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1342 Florida Avenue NW  
Washington, DC 20009

October 26, 2024

re: PMO/PRC response to TPI's PREA audit comments

Dear Ms. Schoenberg:

Thank you for your response on behalf of the Department of Justice PREA Management Office (PMO) and the National PREA Resource Center (PRC) to a few of our comments concerning clearly deficient Prison Rape Elimination Act (PREA) audits. I appreciate the information, and am providing further comment where the responses require it.

I say "require it" because in our experience working with prison issues, administrations often claim that if subsequent steps in a grievance process are not pursued, that means the person with a grievance agrees with the response. We hear this regularly in trying to address issues, and failure to respond or further object is used to set up a solid wall denying further discussion in the interest of progress in resolving the inhumane conditions in prisons.

Our comments on PREA audits are not specifically a grievance process, and there are no required "steps" to exhaust local remedies, but I have seen too often this same practice extended to oversight and monitoring agency interactions with advocates as well.

Thus I feel it imperative to state unequivocally that neither I nor Trans Pride Initiative (TPI) consider this response as resolving any of TPI's complaints with the PREA audit process. Although TPI certainly appreciates learning of steps the PMO and PRC say they are taking to address problems, resolution of our concerns will only be demonstrated if and when the audits themselves are conducted in an appropriate and meaningful manner that results in changes to the inhumane behavior and culture within the prison system.

It is also important to point out that we know these issues are not just serious problems in Texas, but across the nation, partly illustrated in this recent article from The Marshall Project:



Every year since 2016, the penitentiary in Tucson has been among the top 5% of federal facilities with the most allegations of sexual abuse or harassment, according to federal data analyzed by The Marshall Project. In 2019, the year Pinson was assaulted, only one other federal prison, in Terre Haute, Indiana, had more.

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Trans people in prison are sexually assaulted at a much higher rate than prisoners in general. A federal survey published in 2014 estimated that nearly 40% of transgender people in prison were sexually assaulted, compared with 4% of all people in prison. According to the bureau’s data, the penitentiary in Tucson houses 120 transgender women, more than any other federal prison.

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The [PREA] law does require prisons to hire outside auditors to assess their compliance. But audits are *often rushed and cursory*, according to [attorney Julie] Abbate. *Tucson’s most recent audit, in 2023, said, “All transgender inmates interviewed reported that they were asked about their safety but felt staff did not take their concerns seriously.” Still, the auditor gave the prison high marks and did not require any corrective action* [emphasis added].<sup>1</sup>

Those high marks were given by one of the auditors listed in your response, Pam Sonnen, For FCC Tucson, Sonnen ludicrously noted that even though there were clearly identified problems in the audit specifically expressed by incarcerated persons, FCC Tucson **exceeded nine standards**.

That obviously discriminatory practice was likewise implemented in Texas. At Smith Unit, Sonnen admitted that “classification staff . . . does not check if a suspected gang member is assigned in a cell when she places a transgender [person] in the cell,” yet found no problem whatsoever with that under PREA § 115.42 and simply accepted that the warden “did not want to change how cell assignments are made.”<sup>2</sup>

Both these examples are appalling in audits, and these indicate audits are abysmal not only in Texas but likely everywhere. Due to such evidence of widespread incompetency, TPI is considering how we can expand our efforts to push for actual meaningful implementation of the PREA audit process more broadly.

### **General Comments to the PMO / PRC Response**

In the beginning of the response, it is stated that “[a]fter PREA auditors are certified by DOJ, they contract with confinement facilities/agencies to conduct PREA audits. Neither DOJ/PMO nor the PRC plays a role in these contractual arrangements.” I am uncertain whether or not this statement is intended to address the very likely conflicts of interest we have identified in the

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1. Schwartzapfel, B. (2024, October 8). Assaulted by her cellmate, a trans woman took the federal prisons to court. *The Marshall Project*. Available at: <https://www.themarshallproject.org/2024/10/09/trans-tucson-federal-prison-assault-prea>.

2. Sonnen, P. (2023, June 24). PREA Facility Audit Report: Final, Smith Unit. Available at: [https://www.tdcj.texas.gov/documents/prea\\_report/Smith\\_Unit\\_2023-05-11.pdf](https://www.tdcj.texas.gov/documents/prea_report/Smith_Unit_2023-05-11.pdf).



contract between the Texas Department of Criminal Justice (TDCJ) and Corrections Consulting Services (CCS), but I disagree that the offices referenced have no role in this matter.

PREA § 115.403(a) states that “[e]ach audit shall include a certification by the auditor that no conflict of interest exists with respect to his or her ability to conduct an audit of the agency under review.” In addition, the 2022 PREA Auditor Handbook referenced in your response is clear in this regard. On page 6, the handbook states that

These guidelines prohibit personal and financial conflicts of interest, require auditors to adhere to an auditor code of conduct, impose conditions on audit contracts and compensation (e.g., transparency, compliance with the PREA Standards and DOJ auditor certification requirements, restrictions on gifts).

Page 9 of the handbook specifically asserts that certification is impacted by conflicts of interest:

Lead auditors must also ensure that anyone they employ to work on audits is free of any conflict of interests. . . . Lead auditors are responsible for any misconduct, errors, or conflicts of interest attributed to any secondary auditors or non-certified support staff they employ—actions that can impact the DOJ certifications of lead and secondary auditors.

The potential problems with the CCS contract include problems with gifts or other benefits as described on page 13:

[N]o DOJ-certified PREA auditor or any noncertified support staff hired to assist an auditor may either solicit or accept a gift from any entity or party who has an interest related to the outcome of a particular PREA audit in which that person is participating.

Because the auditors we have noted may have a conflict of interest **depend on police and prison systems for their livelihood, these auditors are influenced by prohibitions listed on page 16:**

Auditors must not: . . . Hold personal or financial interests which a reasonable person would think would conflict with the conscientious performance of duties under an auditing contract. . . . Maintain other employment or engage in other non-auditor activities which a reasonable person would think would negatively impact the public perception of the auditor’s impartiality. . . . Make credibility determinations based solely upon an individual’s status as a person confined in the facility, staff member, or agency official.

And per the “important” highlight on page 19:

Auditors must consider any business or personal relationship or other interest that might significantly impair their objectivity, yield an unfair competitive advantage, or even create the appearance of impropriety. Such relationships are considered to be conflicts of interest and must be identified and avoided by auditors.

Last, it is clear that the various and broad audit and review business interests of CCS indicate a high likelihood that CCS is extremely interested in keeping a low bar for compliance with PREA audits to encourage additional work.



Thus the PMO and PRC have not only a role but an obligation under PREA to address potential conflicts of interest. TPI will continue to pursue the recognition of such conflicts of interest due to the huge—and we feel clearly exhibited—capacity these relationships hold for undermining the efficacy of all PREA audits.

I appreciate the clarification about the PMO and PRC “authority to ‘accept’ or ‘reject’ final PREA audit reports.” I had recognized my misunderstanding of this issue some months ago when I had time to more closely look into how audits are used after completion and have for several TPI comment letters instead requested that the PMO consider these highly problematic and clearly deficient PREA audit reports to not support state compliance for the purpose of PREA § 115.501 certification of state compliance.

### **Comments on the Concern 1 response**

It is understandable but insufficient to simply claim that auditors do not know about TPI and our information available on PREA compliance problems in TDCJ. That is a sufficient excuse in other states, but we are well enough known in Texas for our PREA work that such a claim cannot be made sincerely. In fact, between March 2015 and September 2024, we have exchanged at least 261 communications with the TDCJ PREA Ombudsman, Cassandra McGilbra, who is listed as the Agency-wide PREA coordinator on every audit report we have commented on. Although not required as far as I can tell, it would seem prudent for auditors to ask the Agency-wide PREA coordinator if there are organizations or advocates that may have information about a facility being audited. It would seem that either Ms. McGilbra is falsely responding to such questions to withhold pertinent information, or the auditors are not meeting requirements to follow up on the identification of organizations and advocates. In fact, it is highly likely that a number of Texas Advocacy organizations such as Texas Incarcerated Families Association, Texas Prisons Community Advocates, Texas Prisons Alliance, and possibly Disability Rights Texas (not to mention organizations like Lambda Legal, Transgender Law Center, and the ACLU) also could have information of significance to an audit, but I do not believe I have ever seen any of these advocacy organizations contacted. It’s almost as if auditors are contacting only entities they know will have no or only very limited information.

Of the facilities listed in the PRC response, we point out that:

- Gregory Winston auditing Clements Unit marked the “outreach” response that he did not even attempt to contact other sources. **That is not compliant with the PREA Standards or the 2022 Auditor Handbook.**
- Cynthia Swier auditing Sayle Unit falsely claimed to have done outreach, but only noted searching the internet for news articles about the facility. **That is not compliant with the PREA Standards or the 2022 Auditor Handbook.**
- Auditors of Estelle, Beto, Coffield, Memorial, Pack, and Hamilton units only contacted national organizations, with all but Estelle in this list contacting only JDI. Estelle Unit auditor Latera Davis claimed to have contacted an organization called “National Rape



Crisis Center,” but a search of the IRS Tax Exempt Organization database failed to find an organization of that name. I have contacted JDI to learn if and what information they can provide auditors because we have never seen a single incident or datum citing JDI as a source.

- Auditor Darla O’Connor claimed to have contacted RAINN, but it would seem unlikely RAINN could provide useful data to an auditor. I have contacted RAINN also about if and what data they may provide to PREA auditors.
- Stiles Unit auditor Darla O’Connor reports contacting Texas Council on Family Violence (TCFV). TPI has worked with TCFV previously, and I’m fairly certain they would have pointed an auditor to TPI as an advocate with information about audited facilities. I have a call in to staff to confirm this.
- Lewis Unit auditor Mark McCorkle reports contacting Texas Association Against Sexual Assault (TAASA). TPI has worked with TAASA previously, as Erica Gammill is aware, and I am fairly certain they would have pointed an auditor to TPI as an advocate with information about audited facilities. I have a call in to staff there also to confirm this.

It should be pointed out that the 2022 Auditor Handbook states that “[o]nce advocacy organizations have been identified, auditors *must* conduct interviews with an administrator or executive-level staff in these organizations and solicit information relevant to PREA compliance.” It seems surprising that the PMO and PRC are asserting that not one of these organizations has mentioned TPI as a resource. There is no other way this can be taken because if TPI is identified, then the auditors “must” —not may or should— contact entities identified. TPI, which has limited, all-volunteer staff, has put significant time into developing an online tool to satisfy part of this interview requirement for both our and auditor convenience. That tool is available here: [https://tpride.org/projects\\_prisondata/prea.php](https://tpride.org/projects_prisondata/prea.php).

Additionally, this response letter suggests that TPI reach out to auditors to let them know we have “insight into relevant conditions.” On September 21, 2024, I contacted auditor Ronell Prioleau, conducting the TDCJ agency audit, through the PRC auditor contact tool. I used that tool because I assume that means PMO and PRC should have a record of that contact for confirmation, just as I have a record. That audit was conducted October 9 and 10, 2024, but the auditor did not contact TPI prior to conducting that audit, as required.

We have also contacted an additional auditor of a facility where TPI has significant data that should be accessed in a facility audit, but that auditor also has not contacted TPI. We plan to continue to do so where we have significant information about facilities. We shall see if our data and information about these entities is referenced in the audit reports.

Based on this information, TPI must assert that this response does not address our concerns. We will continue to express our concerns in this area in future audit report comments.



## Comments on the Concern 2 response

TPI appreciates that there may be some sort of change to what are apparently discriminatory forms that predisposition responses in an inaccurate manner.

However, the representation of our complaint in this response is inaccurate and misrepresents TPI's audit reports comments. This response reduces TPI's comments to covering

“male” or “female” populations, even though transgender women may be housed in facilities for “men” and transgender men maybe be housed in facilities for “women.” In addition, there may be intersex people housed in facilities for “men” or “women.”

This completely erases the existence of nonbinary persons, a major component of our complaint also about audit reports.

The concern, misrepresented as only encompassing binary identified and intersex persons, reflects a larger problem with the implementation of the PREA Standards. In spite of the problem being identified in both the PREA Standards and the 2022 Auditor Handbook—and being extensively described in our comment letters, to which I will defer—the PMO and PRC continue to force gender conformity to cisnormative binary stereotypes. We should be beyond this now, not continuing to erase the humanity and value of anyone who does not comply with stereotyped binary constructs. TPI will push for progress in this, not allow erasure for the comfort of cisgender persons, and we will continue to advocate for the full and proper assessment of this issue in audits.

## Comments on the Concern 3 response

This response cited high staff vacancy rates nationwide, and appears to base a less stringent evaluation of the impact of staffing issues on addressing PREA § 115.13 compliance on that fact. However, TDCJ's staffing issues are not simply an item to ignore out of convenience.

I appreciate the link to the resource “Developing and Implementing a PREA-Compliant Staffing Plan.” It should be noted that according to that document, at least some TDCJ facilities should have been assessed as deficient in complying with PREA § 115.13 had the audits actually been competently done, and with recent Texas agency findings, **must be considered deficient**.

Under your cited guide, as well as other resources, auditors are “mandated to consider . . . any findings of inadequacy from internal or external oversight bodies.” The Texas Sunset Advisory Commission qualifies as an oversight body, and its recent report concerning TDCJ notes ongoing, **longstanding** problems with staffing as TDCJ's most serious problem.<sup>3</sup> I can provide a few excerpts from their findings:

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3. Texas Sunset Advisory Commission. (2024). Staff Report: Texas Department of Criminal Justice, Correctional Managed Health Care Committee, Windham School District, Board of Pardons and Paroles. Available at [https://www.sunset.texas.gov/public/uploads/2024-09/Texas%20Criminal%20Justice%20Entities%20Staff%20Report\\_9-26-24.pdf](https://www.sunset.texas.gov/public/uploads/2024-09/Texas%20Criminal%20Justice%20Entities%20Staff%20Report_9-26-24.pdf).





[From page 1] Serious and systemic deficiencies in human resources functions, which form the backbone of effective agency operations, contribute to agencywide hiring and retention problems, with more than half of TDCJ divisions at a vacancy rate of at least 20 percent in fiscal year 2023.

[From page 2] TDCJ is forced to rely on inefficient and costly staffing models and policies just to maintain operations at its facilities due to staffing shortages.

[From page 3] High vacancy and turnover rates persist across many TDCJ divisions and have a **significant operational impact** on the agency despite efforts the agency and state leaders have made to address these problems. The resulting **staffing crisis** is extremely costly to the state, **diminishes public safety and safety within correctional facilities**, and severely strains staff who are expected to fill in operational gaps left by vacancies. At the same time, **poor accountability for supervisors has enabled a persistent agency culture problem** that exacerbates the difficult working conditions TDCJ employees face. Furthermore, **TDCJ provides inadequate services to support staff** [emphasis added].

[From page 24] While correctional best practice is that staff vacancy rates remain below 10 percent, in fiscal year 2023, **TDCJ's vacancy rate among correctional staff was nearly 28 percent agencywide and much higher at certain facilities**. At the end of that year, **22 facilities had more than 40 percent of correctional positions vacant**, including **six facilities with more than half of correctional positions vacant**, as shown in the table on the following page. These **vacancy rates are even higher for just COs, with some units operating with up to 70 percent of CO positions unfilled**. Agency data indicate vacancy rates have **progressively worsened at certain facilities over the last ten years**. . . . Sunset staff learned **some facilities have operated with as little as 25 percent of the staff they need on a given day**. In practice, this forces TDCJ staff to supervise thousands of inmates with fewer than half of the security staff they need, **which has potentially dire consequences for staff, inmates, and others** [emphasis added].

The report goes on detailing poor and worsening staff conditions at TDCJ facilities. I trust that this constitutes documentation from one of the “oversight bodies” that auditors are “mandated to consider.” This simply reflects what has been documented in news accounts, investigations, and in legislative discussions for many years, which responsible audits would have addressed.

The focus of this PRC response is that at least the agency and facilities have a policy, and that each facility “makes its best efforts to comply on a regular basis,” but this is in clear contrast to the 2022 Auditor Handbook, which states:

[From page 34] The PREA audit function represents an important and fundamental shift in the way that correctional audits are traditionally performed. The PREA Standards establish an audit process that is designed to assess compliance not only through written policies and procedures but also **whether such policies and procedures are reflected in the knowledge and day-to-day practices of staff at all levels** [emphasis added].

[From page 54] [A]n agency must be compliant **not only in policy but must also demonstrate institutionalization of the standards in its day-to-day practices** [emphasis added].

Such issues must, to make the PREA audit process anything more than perfunctory and a means of obscuring the violence it portends to address, document staffing shortages and likely—in at least some cases—require corrective actions for the detrimental impact they cause.



Failure to comply should not be excused because the issue is widespread or common, it should result in a corrective action that is either met or not met, but defines what is needed to address the issue. I would contend that excusing less-than-appropriate behavior and environments because staffing issues are widespread is prison rape culture no less than stating the clothing or behavioral characteristics excuse rape in free world rape culture.

### **Comments on the Concern 4 response**

Thank you for pointing out the October 24, 2023, update to the PREA § 115.15 FAQ, which appears to have expanded the explanation to include “[a]gencies or facilities that conduct searches based solely on the gender designation of the facility without considering other factors such as the gender identity or expression of the individual inmate or the inmate’s preference regarding the gender of the person conducting the search, would not be compliant,” which has been incorporated in our comment letters since I saw that update.

However, TDCJ is not compliant, nor are auditors assessing compliance according to this information. The PREA auditor tools in addition inappropriately amplify discriminatory and false stereotypes of “opposite gender” conceptualizations, which also serve to erase persons of nonbinary identities.

The DOJ provides a comment in a discussion of staff genders that clearly sets out how PREA § 115.15 should be viewed in terms of addressing the overall goals of the PREA standards:

facilities should make an individualized determination based on the gender identity of the staff member and not solely based on the staff member’s sex assigned at birth, the gender designation of the facility or housing unit to which the staff member is assigned, the related and required job duties of the specific staff member, the limits to cross-gender viewing and searches in PREA Standard 115.15, and **the goal of the PREA Standards to prevent trauma and sexual abuse** [emphasis added].<sup>4</sup>

Stereotyping, forced gender binaries, and erasure of nonbinary identities **cause trauma and encourage sexual abuse**, they do not “prevent” these.

I am hopeful that the mandatory training being implemented a year after this change will encourage proper assessment by auditors. TPI will continue to express our concerns in this area where future audit reports warrant.

### **Comments on the Concern 5 response**

This response provided little information other than apparently PMO and PRC agree that auditors are not sufficiently assessing compliance with at least the PREA § 115.31(a)(9) provision. That was not clear in the response, but that is what I am reading into the response. I

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4. National PREA Resource Center FAQ. (May 1, 2023). How should transgender staff and non-binary staff be classified. . . . Available at: <https://www.prearesourcecenter.org/frequently-asked-questions/how-should-transgender-staff-and-non-binary-staff-be-classified-purposes>.





hope that audit reports that inappropriately found facilities met this standard are appropriately considered deficient for state compliance assurances.

I am hopeful that the mandatory training will encourage proper assessment by auditors. TPI will continue to express our concerns in this area where future audit reports warrant.

### **Comments on the Concern 6 response**

The response letter claims that TPI states that “it is TDCJ policy to house individuals according to their sex assigned at birth. It is not clear which TDCJ policy to which you are referring.”

Unfortunately, this response completely misrepresents TPI’s statements about PREA § 115.42 compliance. As far as I am aware, TPI has never in any way stated that TDCJ *policy* does not cover housing transgender persons on a case-by-case basis, we have stated that *practice clearly indicates TDCJ has a blanket policy of housing according to genital configuration*, and as per page 46 of the 2022 Auditor Handbook, “[t]he PREA audit is **not only an audit of policies and procedures. It is primarily an audit of practice** [emphasis added].” This is clearly stated, along with our justification for making the statement, in each audit report comment letter where issue is covered.

I would point out that the Standards in Focus for PREA § 115.42<sup>5</sup> makes the express statement that

a PREA audit that reveals that all transgender and/or intersex inmates are, **in practice**, housed according to their genital status raises the possibility of non-compliance, **even if the agency’s policies are consistent with all of the requirements in § 115.42. The auditor must conduct a comprehensive review of the agency’s screening and reassessment processes, and examine specific inmate records/files to determine if individualized, case-by-case housing and programming assignments of transgender and/or intersex inmates are being made** [emphasis added].

This response does not address TPI’s concerns related to the assessment of this part of the PREA § 115.42 standard. TPI will continue to express our concerns in this area in future audit report comments.

### **Comments on the Concern 7 response**

This response does not address audit deficiencies reflected in a failure to adequately assess the evidentiary standards required under PREA. I am reading this response to indicate that PMO and PRC agrees auditors are not sufficiently assessing compliance with at least the PREA §§ 115.71 and 115.72. I am hopeful that the mandatory training will encourage proper assessment by auditors. TPI will continue to express our concerns in this area in future audit report comments.

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5. National PREA Resource Center. (ca. 2015). PREA Standards in Focus 115.42 Use of Screening Information.

Available at: [https://www.prearesourcecenter.org/sites/default/files/library/115.42%20SIF\\_0.pdf](https://www.prearesourcecenter.org/sites/default/files/library/115.42%20SIF_0.pdf).



## **TPI concerns not mentioned in the PMO / PRC response**

In addition to the responses related above, I am disappointed to see that many clear and obvious audit deficiencies were not addressed. These include:

- Auditor failures to provide appropriate reporting or report editing, resulting in inconsistencies across data in a report. If data inconsistencies are due to responses in the pre-audit questionnaire, then those inconsistencies need to be addressed by the auditor under the appropriate standard, including PREA § 115.87 data collection requirements.
- Use of pejorative language and failure to use person-first language, indicating discrimination by auditors, which has the effect of increasing violence, including sexual violence.
- Auditor failures to use appropriately gendered language, including the deliberate misgendering of transgender and nonbinary persons (see our comments about James Kenny at Beto and Boyd units, for example), which has the effect of increasing violence, including sexual violence.
- Auditor failures to give appropriate serious consideration to the accounts provided by incarcerated persons during PREA audits, dismissing statements of incarcerated persons to find a facility “meets compliance” or worse “exceeds compliance.”
- Consistent auditor failures to find any corrective actions, in spite of the 2022 Auditor Handbook stating on page 11 that “DOJ expects that corrective action will be required in most cases,” which indicates audits are perfunctory and ineffective at identifying and addressing issues.
- Onsite audits that appear not to allow sufficient time to conduct an effective audit, which indicates audits are perfunctory and ineffective at identifying and addressing issues. As per the quote at the beginning of this letter, “that audits are rushed and cursory.”
- Auditors failing to do due diligence to appropriately verify claims about target populations, which indicates audits are perfunctory and ineffective at identifying and addressing issues.
- Auditors failing to complete the required minimum numbers of interviews with incarcerated persons, which indicates auditors know they will not be held accountable to the requirements of the 2022 Auditor Handbook and are allowed by PMO and PRC to do perfunctory audits that are ineffective at identifying and addressing issues.
- Auditor failure to audit PREA § 115.13 not just presence or absence of video monitoring technology and equipment, but the function of that equipment in practice by evaluating how often equipment is claimed to be not functioning when it could have provided evidence in allegations of sexual violence.



- Auditor failures to address PREA § 115.15 issues in constant direct observation / security observation status<sup>6</sup> situations, which encourages abuse and violence by agency staff in these housing areas.
- Auditor failures to address PREA § 115.21 requirements to allow access to forensic medical exams, which not only devalues reports from incarcerated persons and interferes with their ability to seek a resolution of a sexual abuse incident, it abets agency efforts to obscure the amount of sexual violence occurring at agency facilities and manipulates data collection required under PREA Standards.
- Auditor failures to properly assess screening tools under PREA § 115.41 where they apply to nonbinary and gender nonconforming persons, essentially erasing these persons, an act of dehumanization that has the effect of increasing violence, including sexual violence, against persons of nonbinary and gender nonconforming identities.
- Auditor failures to address PREA § 115.42 requirements to appropriately use screening data to separate vulnerable persons from abusers, as evidenced by the numerous reports of transgender persons placed in cells with persons who even actively threaten them in front of staff due to their transgender status.
- Auditor failures to properly assess the twice-each-year assessments of transgender and intersex persons for effectiveness, which undermines not only the PREA § 115.42(d) provision but also PREA § 115.11 compliance in general.
- Auditor failures to address PREA § 115.42 requirements to provide opportunities for transgender and intersex persons to be provided “the opportunity to disrobe, shower, and dress apart from other [incarcerated persons],”<sup>7</sup> especially when placing transgender persons in cells with showers in the cell.
- Auditor failures to address the huge problem with how TDCJ manipulates “protective custody,” pertinent to PREA §§ 115.43 and 115.68, which allows staff to evade PREA compliance with these standards and abuse any person reporting sexual violence for making such reports. This manipulation undermines every premise of PREA.
- Auditor failures to address PREA § 115.67 requirements to prevent and address retaliation for reporting sexual abuse. This failure abets staff efforts to allow retaliation as a means of discouraging incident reporting.
- Auditor failures to address PREA § 115.73 requirements where their own audit reports document that outcomes were not reported to incarcerated persons. This

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6. “Security observation status” is used in TDCJ to place a person into a constant direct observation (CDO) cell without going through the trouble of getting approval from mental health staff, as required for CDO confinement.

7. National PREA Resource Center FAQ. (April 23, 2014). Discussing PREA § 115.42(f) and separate showers. Available at: <https://www.prearesourcecenter.org/frequently-asked-questions/standard-11542-use-screening-information-requires-transgender-inmates-be>.



conveys to victims of sexual abuse that their lives and their safety are not worth concern or consideration.

- Auditor failures to address PREA § 115.83 requirements concerning access to ongoing mental health care, when such care is routinely far short of community levels of care, leaving people dealing with severe mental health issues—some suffering from years of trauma left untreated—after experiencing violence. This conveys to survivors of sexual abuse that their mental health is not worth concern or consideration.
- Auditor failures to address PREA § 115.86 requirements to conduct sexual abuse incident reviews when the auditor’s own audit report documents that incident reviews were not conducted, which conveys to the facilities and agencies that compliance is optional.
- Auditor failures to address how problems in all these areas affects data collection and interpretation under PREA §§ 115.87 and 115.88, eliminating opportunities to identify and address trends and patterns in the occurrence of sexual violence.
- Auditor failures to address PREA § 115.401 requirements that auditors be permitted to conduct private interviews with incarcerated persons.
- And other issues itemized in TPI’s comment letters concerning deficient PREA auditor reports.

Again, thank you for your response on behalf of the PMO and PRC. I hope this further clarifies our position on this issues and illuminates the significance we are giving to addressing these problems.

I look forward to further information from your office about how problems with the PREA audit process is implemented.

Sincerely,

Nell Gaither, President  
Pronouns: she/her/hers  
Trans Pride Initiative

cc: Erica Gammill, PRC  
Thomas Talbot, PREA Management Office