

Appendix E: The Prison Rape Elimination Act of 2003 and Its Effects on Prisons and Jails in Tennessee

What is PREA?—The Prison Rape Elimination Act

Congress passed the federal Prison Rape Elimination Act (PREA) in 2003 to “provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations and funding to protect individuals from prison rape.”¹

The US Department of Justice (DOJ) developed national standards that became effective August 20, 2012. These standards apply not only to all federal prisons but to state prisons as well—including facilities operated for the state by private contractors—by way of a reduction in federal grant money to states not certified to be in compliance. Tennessee has been in compliance with the standards since 2014.

The PREA standards for Adult Prisons and Jails are grouped into several categories:

- Prevention Planning
- Screening for Risk of Sexual Victimization and Abusiveness
- Investigations
- Data Collection and Review
- Responsive Planning
- Reporting
- Discipline
- Audits and Corrective Action
- Training and Education
- Official Response Following an Inmate Report
- Medical and Mental Care

What Are the Costs of PREA Compliance?

In 2010, the DOJ's Bureau of Justice Assistance (BJA) commissioned a cost impact analysis to estimate the effects of the proposed PREA standards on prisons and jails across the country.² The costliest standards identified by this report dealt with a need for increased jail staff, both to provide adequate supervision in general and to meet supervision standards for specific populations—for example, meeting same-sex supervision standards by hiring additional female officers to monitor female inmates.

Another costly requirement for many county jails is a need to improve monitoring technology, such as cameras and recording devices, either by installing systems in jails that lack any type of technical supervision or by replacing antiquated systems deemed insufficient to meet the standard. One of the study participants was Aiken County, South Carolina. Its jail was built in 2002, with a capacity of 317 inmates. To meet the standards, the county reported it needed to spend \$500,000 to upgrade the jail's closed-circuit TV system and install 16 cameras with DVRs.

The DOJ published a Regulatory Impact Assessment in 2012, which estimated that the average annual cost for a jail to comply with PREA would be approximately \$50,000.³ This report noted the significant expense associated with meeting the standard that calls for agencies to have a PREA Coordinator (PC) with “sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in

¹ Public Law 108–79. Sept. 4, 2003. 42 US Code Chapter 147, § 15601 et seq.

² Booz, Allen, Hamilton 2010. Accessed July 11, 2017 at <https://ojp.gov/programs/pdfs/preacostimpactanalysis.pdf>.

³ United States Department of Justice, Regulatory Impact Assessment for PREA Final Rule (May 17, 2012), available at http://www.ojp.usdoj.gov/programs/pdfs/prea_ria.pdf.

all its facilities.” Counties with multiple jail facilities also need a PREA Compliance Manager (PCM) at each location. The report estimates that it would cost the average jail approximately \$10,000 annually to meet the standard for coordinators and compliance managers. The report also estimated a similar expenditure would be necessary for jails to modify screening and intake procedures to meet the standards that require them both to screen inmates for the risk of victimization and abusiveness and to provide protective custody when necessary.

Counties in Tennessee have cited the cost of conducting required PREA audits as another obstacle. The BJA study estimated the typical cost of these jail audits to be \$25,000—required every three years. However, the later DOJ assessment estimated the cost closer to \$3,000, and according to Tennessee Department of Correction (TDOC), that is closer to the actual cost of recent jail audits. Twenty counties and the Johnson City jail that houses female felons have been certified.

How Does PREA Compliance Affect Counties in Tennessee?

For states to remain compliant with PREA, they may contract to house their inmates only with other entities—including local governments—that are themselves PREA compliant. As a result, TDOC requires counties to meet PREA standards if they are to contract with the state to house state prisoners. This requirement is included in TDOC’s standard contract via the following provision:

Contractor must comply with the Prison Rape Elimination Act (PREA) of 2003 (Federal Law 42 U.S.C. 15601 et. seq.), with all applicable Federal PREA standards, and with all State policies and standards related to PREA for preventing, detecting, monitoring, investigating, and eradicating any form of sexual abuse within facilities/programs/offices owned, operated, or contracted.