PREA 101 for Jails and Lock-ups

THE PREA RESOURCE CENTER

in collaboration with

THE PROJECT ON ADDRESSING PRISON RAPE

Professor Brenda V. Smith
July 18, 2012
Introduction and Welcome

- **Professor Brenda V. Smith**
  - Director, The Project on Addressing Prison Rape

- **Michela Bowman**
  - Co-Director, The National PREA Resource Center

- **Gary Dennis**
  - Senior Policy Advisor for Corrections, Bureau of Justice Assistance

- **Elissa Rumsey**
  - Compliance Monitoring Coordinator, Office of Juvenile Justice and Delinquency Prevention (OJJDP)

- **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

2:00 pm - 2:15pm Introductions and Conventions

2:15 pm - 2:45pm PREA 101 Presentation

2:45 pm - 3:30pm 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 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 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 it's 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
  - Access to Outside support
  - Searches of LGBTQI inmates
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)
Definition of a Lock-up

- Lockup means a facility that contains holding cells, cell blocks, or other secure enclosures that are:
  
  - (1) Under the control of a law enforcement, court, or custodial officer; and
  
  - (2) Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.
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

* Audits need not be conducted of individual lockups that are not utilized to house detainees overnight. § 115.401-405
What Happens if a Jurisdiction Does 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

- 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
    - Jails: 115.31-115.32 and 115.34-115.35
    - Lockups: 115.131-115.132 and 115.134-115.135

- Education for inmates
  - In response to final standard:
    - Jails: 115.33
    - Lock-ups: No provision
Pre-Standards Preparations: What Have Agencies Done?

- Strengthening community relationships and partnerships
  - In response to final standard:
    - Jails: 115.21, 115.51, 115.53 -115.54, 115.71, 115.81-115.83
    - Lock-ups: 115.121, 115.151, 115.154, 115.171, 115.182

- Policy Review
  - In response to final standards:
    - Jails: 115.11, 115.15 and 115.22
    - Lock-ups: 115.111, 115.115 and 115.122
Pre-Standards Preparations: What Have Agencies Done?

• Working on the capacity to protect vulnerable populations (LGBTQI, youth adult facilities, immigration detainees)
  • In response to final standards:
    • Jails: 115.15-115.16, 115.31, 115.41-115.42
    • Lock-ups: 115.115-115.116, 115.131, 115.141-115.142

• Reviewing and strengthening investigative frameworks—administrative and criminal
  • In response to final standards:
    • Jails: 115.18, 115.21-115.22, 115.34-115.35, 115.64-115.65, 115.71-115.73
Pre-Standards Preparations: What Have Agencies Done?

- Vulnerability assessments and screening tools
  - In response to final standards:
    - Jails: 115.41-115.42
    - Lock-ups: 115.141

- Strengthen data collection capabilities
  - In response to final standards:
    - Jails: 115.86-115.89
    - Lock-ups: 115.186-115.189

- Staffing Plans
  - In response to final standards:
    - Jails: 115.13
    - Lock-ups: 115.113
Pre-Standards Preparations: What Have Agencies Done?

- Involvement of medical and mental health resources
  - In response to final standards:
    - Jails: 115.35 and 115.81-115.83
    - Lock-ups: 115.135 and 115.182

- Improving reporting mechanisms—agency, staff, inmate and third-party
  - In response to final standards:
    - Jails: 115.51-115.52, 115.54, 115.61, 115.63

- 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

- Needs Assessment for Lock-ups
  - www.surveymonkey.com/s/IACPPREA
Where You Can Get Help

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

- Surveys are due in by Friday July 27, 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
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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