

September 28, 2012

Honorable James Cole, Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Ave NW, RM 4111
Washington DC 20530

Dear Mr. Cole:

The undersigned members of the Raising the Bar for Justice and Safety Coalition wish to thank you and your staff for your hard work on the Department's *National Standards to Prevent, Detect, and Respond to Prison Rape*. Overall, the standards are exceptional and provide a strong foundation for ending sexual abuse in detention nationwide.

Now that the standards have been released and are being implemented, the Department has a unique role in encouraging their success. Recognizing the diverse and pressing matters on the Department's docket, we urge you to maintain focus on this issue. As you know, United States taxpayers have invested significant funds over the last decade to build recognized expertise on preventing sexual abuse within the Department. The scope and quality of the standards is evidence that this money was well spent. Now that agencies are beginning to implement the standards, they are looking to the Department for guidance and partnership. Our organizations believe that the Department can best provide this assistance if it remains actively engaged in the effort to end sexual abuse in detention.

The recommendations below lay out modest steps the Department can take to promote the adoption and maximize the impact of the standards. These recommendations – explained in summary format – fit into three categories: oversight, analysis, and encouraging adoption. For many of these items, more extensive recommendations have been separately submitted to your office through Senior Counsel Eric Columbus.

Oversight

1. **Audits:** Your PREA standards establish a compelling framework for independent audits. The Department is well positioned to take full advantage of the opportunity created by the audit provision by implementing oversight tools and mechanisms. We understand that the Department is already working on developing audit standards, auditor certification criteria, and auditor training; we urge the Department to ensure that these tools are strong and comprehensive. Once audits begin, the Department can significantly contribute to effective oversight by monitoring the quality of the audit reports, to determine which auditors are helping to achieve the goals of the standards and which need more training. Also, a mechanism would need to be created to allow advocates to meaningfully express concerns about the accuracy of audit reports, and for the Department to assess the validity of those concerns. Finally, we urge the Department to implement a transparent means for concerned advocates and individuals to request that expedited audits be conducted for particular facilities. Of course, the Department will need to determine whether an expedited audit is warranted and create a procedure for reporting back to advocates or individuals about whether the Department is requesting that a facility schedule an expedited audit.

2. **Certification:** The statutory requirement that Governors certify their agencies' compliance with the standards is the most powerful tool the federal government has to protect individual prisoners from sexual abuse in detention. The Department is uniquely qualified to ensure that this requirement is meaningful by looking beneath a Governor's certification. Any certification not supported by the audit reports should be rejected and the state should face a funding penalty for failing to comply with the requirements of PREA and with the standards. The Department will only be in a position to make this determination if it is automatically evaluating the accuracy of each certification. If automatic evaluation is not possible, a mechanism could be devised to allow advocates or individuals to provide concrete reasons for suspecting that a specific certification is not supported by the audit reports. Without a process to look beneath a state's certification, the certification provision mandated by Congress will fail to be a compelling incentive for state to reach compliance.

Analysis

1. **Audits:** The standards' requirement that auditors produce a public report for each facility they audit is a significant advancement in transparency of U.S. corrections facilities. Our organizations applaud the Department for adopting this provision. The resulting reports, if properly executed, will provide an unprecedented wealth of data on how detention policies are being implemented and whether they are improving safety. In order to take full advantage of this provision, the Department should compile the data from these reports and provide analysis of them on a regular basis. Additionally, while each facility is required to make its audit reports publicly available, a central location where all reports are available electronically would be a vital tool to researchers and advocates. We recommend that the Department either provide this tool – in the form of an online clearing house for audit reports – or assist an outside organization or institution in doing so.
2. **Research:** The work of the Bureau of Justice Statistics in documenting the crisis of sexual abuse in detention has been fundamental to the culture change that our nation is undergoing on this issue. Continued engagement by the BJS is vital to measuring changes in the rates of sexual abuse in detention. We urge that resources continue to be provided to the BJS to maintain its focus on sexual abuse in detention for at least the next decade. The Review Panel on Prison Rape has also served as an important resource in better understanding how individual facilities are – or are not – addressing sexual abuse. We recommend that the Department continue to support the Review Panel so that it can investigate how the standards are improving facility safety and where particular provisions may be falling short.

Encouraging Adoption

1. **National PREA Resource Center:** The Center, funded by the Bureau of Justice Assistance, is hard at work facilitating standards implementation in agencies across the country. The resources and technical assistance that the Center is providing are already having a positive impact on the ability of agencies to come into compliance with the standards. We would like to see the Department continue its support for the Center's work through at least the first audit cycle so that it can have a long-lasting impact on the adoption of the standards.
2. **Public Recognition:** By promulgating such strong standards, the Department has secured its role as a leader in the effort to end sexual abuse in detention. In this capacity, the Department can advance the ongoing culture change within the corrections profession by publicly recognizing agencies and administrators who are effectively implementing the standards. Such recognition rewards strong

advocates and elevates them within the corrections profession. It would be especially helpful if this recognition were done in a number of creative ways so that it reaches as wide an audience as possible.

3. Department Communications: To date, our organizations have seen little public outreach by the Department highlighting the transformative nature of the standards. We recommend that the Department spend some time acknowledging the wide-spread accolades the standards are receiving and explaining how they will – if properly and broadly implemented – help end the crisis of sexual abuse in detention. In short, we think you need to take a victory lap for your hard work. The Department could also list the standards among its recent accomplishments, particularly when it is communicating with audiences -- like the lesbian, gay, bisexual, and transgender community -- that will particularly benefit from implementation of the standards.
4. Civil Rights Division: In addition to the certification process, we urge the Department to look for other effective enforcement tools. The Civil Rights Division's Special Litigation Section is one resource particularly well suited to ensure that corrections professionals take the standards seriously. As evidenced by its recent findings letter in regards to the Topeka Correctional Facility, the Section has already begun including implementation of the PREA standards as a remedial measure. We think the Department should encourage the Unit to do this in all investigation letters, consent decrees, and settlements with PREA facilities. Additionally, we recommend that the Section gather information about and, when appropriate, investigate facilities refusing to implement the PREA standards.

Mr. Cole, the below listed organizations look forward to continuing to work with your office to realize the full potential of the PREA standards. The above recommendations highlight some ways we can build on our existing collaboration to promote the meaningful implementation of the standards. Additionally, we are available to meet with you to discuss these recommendations or any other ideas you have for how we can collectively advance the effort to end the crisis of sexual abuse in detention. To arrange such a meeting, please have your staff contact Chris Daley at Just Detention International: cdaley@justdetention.org or 202-506-3374.

Sincerely,

AIDS Foundation of Chicago
American Civil Liberties Union
Amnesty International
Center for Children's Law and Policy
Center for Constitutional Rights
DC Black Pride
Drug Policy Alliance
End Violence Against Women International
Equality Federation
FORGE
Heartland Alliance's National Immigrant Justice Center
HIV Prevention Justice Alliance
International Association of Forensic Nurses
International CURE
International Federation of Black Prides
Iowa Coalition Against Sexual Assault

Just Detention International
Justice Fellowship/Prison Fellowship Ministries
Juvenile Law Center
National Association of Evangelicals
National Center for Lesbian Rights
National Center for Transgender Equality
National Center on Domestic and Sexual Violence
National Gay and Lesbian Task Force
New York State Coalition Against Sexual Assault
Oregon CURE
Partnership for Safety and Justice
Pennsylvania Coalition Against Rape
Physicians for Human Rights
Southern Center for Human Rights
United Methodist Church, General Board of Church and Society
Washington Lawyers' Committee for Civil Rights and Urban Affairs
Women's Refugee Commission

CC: Thomas E. Perez, Assistant Attorney General
Jonathan M. Smith, Special Litigation Section Chief