

Sixth District Department of Correctional Services POLICY	Issue Date 10/18/13	Effective Date 02/10/17	Policy Number 2410-17
Subject <b>SEXUAL MISCONDUCT WITH OFFENDERS COMMUNITY CONFINEMENT STANDARDS (PREA Audits and Corrective Action)</b>		Review Month June	Author 0590 (MLA)
Rescinds 2410-13	Reference Prison Rape Elimination Act-Community Confinement Standards, United States Department of Justice Final Rule 28 C.F.R. Part 115, Docket No. OAG-131, RIN 1105-AB34, May 17, 2012  PREA Standards §115.401, 115.402, 115.403, 115.404, 115.501		

**PURPOSE:**

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

**POLICY:**

It is policy of the Sixth 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 Sixth Judicial District Department of Correctional Services has zero tolerance for sexual violence of any kind.

This policy applies to all employees, prospective employees, interns, volunteers and contractors of the Sixth Judicial District, Department of Correctional Services and is maintained current by the District Director or the Designee.

**PROCEDURE:**

1. Audits of Standards §115.293:
  - A. The Department has PREA audits pursuant to §115.401 through §115.405.
2. Frequency and Scope of Audits §115.401:
  - A. During the three-year period starting on **August 20, 2013**, and during each three-year (3) period thereafter, the Department ensures that each facility operated by the Department is audited at least once.
  - B. During each one-year period starting on **August 20, 2013**, the Department ensures that at least one-third (1/3) of each facility type operated by the Department is audited.

**POLICY NUMBER 2410-17**  
**PAGE 2 OF 5**

**PROCEDURE:** (continued)

- C. 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.
- D. The Department of Justice develops and issues an audit instrument that provides guidance on the conduct of and contents of the audit.
- E. The Department bears the burden of demonstrating compliance with the standards.
- F. The auditor reviews all relevant policies, procedures, reports, internal and external audits and accreditations for each facility.
- G. The audits review, at a minimum, a sampling of relevant documents and other records and information for the most recent one-year (1) period.
- H. The auditor has access to, and observes, all areas of the audited facilities.
- I. The auditor is permitted to request and receive copies of any relevant documents (including electronically stored information).
- J. The auditor retains and preserves all documentation (including, *e.g.*, video tapes and interview notes) relied upon in making audit determinations. Such documentation is provided to the Department of Justice upon request.
- K. The auditor interviews a representative sample of offenders, staff, supervisors and administrators.
- L. The auditor reviews a sampling of any available videotapes and other electronically available data (*e.g.*, Watchtour) that may be relevant to the provisions being audited.
- M. The auditor is permitted to conduct private interviews with offenders.
- N. Offenders are permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.
- O. Auditors attempt to communicate with community-based or victim advocates who may have insight into relevant conditions in the facility.

**POLICY NUMBER 2410-17**  
**PAGE 3 OF 5**

**PROCEDURE:** (continued)

3. Auditor Qualifications §115.402:
  - A. An audit is 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 are certified by the Department of Justice. The Department of Justice develops and issues procedures regarding the certification process, which includes training requirements.
  - C. No audit is 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 (3) years prior to the Department's retention of the auditor.
  - D. The Department does not employ, contract with or otherwise financially compensate the auditor for three (3) years subsequent to the Department's retention of the auditor, with the exception of contracting for subsequent PREA audits.
4. Audit Contents and Findings §115.403:
  - A. Each audit includes 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 state whether agency-wide policies and procedures comply with relevant PREA standards.
  - C. For each PREA standard, the auditor determines 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 indicates, among other things, the number of provisions the facility has achieved at each grade level.

**POLICY NUMBER 2410-17**  
**PAGE 4 OF 5**

**PROCEDURE:** (continued)

- D. Audit reports describe the methodology, sampling sizes and basis for the auditor's conclusions with regard to each standard provision for each audited facility, and include recommendations for any required corrective action.
  - E. Auditors redact any personally identifiable offender or staff information from their reports, but provide such information to the Department upon request, and may provide such information to the Department of Justice.
  - F. The Department ensures 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.
5. Audit Corrective Action Plan §115.404:
- A. A finding of "Does Not Meet Standard" with one (1) or more standards triggers a 180-day corrective action period.
  - B. The auditor and the agency jointly develop a corrective action plan to achieve compliance.
  - C. The auditor takes 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 issues 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.
6. 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 ninety (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 bears the costs of this re-audit.
  - C. The findings of the re-audit are considered final.

**POLICY NUMBER 2410-17**  
**PAGE 5 OF 5**

**PROCEDURE:** (continued)

7. 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 considers the results of the most recent Department audits.
  - B. The Governor's certification applies 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.

BY ORDER OF:

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Bruce Vander Sanden, Director