

Frequently Asked Questions

Q: What time frame is OCC looking for audits to be completed by a facility?

A: The time frames for PREA audits are prescribed by federal PREA standards and not by the Office of Community Corrections. The 3 year PREA audit cycle began on August 20, 2013 and ends August 19, 2016. Agencies must have all facilities audited by the end of cycle and then once every 3 year period. The general requirement is that “at least one-third” of an agency’s facilities must have audits each year of the cycle.

“The standards require generally that an agency must have “at least one-third” of its facilities audited during each one-year period, which began on August 20, 2013; and that all facilities must be audited by the conclusion of each three-year period, which began on the same date. See 28 C.F.R. § 115.401(a)&(b). Compliance with the audit timeline is evaluated both on a year-to-year basis and at the conclusion of the three-year audit cycle. Failure to comply with the audit timeline during the initial year of an audit cycle does not preclude compliance during years two and three of an audit cycle. Similarly, failure to comply with the audit timeline during the first two years of an audit cycle does not preclude compliance during the final year of each audit cycle. It is important to note that, for purposes of complying with § 115.401(a) (requiring audits of each facility during the three-year audit cycle), agencies must ensure that each facility is audited at least once by August 19, 2016, and during every three-year anniversary thereafter.”

Q: What are all of the necessary steps when dealing with more minor incidents, when clearly no crime has been committed, but boundary lines have been crossed?

In such instances, an administrative investigation is appropriate to determine the nature, type and frequency of the “boundary” violations. If the behaviors do not meet the PREA definitions of [prohibited sexual behaviors](#) then no further action may be necessary. However, such events may be “teachable moments” for clients regarding healthy and appropriate social interactions or provide staff with information which requires further exploration in relation to safety, supervision and treatment needs. Investigation may reveal that unwelcome behaviors have been repeated or patterned behavior which may be defined by PREA as [sexual harassment](#). Furthermore, the behaviors may be criminal under Colorado statutes and require investigation by an agency authorized to conduct criminal investigations.

Q: What kind of training is required for a Master's level mental health care provider who has many years of experience and training, but has not received specific training in sexual abuse?

A: PREA defines a [Mental health practitioner](#) as:

“a mental health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A “qualified mental health practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.”

PREA further describes the specialized training for mental health practitioners as:

- (1) How to detect and assess signs of sexual abuse and sexual harassment;
- (2) How to preserve physical evidence of sexual abuse;
- (3) How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and
- (4) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

The [PREA Resource Center Curricula page](#) has a link for the **Specialized Training: PREA Medical and Mental Care Standards** training module.

Q: We had a staff member who "kissed" a client. A debate broke out whether that was sexual contact and police refused to investigate stating it didn't meet the definition for their investigation. What are the definitions of sexual contact- kissing/handholding, etc?

A: There are several issues related to this question. Under Colorado statute, consensual “kissing” by adults does not meet the [definition of criminal sexual contact](#). However, under PREA such behavior is prohibited as defined in 115.6- [“Sexual abuse of an inmate, detainee, or resident by a staff member”](#). At minimum, required responses would include administrative investigation, ensuring the safety of the victim, providing any appropriate medical/mental health services, and reporting. The protocol in many agencies is to place staff on administrative leave pending investigation. For substantiated cases, it is common for staff to be terminated for violation of policies related to ethics and/or prohibited behaviors. In some cases, administrative investigation may reveal more serious allegations requiring criminal investigation by an agency with legal authority to conduct criminal investigations.

Q: Do we conduct a preliminary investigation any time we receive a complaint or do we automatically refer that complaint to the State or DOJ?

A: The [PREA standard 115.22 regarding investigations](#) specifies that “The agency shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.” Community corrections staff is not expected or required to perform any criminal or forensic investigations and staff should have proper training to protect the integrity of such investigations. It is appropriate to do a preliminary investigation to determine the general nature of the allegations through a process called [“threshold questioning”](#). The extent of any preliminary investigation will be determined by the initial information received by the first responder. If the initial information received suggests that criminal behavior has occurred then staff should contact the appropriate agency with authority to conduct criminal investigations and that agency will proceed with further investigation. The [duties of the first responder](#) at that time are to obtain emergency care if needed, to protect the personal safety of the victim and others, to protect the scene and to secure evidence. In circumstances where the allegations are not criminal in nature, but are [prohibited behaviors](#) under PREA, administrative investigation is required and other elements of PREA are also applicable including the requirement that administrative investigators have completed specialized training. The [PREA Resource Center curricula page](#) has training modules for **Specialized Training: Investigating Sexual Abuse in Confinement Settings** and **Human Resources and Administrative Investigations Employee Training**.