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PREA 101 for Community Corrections Agencies

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PREA 101 for Community Corrections

THE PREA RESOURCE CENTER
in collaboration with
**THE PROJECT ON ADDRESSING
PRISON RAPE**

Professor Brenda V. Smith
June 26, 2012

Introduction and Welcome

- **Professor Brenda V. Smith**
 - Director , The Project on Addressing Prison Rape
- **Michela Bowman**
 - Co-Director, The National PREA Resource Center
- **Eric Columbus**
 - Senior Counsel to the Deputy Attorney General, U.S. Department of Justice
- **Joshua Delaney**
 - Sr. Trial Attorney, Civil Rights Division, U.S. Department of Justice

Agenda

12:00 pm-12:15pm	Introductions and Conventions
12:15 pm – 1:00pm	PREA 101 Presentation
1:00 pm – 1:30pm	Questions and Answers on Standards

Conventions

- You have received via email a set of conventions for this webinar. They are:
 - Your microphone should be on mute
 - If you are joining us by phone and internet please be sure the telephone button is checked under the audio section of the webinar tool box
 - If you are only joining by phone you are on mute– you will not be able to ask questions but if you email your question to jyarussi@wcl.american.edu we can address it.
 - There is a moderator (Jaime Yarussi)
 - Type your questions in the chat box and she will read them to the presenters for answering.
 - If you have technology issues you should send a message or call Cynthia Briggs for assistance (202-274-4403 or cbriggs@wcl.american.edu)
- If your question is not answered during the webinar, we will respond after the session and make those questions and answers available along with the transcripts of the webinar
- We will prioritize pre-submitted questions during the webinar and post them with answers to the other questions along with the transcripts of the webinar.

Key PREA Milestones

- **2003:** PREA legislation passes
- **2004:** First meeting of the National Prison Rape Elimination Commission appointed (NPREC)
- **2004-2009:** Information gathering and hearings held by the NPREC
- **June 2009:** Report and draft standards published by NPREC
- **2009-2012** Establishment and Convening of PREA Work Group
- **2010:** DOJ opens public comment period for NPREC standards

Key PREA Milestones

- **Feb. 2011:** Draft DOJ standards released
- **Feb-April 2011:** Public comment period for DOJ standards
- **May 2012:** Final DOJ standards released
- **June 20, 2012** Final standards published in the Federal Register
- **August 20, 2012:** Standards applicable to BOP
- **2013-2014:** First audit cycle

Key Principles

- PREA encompasses **any** federal confinement facility whether run by the government or a private organization on behalf of the government
- These standards are the floor - they are minimum standards
- States **can and are encouraged to do more** particularly if your state has set higher requirements
- Some states already have stronger state laws than the protections the current standards provide
 - West Virginia: no need to exhaust administrative remedies for claim of sexual abuse in custodial settings
 - Florida and South Carolina: staff in adult custodial settings are mandatory reporters by law
- Must protect the constitutional rights of those in custody – standards are one vehicle -- but there are others

Questions/Concerns:

What we have heard from the Field

- **The standards are too long**
 - We know, but its important that you read them
 - There is no blueprint that will fit all agencies— standards are the what and **agencies need to do** by reading the standards and having an action plan **agencies need to decide how they do it.**
- **Questions from the Field**
 - Adequate staffing levels
 - “Youthful Inmates”
 - Contracting
 - Hiring and Promotion
 - Screening
 - Searches of LGBTQI residents

Applicability

What We Currently Know

- One year and 60 days after publication, the first three year audit cycle begins (August 20, 2013)
- Standards are immediately applicable to BOP after publication in the federal register (August 20, 2012)

Provisions Specific to Community Corrections

- Standards only apply to “community confinement facilities,” defined as:
 - A community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry centers) in which offenders or defendants reside as part of a term of imprisonment or as a condition of pre-trial release or post-release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during nonresidential hours. § 115.5
 - This definition excludes parole or probation officers in a non-residential setting

Audit

- **June 20, 2012** Publication in federal register—begins compliance clock and public comment period for select standards.
- **2012- 2013** Develop audit tool; develop audit training; train auditors; and certify auditors
- **2013** Audits term begins (one year)
- **2014** Complete audits of 1/3 of facilities

What Happens if Jurisdictions Do Not Comply?

- The Attorney General will publish a list each fiscal year of those grant programs that may be at risk for failure to comply with the standards. [42 U.S.C. § 15607(c)(1)(B)]
- If the Governor **DOES NOT** certify compliance - could lose 5% of DOJ grant funding e.g.
- Do not lose 5% if governor can assure that that 5% will be used to meet standards

Pre-Standards Preparations: What Have Agencies Done?

- Self-audit
 - In response to final standards: 115.401-115.405 and 115.501
- Education and training for staff (including volunteers and contractors) and PREA partners
 - In response to final standards: 115.231-115.232 and 115.234-115.235
- Education for residents
 - In response to final standard: 115.233
- Strengthening community relationships and partnerships
 - In response to final standard: 115.221, 115.251, 115.253-115.254, 115.271, 115.281-115.283

Pre-Standards Preparations: What Have Agencies Done?

- Policy Review
 - In response to final standards: 115.211, 115.215 and 115.222
- Working on the capacity to protect vulnerable populations (LGBTQI, youth adult facilities, immigration detainees)
 - In response to final standards: 115.215-115.216, 115.231, 115.241-115.242
- Reviewing and strengthening investigative frameworks—administrative and criminal
 - In response to final standards: 115.218, 115.221-115.222, 115.234-115.235, 115.264-115.265, 115.271-115.273

Pre-Standards Preparations: What Have Agencies Done?

- Vulnerability assessments and screening tools
 - In response to final standards: 115.241-115.242
- Strengthen data collection capabilities
 - In response to final standards: 115.286-115.289
- Staffing Plans
 - In response to final standards: 115.213
- Involvement of medical and mental health resources
 - In response to final standards: 115.235 and 115.282-115.283

Pre-Standards Preparations: What Have Agencies Done?

- Improving reporting mechanisms– agency, staff, inmate and third-party
 - In response to final standards: 115.251-115.252, 115.254, 115.261, 115.263
- Work being done in agencies to support PREA Standards as a whole:
 - Reviewing legal framework and state criminal laws
 - Examples: KY and AZ
 - Addressing culture
 - Example: Culture assessments

How to Proceed Now: A General Blueprint

- Understand that everyone has work to do, don't get discouraged if you are just beginning
- Get the right people at the table as you would when any other big issue to address comes up
 - Critical to have buy in from top to bottom
- Have an understanding of what PREA does and does not do and what your obligations are

How to Proceed Now: A General Blueprint

- Read the standards and go through them carefully
 - List the standards
 - Compare to your current practice
 - What if anything do you need to do
 - Note any questions
- Get guidance from other experts in your agency and field

Where You Can Get Help

- Grants and cooperative agreements from BJA
- National PREA Resource Center
 - <http://www.prearesourcecenter.org>
 - Training, technical assistance, regional meetings, PREA institute(s), webinars, general information, office hours
- Work of other agencies in this area
 - NIC <http://nicic.gov/>
 - OJJDP <http://www.ojjdp.gov/>

Where You Can Get Help

- Other Work
 - Posters
 - Curricula
 - Pamphlets
 - Handbooks
- NOTE OF CAUTION: before you pay for something see what is already out there or what you can do in house

What To Do

- Do your own work– you know your agency best
- Reach out for help
 - PRC will triage you to resources and people
- Get started– don't be frozen



QUESTIONS?

Evaluation

- We would like your feedback!!! An evaluation survey is posted at:
 - <http://www.surveymonkey.com/s/WPJW5WH>
- Surveys are due in by Tuesday July 3, 2012 at 5pm EST.
- A link to this survey will be emailed to you immediately following this webinar. If you watched this webinar in a group, please forward the link for evaluation to the whole group.



Contact Information

- The National PREA Resource Center
 - <http://www.prearesourcecenter.org/>
 - <http://www.prearesourcecenter.org/about/contact-us>
- The Project on Addressing Prison Rape
 - Brenda V. Smith, bvsmith@wcl.american.edu
 - Jaime Yarussi, jyarussi@wcl.american.edu
 - www.wcl.american.edu/endsilence

Thank You for Your Participation!

- All PREA 101 webinar transcripts and questions and answers will be available on our website 24 hours following the webinar.
- Transcripts located at:
<http://www.wcl.american.edu/endsilence/preastandards.cfm>