



DOUGLAS A. DUCEY  
GOVERNOR

STATE OF ARIZONA  
OFFICE OF THE GOVERNOR

EXECUTIVE OFFICE

May 15, 2015

Ms. Karol Mason  
Assistant Attorney General  
Office of Justice Programs  
U.S. Department of Justice  
810 Seventh Street NW  
Washington, D.C. 20531

Dear Assistant Attorney General Mason,

On behalf of Arizona Governor Doug Ducey, I am writing in response to your letter dated March 5, 2015, in which you request that Arizona provide either (i) a certification that Arizona is in full compliance with the Prison Rape Elimination Act (PREA) standards, or (ii) an assurance that the State will use not less than five percent of certain Department of Justice (DOJ) grant funds solely for the purpose of enabling the State to achieve and certify full compliance with the standards in future years.

To date, a DOJ-certified auditor has completed audits of seven Arizona Department of Corrections (ADC) prison complexes and one private prison. Arizona is proud to report that all eight audits have concluded that the facilities meet all PREA standards. ADC has undertaken significant efforts to achieve this record of full PREA compliance. Specifically, ADC has:

- Hired a full-time PREA Coordinator who completed the DOJ PREA auditor training and is certified to audit adult and juvenile confinement facilities;
- Appointed select staff at facilities as PREA Compliance Managers;
- Contracted with a DOJ-certified PREA auditor to conduct audits, at a total cost to ADC of \$29,823.76;
- Coordinated rape crisis advocate training, provided by the Arizona Coalition to End Sexual and Domestic Violence, to a select group of 66 staff members;
- Established a "hotline" telephone system with a private entity for inmates to call as an alternate method to report sexual abuse/sexual harassment in an anonymous manner;
- Completed Memorandums of Understandings with three rape crisis centers near prison facilities to provide advocate assistance;
- Trained and certified two additional Arizona Criminal Justice Information System (ACJIS) terminal operators to conduct background investigations of all current ADC employees and contractors at least every five years;

- Required all investigators to complete PREA training on “Conducting Sexual Abuse Investigations in Confinement Settings”;
- Scheduled audits to be completed by the PREA Coordinator and PREA Compliance Managers before the DOJ-certified auditor conducted audits;
- Tracked and monitored all PREA allegation investigations, and completed required Bureau of Justice Statistics (BJS) and PREA reports;
- Provided annual PREA training to all ADC employees and contractors, and provided PREA training to all inmates;
- Updated ADC policies and procedures to meet PREA standards, including without limitation, (1) a zero tolerance policy for sexual abuse and sexual harassment, (2) an inmate screening procedure for those at high risk of sexual abuse, (3) a policy of providing retaliation reviews for at least 90 days to inmate victims and those who report sexual abuse incidents, (4) a policy of providing sexual abuse incident reviews for all substantiated and unsubstantiated allegations of sexual abuse; and (5) an inmate PREA grievance procedure.

The Arizona Department of Juvenile Corrections (ADJC) has also taken significant steps to ensure PREA compliance. For example, ADJC has:

- Appointed an ADJC PREA Coordinator who develops, implements, and oversees ADJC efforts to comply with PREA standards;
- Appointed a PREA Compliance Manager to coordinate efforts to comply with the PREA standards and ensure ongoing compliance and monitoring of all PREA standards;
- Sent five ADJC staff members to DOJ training for Juvenile Facility Auditor certification to ensure that ADJC fully understood what was required for the audit, at a cost to ADJC of approximately \$6,000.00;
- Installed a private telephone in the Health Unit dedicated for youth to report instances of sexual abuse and sexual harassment, one method of which would be to contact the confidential Arizona Department of Child Safety hotline;
- Created 12 PREA posters as part of an ongoing campaign against sexual abuse and sexual violence, and granted the National PREA Resource Center permission to share these posters as models for the field. The posters are now available to others on the National PREA Resource Center for download and use;
- Created a PREA video to demonstrate how ADJC (1) uses the posters to expand awareness of PREA, and (2) uses the posters as a tool for discussing ADJC’s zero-tolerance standard for sexual abuse and sexual harassment with youth in group settings;
- Created a PREA brochure that is provided to youth upon commitment to ADJC custody, and which educates youth on how to identify abuse, how to stay safe, how to report abuse, and what to do if abuse occurs;
- Conducted on-site reviews of policies, practices, and procedures, and updated ADJC policies and procedures in light of new PREA standards;
- Finalized a comprehensive ADJC PREA Policy and revised 23 other agency policies to ensure strict compliance with PREA standards;

Ms. Karol Mason

May 15, 2015

Page 3 of 3

- Modified and enhanced current systems and processes to comply with PREA standards and prepare for the PREA audit; and
- Tracked progress to identify the current status of ADJC compliance, what actions (if any) were needed to comply with PREA, and the progress being made towards compliance.

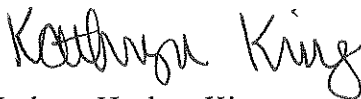
In determining whether Arizona is in full compliance with PREA, the federal regulations state that “the Governor shall consider the results of the most recent agency audits.” 28 C.F.R. § 115.501(a). The recent audits of ADC facilities demonstrate that ADC is in full compliance with the PREA standards. With respect to ADJC, it is our belief that ADJC is in compliance with PREA. Nonetheless, an audit of the ADJC facility is scheduled in just two weeks (from June 1-5). Because of this upcoming audit, we requested a brief extension of time from Peter Brian, Assistant General Counsel, Office of Justice Programs, to respond to DOJ, but Mr. Brian stated that such an extension could not be granted.

While we believe that Arizona is in compliance with PREA, we need to be able to review the results of the June 2015 ADJC audit before determining if we can certify that Arizona is in full compliance. This is a prudent and reasonable approach given that the certification states, under penalty of “criminal prosecution,” that as of “the date of signature of this certification (in no case later than May 15, 2015), the State/jurisdiction named below has adopted, and is in full compliance with, the National Standards to Prevent, Detect, and Respond to Prison Rape, 28 C.F.R. Part 115.”). (Emphasis added.) To that end, we will review the results of the upcoming ADJC audit and submit a certification or assurance form to DOJ if we are able to do so at that time.

Similarly, we cannot submit an assurance at this time. The assurance form states that Arizona “will use not less than 5 percent of its covered DOJ grant funds for FY2015 to . . . achieve full compliance with” PREA. Because we believe that Arizona is in compliance with PREA, the use of these funds in this manner is simply not necessary at this time. Therefore, an assurance form is not appropriate.

This State is committed to reducing sexual abuse in our correctional facilities. Please let us know if you have any questions or wish to discuss this further.

Sincerely,



Kathryn Hackett King  
Deputy General Counsel  
Office of Governor Doug Ducey



DOUGLAS A. DUCEY  
GOVERNOR

STATE OF ARIZONA  
OFFICE OF THE GOVERNOR

EXECUTIVE OFFICE

June 26, 2015

The Office of the General Counsel  
Office of Justice Programs  
810 Seventh Street NW, Room 5400  
Washington, D.C. 20531

Dear Assistant Attorney General Mason:

I am writing in response to your letter dated May 28, 2015 regarding the Prison Rape Elimination Act ("PREA"). Your letter invites Arizona to submit an appeal of the Department of Justice's ("DOJ") decision that Arizona will lose five percent of certain DOJ grant funds for FY 2015. We submit this appeal, pursuant to 28 C.F.R. Part 18, because Arizona is in full compliance with the Prison Rape Elimination Act ("PREA"). Enclosed is a certification, signed by Governor Doug Ducey, stating that Arizona is in compliance with the PREA standards.

As explained in my May 15, 2015 letter to you, all audits completed to date of Arizona Department of Corrections ("ADC") facilities have concluded that the facilities meet all PREA standards. At the time I submitted that letter, an audit of the Arizona Department of Juvenile Corrections ("ADJC") facility was scheduled in just two weeks. While we believed Arizona was in compliance with PREA at the time, we needed the results of the June 2015 ADJC audit report before determining if we could certify that Arizona was in full compliance. Therefore, we were unable to submit a certification form at that time. Similarly, we did not submit an assurance form. The assurance form states that Arizona "will use not less than 5 percent of its covered DOJ grant funds for FY 2015 to . . . achieve full compliance with" PREA. Because we believed Arizona was in compliance with PREA, the use of those funds in that manner was simply not necessary. At the conclusion of my May 15 letter, I stated that Arizona would review the results of the upcoming ADJC audit and submit a certification or assurance form to DOJ if we are able to do so at that time.

The Office of Governor Doug Ducey reports that the recent ADJC audit, dated June 5, 2015, concluded that ADJC is in full compliance with PREA. For that reason, I have enclosed Governor Ducey's signed certification that Arizona is in full compliance with the PREA standards.



The Office of the General Counsel

June 26, 2015

Page 2

In your May 28 letter, you notified us that we may file an appeal and stated that "one factual basis for an appeal may be the subsequent decision by the Governor to actually submit either a certification or an assurance, in which case, a signed certification or assurance should accompany the appeal document." This letter is an appeal of DOJ's decision that Arizona will lose five percent of certain DOJ grant funds that it would otherwise receive in FY 2015 for not submitting a PREA assurance or certification by May 15. The factual basis for this appeal is that Governor Ducey has now been able to certify – based on the results of the June 2015 ADJC audit – that Arizona is in full compliance with PREA standards. See enclosed signed certification form. For this reason, we respectfully request that the DOJ reverse its determination to withhold five percent of Arizona's DOJ grant funds.

Pursuant to 29 C.F.R. § 18.5, we do not believe an oral hearing is necessary. If DOJ would like additional information, we request to submit such information to a hearing officer in written format, if necessary.

Please let us know if you have any questions or request further information regarding this appeal.

Sincerely,



Kathryn Hackett King  
Deputy General Counsel  
Office of Governor Doug Ducey

Enclosure

cc: Office of General Counsel, Office of Justice Programs, U.S. Department of Justice, 633 Indiana Avenue NW, Room 1268, Washington, DC 20531

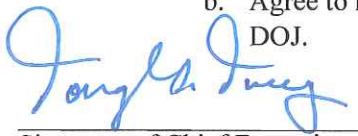
**Certification Regarding Adoption and Full Compliance with  
the National Standards to Prevent, Detect, and Respond to Prison Rape  
2015**

Pursuant to 42 U.S.C. §15607(e)(2), I certify to the U.S. Department of Justice (DOJ):

As the date of signature of this certification (in no case later than May 15, 2015), the State/jurisdiction named below has adopted, and is in full compliance with, the National Standards to Prevent, Detect, and Respond to Prison Rape, 28 C.F.R. Part 115.

If, after the date of signature of this certification, credible information should come to the attention of the undersigned (or his or her successor) that casts reasonable doubt on the accuracy of this certification as of the date of signature, the same shall conduct a reassessment and determine whether this certification was accurate as of the date of signature. If the certification is determined not to have been accurate, the undersigned or a designee will:

1. Within 15 days, notify DOJ via the email address below of the existence of the inaccuracy; and
2. Within 15 days of providing such notice,
  - a. Submit an Assurance signed by the Chief Executive (using the form provided by DOJ) indicating that the State/jurisdiction will expend not less than 5% of its covered DOJ grant funds for FY 2015 to adopt, and achieve full compliance with, the National Prison Rape Standards (28 C.F.R Part 115), so as to ensure that a certification may be submitted in future years; or
  - b. Agree to return 5% of its covered DOJ grant funds for FY 2015 as calculated by DOJ.

  
Signature of Chief Executive

Douglas Ducey  
Printed name of Chief Executive

Arizona  
Name of State/jurisdiction

June 26, 2015  
Date

**This form must be received by the Department of Justice, PREA Management Office, by May 15, 2015. A signed, electronic version of this form may be sent to: [PREACompliance@usdoj.gov](mailto:PREACompliance@usdoj.gov).**

*A false statement in this certification or in the grant application that it supports may be subject to criminal prosecution, including under 18 U.S.C. § 1001 and 42 U.S.C. § 3795a. DOJ grants, including certifications provided in connection with such grants, are subject to review by the DOJ component that issued the grant and/or by the DOJ Office of the Inspector General.*