



DOJ PREA Regulations Encouraging but Fail to Protect Immigration Detainees

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WASHINGTON – The Department of Justice (DOJ) today released federal regulations implementing the Prison Rape Elimination Act (PREA), representing the first time that the federal government has issued national standards to help end sexual abuse in prisons, jails and youth detention centers.

The ACLU supports the DOJ's efforts to prevent sexual abuse. While these regulations represent strong national standards to protect child and adult prisoners, including LGBT inmates, they have left unclear whether there will be adequate protection for immigration detainees.

Protections for Child and Adult Prisoners

The following statement can be attributed to Amy Fetting, senior staff counsel, ACLU National Prison Project:

"Sexual abuse should never be a penalty for any crime – and today's regulations are the first step to ending the shameful history of prison rape in our country.

To uphold Congress's intent in passing PREA, regulations are not enough on their own. DOJ must ensure the regulations are enforced through regular and independent oversight. The administration must develop a proper national monitoring tool and work with state and local correctional systems and the federal Bureau of Prisons to ensure full implementation of the PREA standards."

Protections for Immigration Detainees

The following statement can be attributed to Joanne Lin, ACLU legislative counsel:

"By tasking the Department of Homeland Security (DHS) to promulgate its own PREA regulations, the administration has further delayed and left unclear whether hundreds of thousands of immigration detainees – overwhelmingly Latinos – who are annually confined in DHS detention facilities will receive adequate protection.

"DHS has an abysmal track record of preventing and investigating the serious and systemic problems of sexual assault and abuse in its facilities. With the continuing problem of rampant sexual assault in immigration detention facilities across the country, it's highly questionable whether DHS is able to police itself, particularly because its own internal standards that will serve as a blueprint for PREA compliance fall far short of PREA's protections for detainee safety.

"DHS has asserted that it will promulgate regulations consistent with PREA in eight months that will go above and beyond its model internal standards. The ACLU will continue to press DHS to ensure it fulfills its

obligation to extend PREA protections to all immigration detainees."

Protections for Lesbian, Gay, Bisexual, Transgender, Intersex and Gender Non-Conforming Inmates

The following statement can be attributed to Leslie Cooper, senior staff attorney, ACLU LGBT Project:

"The rule includes significant protections for lesbian, gay, bisexual, transgender, intersex and gender non-conforming inmates, who the DOJ recognizes are at greater risk of sexual abuse in confinement. We are especially pleased that the rule requires that the determination of whether to house transgender and intersex inmates in male or female facilities must be made on a case-by-case basis, and bans searches of these inmates for the sole purpose of determining their genital status."

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