- Agency must correct all issues and auditor shall verify compliance within the 180-day time period to achieve full compliance
- If the agency does not achieve compliance upon verification, it can request another audit once it believes it has achieved compliance
- Corrective action period is NOT a bad thing!

# Audit (Appeals)



- Agency may lodge an appeal with DOJ regarding any audit finding
- Appeal must be lodged within 90 days of the auditor's final determination
- If DOJ determines there is good reason for re- evaluation, there may be a re-audit
- Agency bears the cost of the re-audit
- Findings of the appeal are final and cannot be appealed

# Thank You



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## Questions?

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