

ACTION UPDATE

JULY 2009

JUNE 23, 2009, may have been the day when the issue of prisoner rape fully entered the U.S. public debate. The release by the National Prison Rape Elimination Commission (NPREC) of binding national standards aimed at preventing and addressing sexual abuse in U.S. corrections facilities generated unprecedented attention. The *Washington Post* and the *New York Times* editorialized about the horror of rape in detention, as did many other newspapers across the country.

The new standards are both detailed and impressive. Indeed, they have the potential to become the most important tool so far in the effort to end sexual violence behind bars.

JDI staff worked closely with NPREC in developing the standards, serving on expert committees and making sure that rape survivors were able to testify at various public hearings. Working side-by-side with officials, researchers, and legal experts, we insisted that the bar be placed high. Many corrections officials fought stubbornly for a codification of the status quo, but we knew dramatic reforms were needed to make prisons and jails safe in the U.S. In the end, NPREC agreed with us.

The standards are now with Attorney General Eric Holder, who has one year to codify them as part of federal regulations. He must do so swiftly, without diluting them — and we'll be working hard to make sure that he does.

The release of the standards was the culmination of NPREC's work; the Commission sunsets in late August. For JDI, it simply marked the beginning of the next phase of our battle. Now we must ensure that the standards are fully implemented, so that the 2.4 million people behind bars in the U.S. are able to serve their time free from abuse.



Lovisa Sannow
Executive Director

David Kaiser
Chairman

A Dramatic Shift in the Debate: Prisoner Rape is Not Inevitable

New Federal Report and Standards Adopt JDI's Core Messages

ALMOST SIX YEARS after the passage of the Prison Rape Elimination Act (PREA), the binding national standards mandated by the law were released on June 23, 2009. These new measures seek to prevent sexual abuse behind bars, and ensure that — when preventative efforts have failed — appropriate action is taken in the aftermath of an assault. As such, they are a milestone in the effort to end prisoner rape.

These standards, however, together with

the detailed report accompanying them, represent something else as well: a dramatic shift in the way government officials speak about sexual abuse in U.S. corrections facilities.

After decades of government denial, downplaying, or flippant repetition of stereotypes, NPREC finally describes the problem of sexual abuse behind bars as a serious violation of human rights — something Just Detention International has claimed for the past three decades. Similarly, one of NPREC's main conclusions — that prisoner rape is preventable,

See DRAMATIC SHIFT, continued on page 2



The release of the first-ever national standards addressing sexual abuse in detention was a milestone in the effort to protect the safety of inmates. Photo: Getty Images

Dramatic Shift

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Judge Reggie B. Walton, chair of the National Prison Rape Elimination Commission, emphasized the importance of independent prison oversight and of respecting the human rights of inmates.

not an inevitable part of life behind bars — echoes a position that for many years JDI was almost alone in taking.

In his opening remarks at the press conference launching the standards, Judge Reggie B. Walton, chair of NPREC, highlighted numerous other key JDI values and messages, including the importance of prison oversight — both internal audits and external monitoring. As someone who has sentenced thousands of individuals to serve time, he emphasized that, “not once has rape been part of the sentence.”

The last speaker at the National Press Club was Hope Hernandez, a prisoner rape survivor and member of JDI’s Survivor Council. She described the rapes she suffered at the hands of a corrections official at a Washington, DC jail (see page 6 for an excerpt of her testimony) and concluded with JDI’s basic principle: “Regardless of what crime someone might have committed, rape must never be part of the penalty.”

JDI remains the only organization in the U.S. dedicated exclusively to the elimination of sexual abuse in detention. For many years, the issue of prisoner rape was generally perceived as marginal, allies were few and far in between, and government support was almost non-existent. The past six years represent the beginning of the correctional sea change JDI has long called for — and incidentally, sea change was one of the terms used several times by NPREC Commissioners during the press conference.

The Nine Key Findings of the Landmark NPREC Report

Systemic Problems Underlie Sexual Abuse

PRIOR TO THE PASSAGE of the Prison Rape Elimination Act (PREA) in 2003, little was known about the dynamics of sexual violence in detention; the research that did exist tended to be limited or outdated. As part of its mandate under PREA, the National Prison Rape Elimination Commission (NPREC) was charged with conducting a comprehensive study of the problem of sexual abuse in U.S. corrections facilities. In so doing, NPREC held public hearings, conducted literature reviews, commissioned reports, and consulted with experts (including members of the JDI staff, Board of Directors, and Survivor Council).

Over the last few years, as a clear picture of systemic, nationwide sexual abuse emerged, attitudes of corrections leaders began to change. Many went from asserting that prisoner rape was uncommon and an aberration — not worthy of serious attention

nor the dedication of significant resources — to acknowledging that this type of violence pervades prisons and jails. Moreover, leading government officials concluded that sexual abuse is linked directly to prison management, recognizing that the policies and actions of corrections administrators largely determine whether a facility is plagued by sexual abuse or not.

NPREC’s detailed 259-page final report organizes the information it gathered into nine findings, which confirm what JDI has long known: sexual violence is not an inherent aspect of prison life, but the result of bad corrections management, poor policies, and dangerous practices. NPREC’s findings are:

1. Protecting prisoners from sexual abuse remains a challenge in correctional facilities across the country. Too often, in what should be secure environments, men, women, and children are raped or abused



Inmate classification is a core aspect of prison management. Prison overcrowding causes serious safety issues, forcing officials to create unsafe bunk-bed dormitories. In its June 2009 report, NPREC stated that “Corrections administrators must routinely do more to identify those who are vulnerable [to sexual abuse] and protect them.” Photo: Associated Press

by other incarcerated individuals and corrections staff.

2. Sexual abuse is not an inevitable feature of incarceration. Leadership matters because corrections administrators can create a culture within facilities that promotes safety instead of one that tolerates abuse.

3. Certain individuals are more at risk of sexual abuse than others. Corrections administrators must routinely do more to identify those who are vulnerable and protect them in ways that do not leave them isolated and without access to rehabilitative programming.

4. Few correctional facilities are subject to the kind of rigorous internal monitoring and external oversight that would reveal why abuse occurs and how to prevent it. Dramatic reductions in sexual abuse depend on both.

5. Many victims cannot safely and easily report sexual abuse, and those who speak out often do so to no avail. Reporting procedures must be improved to instill confidence and protect individuals from retaliation without relying on isolation. Investigations must be thorough and competent. Perpetrators must be held accountable through administrative sanctions and criminal prosecution.

6. Victims are unlikely to receive the treatment and support known to minimize the trauma of abuse. Correctional facilities need to ensure immediate and ongoing access to medical and mental health care and supportive services.

7. Juveniles in confinement are much more likely than incarcerated adults to be sexually abused, and they are particularly at risk when confined with adults. To be effective, sexual abuse prevention, investigation, and treatment must be tailored to the developmental capacities and needs of youth.

8. Individuals under correctional supervision in the community, who outnumber prisoners by more than two to one, are at risk of sexual abuse. The nature and consequences of the abuse are no less severe, and it jeopardizes the likelihood of their successful reentry.

9. A large and growing number of detained immigrants are at risk of sexual abuse. Their heightened vulnerability and unusual circumstances require special interventions.

While the NPREC report provides invaluable information, much remains to be done to understand fully the dynamics and magnitude of the problem of prisoner rape. In that effort, the continued work of the Bureau of Justice Statistics (BJS) will be particularly important. The annual direct inmate surveys conducted by the BJS since 2007, and mandated by PREA, have generated crucial data on the prevalence of sexual abuse in detention. As additional surveys are completed, they will make it possible to identify trends — positive and negative — including characteristics of inmates targeted for abuse as well as perpetrators, and especially dangerous places within corrections facilities.

Background on PREA

THE U.S. PRISON RAPE Elimination Act (PREA), passed unanimously by Congress and signed into law by President Bush in 2003, was the first U.S. civil law to address sexual abuse in detention. PREA requires a zero-tolerance approach to this type of violence.

In addition to creating the bipartisan National Prison Rape Elimination Commission (NPREC) with the mandate to develop binding national standards and a final report (which are the focus of this *Action Update*), PREA requires:

- Annual statistical reviews by the Bureau of Justice Statistics (BJS), including nationwide anonymous inmate surveys;
- Annual hearings by the Review Panel on Prison Rape focusing on facilities found by the BJS to have the highest and lowest incidence of sexual abuse;
- Federally funded technical assistance to prevent and prosecute sexual abuse in detention;
- Federally funded grants for states to protect inmates and safeguard communities; and
- Federally funded contracts for research.

In accordance with PREA, NPREC will sunset on August 22, 2009 — 60 days after the submission of the standards and report to Attorney General Eric Holder and Congress.

Inmate Safety is Non-Partisan

The effort to end rape in U.S. prisons and jails has emerged as an unlikely unifier of civil society. Human rights organizations, faith-based groups, lawmakers from the left and the right, and — increasingly — corrections officials have made a commitment to addressing sexual abuse in detention.

The Prison Rape Elimination Act (PREA) was the direct result of advocacy by individuals and organizations who had not previously worked together, and who rallied the support of legislators as diverse as Senators Jeff Sessions (R-AL) and Ted Kennedy (D-MA). JDI was a driving force behind that alliance, and has since led the effort to implement PREA. The national standards published on June 23 represented another victory for these unlikely allies. Serving on expert committees and participating in public hearings, corrections officials, prisoner rape survivors, and advocates all offered crucial input into the new standards.

There are important lessons to be learned from the effort to end prisoner rape. By boiling down the complex and seemingly intractable problem of sexual violence in detention to one essential value — and by setting aside their differences on other issues — organizations with distinct agendas have been able to stimulate serious reform. In the case of prisoner rape, the compelling moral argument that brought such a diverse set of players together was simple: prisoner rape is an abomination that offends basic human dignity.

LINKS TO NEW STANDARDS

The report and standards can be viewed or downloaded from NPREC's website.

The report is at:
<http://nprec.us/publication/report/>.

The adult prison and jail standards, with the immigration supplement, are at:
http://nprec.us/publication/standards/adult_prisons_and_jails.

The juvenile facility standards are at:
http://nprec.us/publication/standards/juvenile_facilities/.

The community corrections standards are at:
http://nprec.us/publication/standards/community_corrections/.

And the lockup standards are at:
<http://nprec.us/publication/standards/lockups/>.

The New Standards – Basic Human Rights Instruments

The vast majority of the 2.4 million people detained in the U.S. on any given day are held in adult prisons or jails, and the requirements for these facilities constitute the core of the new standards. NPREC also developed specific standards for youth detention centers, immigration detention, lockups, and community corrections.

THE NEW STANDARDS are basic human rights instruments, emphasizing the fact that inmates retain their right to be free from sexual abuse. The standards address core prison management issues — including staff training, inmate education, housing, and investigations in the aftermath of an assault — that directly affect the levels of sexual abuse in a facility. The standards are organized into four sections: prevention and response planning; prevention; detection and response; and monitoring.

Adult Prisons and Jails Standards

I. Prevention and Response Planning

Strong leadership is essential to making detention facilities safe. The planning section of the standards includes a requirement that each facility develop a written policy stating its zero-tolerance policy toward sexual abuse.

Cross-gender supervision, which remains common in U.S. corrections facilities, encourages abuse. Survivors who contact JDI regularly describe abusive cross-gender searches escalating into rape. The standards require agencies to develop policies that, except in emergency situations, prohibit strip searches and body cavity searches by staff of the opposite gender, restrict cross-gender pat searches, and restrict non-medical staff from viewing inmates of the opposite gender who are nude or performing bodily functions.

The ability to seek help from external, non-corrections agencies is essential in the aftermath of an assault, especially in cases of custodial sexual misconduct. Indeed, facilities that provide prisoner rape survivors with access to outside services have found that an external advocate can improve investigations and help minimize trauma. Relying on this proven best practice, the standards require agencies to enter into agreements with outside entities, including law enforcement agencies and community rape crisis centers.

II. Prevention

Sexual abuse in detention is almost wholly preventable. The standards mandate that facilities prioritize separating likely predators from likely victims, by taking into account whether an inmate belongs to a vulnerable population (such as being young, gay, transgender or a first-time prisoner). Many facilities isolate vulnerable inmates, effectively punishing them in the name of protection. The standards require that segregated housing be considered a last resort — and only used as a temporary measure. These are crucial requirements; countless prisoner rape survivors contacting JDI were abused by inmates with whom they clearly should never have had to share a cell.

The prevention standards also spell out requirements for staff training and inmate education. Corrections administrators, line staff, contractors, and volunteers all need training to understand how to detect sexual violence and their responsibilities in preventing and responding to sexual abuse. Similarly, inmates must be aware of their absolute right to be free from abuse, and of their responsibility not to engage in predatory behavior.

III. Detection and Response

In the aftermath of a sexual assault, survivors need safe, effective reporting options and access to medical and mental health care. Today,



JDI was well represented at the press conference launching NPREC's national standards. From left: East Coast Program Director Melissa Rothstein, Survivor Council member Keith DeBlasio (assisted by his mother, Patricia Dilts), Executive Director Lovisa Stannow, Survivor Council member Hope Hernandez, and Policy Associate Darby Hickey.

inmates seeking to report sexual abuse must follow the facility's internal grievance procedures — which often include short deadlines, complex procedural requirements, and no guarantee of protection from retaliation. The standards require that multiple reporting options be made available and that they include at least one external mechanism, so that a survivor never has to file a complaint with the very officer(s) who participated or acquiesced in the abuse. The standards also require agencies to develop policies that make it easier for prisoner rape survivors to comply with the 'exhaustion requirement' of the Prison Litigation Reform Act. (The need for PLRA reform is discussed further on page 8 of this *Action Update*.)

Prisoner rape survivors experience the same kinds of physical and psychological trauma as sexual assault victims in the community. The standards seek to provide incarcerated survivors with access to the same quality of care as that which is available in the community, including appropriate mental health and medical evaluation and treatment. The standards further direct corrections facilities to provide these services even to survivors who are too afraid to name their attackers or testify against them.

Corrections staff are generally obliged to report all criminal activity up the chain of command — meaning that survivors often hesitate disclosing sexual abuse even to trusted staff, as they would be required to file a report, placing the survivors at great risk for retaliation for being a 'snitch.' Community counselors, on the other hand, are able to provide confidential services in accordance with their professional ethical obligations from the outside. The standards mandate that corrections agencies make such services available.

IV. Monitoring

Maintaining safe facilities is a dynamic, ongoing process. The standards require agencies to conduct internal and external reviews of their implementation of the standards and of any reported incidents of sexual violence in their facilities. The standards further mandate that the audits and data collected be made available to the public, with identifying information redacted to protect the safety and privacy of any individuals named. JDI considers such transparency vital to identifying problems, undertaking meaningful reform, and enabling outside organizations to serve as community watchdogs.

Beyond Prisons: Other Forms of Detention

Juvenile Detention Standards

Most of the juvenile detention standards are identical to those for adult prisons and jails, while some are modified to ensure that resident education and screening rely on age-appropriate information and language, and that investigators have expertise in working with young victims. The youth standards also mandate that the collection of sensitive information, such as history of sexual victimization, sexual orientation, and gender identity, only be done by medical and mental health professionals.

Because of mandated reporter laws, which require professionals working with youth to report all child abuse to authorities, youth detainees are less entitled to confidentiality than their adult counterparts. The medical and mental health screening provision mandates that all disclosures of victimization or abuse be reported. The standards also require that agencies try to enter into agreements with community service providers, but do not require that these services include confidential counseling.

Lockups Standards

Lockups, such as cells in police stations, rarely hold people for more than a few hours. As a result, they do not have full classification processes or on-site response services. The standards do, however, require providing protection for vulnerable detainees, including the use of isolated cells. The lockups standards only require access to emergency services and facilities, without an obligation to enter into agreements with community service providers.

Community Corrections Standards

Residential community corrections facilities (such as halfway houses) are mostly subject to the same requirements as adult prisons and jails. Survivors in community corrections facilities may be able more easily to access outside support services, but their fear of retaliation from officials may be heightened by the threat of being re-incarcerated in a prison or jail. The standards emphasize

the importance of making available multiple means of reporting abuse.

Pretrial, probation, and parole agencies — which monitor people in the community but do not house them — are only subject to the training, reporting, investigations, and monitoring provisions, and are not expected to conduct screenings or provide health services. The standards require officials at these agencies to report sexual abuse that occurred in another agency or facility to the head of that agency or facility.

Supplemental Standards for Facilities with Immigration Detainees

Immigration Customs Enforcement (ICE) contracts with a range of facilities to house people held on immigration proceedings. Only a fraction of ICE detainees are held in ICE-run facilities. NPREC created supplemental standards that apply specifically to immigration detainees, along with the standards that are otherwise applicable to the facility where they are held.

ICE facilities, jails, and prisons that house immigration detainees will have to comply with the prisons and jails standards as well as the immigration-specific standards; Customs and Border Protections short-term facilities have to comply with the lockups standards and the immigration supplement; and placements through the Office of Refugee Resettlement must comply with the juvenile standards and the immigration supplement. ICE family facilities, which detain children with their parents, are subject to their own specialized standards included in the supplement.

Immigration detainees are especially vulnerable to sexual abuse, due to increased isolation, fear of deportation, language barriers, and other cultural issues. The supplemental standards require increased cultural sensitivity in training curricula and in classification screenings. Immigration detainees must also be provided with access to legal and mental health service providers and must be protected from actions that may negatively affect their immigration case, such as a transfer to another facility.

Testimony by Hope Hernandez

At the press conference releasing the national standards, JDI Survivor Council member Hope Hernandez captured the audience's attention in a way no other speaker at the event could. Ms. Hernandez is one of JDI's long-time survivor advocates. Over the past six years, she has shared her story with journalists, been featured in JDI reports, and testified at public hearings. Ms. Hernandez was present in the Oval Office on September 4, 2003, when President Bush signed the Prison Rape Elimination Act into law.

IN 1997, I WAS RAPED by a corrections officer in a hospital ward of a Washington, D.C. jail. I was 23 at the time and going through serious drug withdrawal. ... I had been begging for a shower for two weeks. Finally, at about 2:30 one morning, this guard came into my cell and said I could go take a shower. He had a towel, a new paper jumpsuit, and some shampoo. After being incarcerated for three months, I had learned to do what the guards told me to do. ... I was compliant. I had no desire to cause trouble and I had every reason to believe that I was being directed by trained professionals. ...

He led me to a separate room with locking doors that had its own bathroom and shower. He waited in the hall. The light was hurting my eyes, so I turned it off and got undressed. He came in while I was still in the shower stall. Before I knew it, he was in the stall raping me. In addition to being heavily medicated, it was 2:30 or 3 o'clock in the morning, and he had awakened me from a dead sleep. It was like I was on a 30-second delay. Then suddenly, he was leading me back to my cell. I felt myself screaming inside, but the sound wasn't making it out of my throat. As we passed, I saw the night nurses fast asleep in their office.

I slept through the whole next day, and the next night he did it again. He led me to a bed, and after he had finished he handed me

a paper jumpsuit. I was putting it on and still had an arm and a breast exposed as the shift captain walked in. My rapist had already pulled his pants up, but the shift captain saw it and asked him what he was doing. He said he was helping me get dressed. ... It was the shift captain who finally reported the officer

and the rapes. The guard was suspended for seven days with pay and returned to duty.

On the one-year anniversary of the rapes, I kept seeing the guard's face over me. I got so angry because I wanted to see something besides his face. I punched the wall so hard that I broke my hand. I got so sick thinking about being raped that I threw up. I had just begun therapy and could not see a time when this would not dominate my life. I was hopeless.

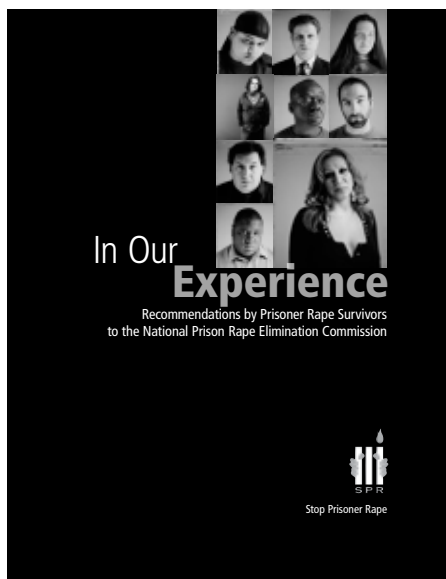
It's been twelve years now, many of those spent in therapy with a kindhearted social worker ... He was the one who connected me with Just Detention International. The rapes will stay with me for the rest of my life. I wouldn't wish my experience on any human being, but I have not allowed it to destroy my life. With a lot of support and love, I got clean and have remained drug free. I am a mother of two children. I went to school after jail and now have a Master's degree in social work.

The release of today's standards gives me hope and reaffirms my commitment to protecting the right of inmates to be free from sexual abuse so that no one, no matter how young, vulnerable or sick, will have to go through the terrible experiences that I did.

As it happens, I was never sentenced to any time. But that isn't even the point. Regardless of what crime someone might have committed, rape must never be part of the penalty.



JDI Survivor Council member Hope Hernandez, flanked by NPREC Commissioners Brenda Smith and Jamie Fellner.



In May 2008, survivors from across the country gathered to develop their own recommendations for ending prisoner rape, which JDI published and submitted to NPREC.

Survivors: The Foremost Experts

Individuals who have been sexually assaulted in detention are the foremost experts on this type of violence, and JDI ensured that a diverse group of prisoner rape survivors was involved throughout the NPREC's standards development process. Their wisdom was crucial to making the standards relevant and bold.

Survivor advocates testified at NPREC's numerous public hearings, provided recommendations that were published in JDI's report *In Our Experience*, met with members of the Commission to discuss a draft version of the standards, and provided written feedback during NPREC's public comment period.

Many survivors found that speaking out about the abuses they endured while behind bars helped their own healing. Chino Hardin, who was assaulted by an older inmate when she was 15 years old and in an adult women's prison, testified before NPREC: "By increasing public awareness of what happens to young people behind bars, I feel some small measure of peace within myself. My counseling is talking to you guys here today."

Rape is Not Part of the Penalty

The Oregonian, June 21, 2009

By Max Williams and Lovisa Stannow

On June 21, 2009, The Oregonian published an op-ed article by JDI's Executive Director Lovisa Stannow and the Director of the Oregon Department of Corrections, Max Williams. The Oregon state prison system has committed to become an 'early adopter' of the new national standards, in an effort to eliminate sexual abuse in its own prisons and to help develop best practices that can be replicated by corrections systems nationwide. Here are excerpts from the op-ed.

WHEN THE GOVERNMENT removes someone's liberty, it takes on an absolute responsibility to keep that person safe, including from sexual abuse. This is a difficult task and, unfortunately, in prisons nationwide the failure of government agencies to uphold that responsibility is all too common.

Oregon is no exception. Sexual violence does occur in our prisons. What sets Oregon apart, however, is the Department of Corrections' effort over the last five years to end this type of abuse. The most recent initiative

5 percent of their corrections-related federal funding. That is not, however, why the Oregon DOC has made the bold decision to seek compliance with the standards even before it is required to do so.

The reason for that decision is simple: Sexual abuse in detention is wrong. It is an affront to our society's basic values. It causes terrible harm to survivors and creates unsafe prisons for staff and inmates alike.

In order to become an "early adopter" of the standards, the Department of Corrections has entered into a partnership with Just Detention International, an organization whose mission is to end sexual abuse in detention. Starting in 2008, DOC officials and JDI staff have worked to identify strengths and weaknesses in DOC policies, as well as in day-to-day practices at three prisons — Oregon State Correctional Institution, Coffee Creek Correctional Facility and Snake River Correctional Institution.

JDI experts have trained prison staff in sexual violence awareness, interviewed inmates and identified areas where the DOC is out of compliance with the standards.

"[W]e have made concrete improvements, adding training modules, creating inmate hotlines, and improving the information that inmates receive upon arrival in prison."

was launched through a unique collaboration between Oregon corrections officials and national human rights advocates.

On Tuesday, the National Prison Rape Elimination Commission is due to release the first-ever binding national standards aimed at preventing and addressing sexual abuse in U.S. prisons and jails. ...

The national standards spell out requirements for prison housing decisions, staff training, inmate education, and sexual assault investigations. The U.S. attorney general has one year to issue a rule codifying them. Governors will then have another year to confirm that their states are in compliance with the standards. Those who fail to do so risk losing

Working together, we have made concrete improvements, adding training modules, creating inmate hotlines, and improving the information that prisoners receive upon arrival in prison.

The problem of sexual abuse in detention is deeply rooted and will not go away without a fight. There undoubtedly will be setbacks, but it is a battle that we can win. That is what Congress acknowledged in 2003 when it passed the Prison Rape Elimination Act. That is what the national standards make clear, and that is what the DOC and JDI have recognized by working together. ...

Whatever crime someone has committed, rape must not be part of the penalty.

Next Steps: Oversight and Legal Reform

As mandated by the Prison Rape Elimination Act (PREA), the National Prison Rape Elimination Commission (NPREC) will sunset on August 22, 2009. While NPREC's work is done, the release of the new standards represents merely the next step in JDI's effort to end sexual violence in detention. JDI is now working to ensure that the standards remain bold and include a strong oversight mechanism. JDI is also seeking significant reform to the Prison Litigation Reform Act (PLRA) and the Victims of Crime Act (VOCA).

The Need for Corrections Oversight

ATTORNEY GENERAL Eric Holder has one year to issue a rule codifying the binding national standards addressing sexual abuse in detention, published by the National Prison Rape Elimination Commission (NPREC) on June 23, 2009. At that time, they will be immediately binding on all federal detention facilities. State officials will have one year to certify their compliance with the standards or they will lose five percent of their corrections-related federal funding.

JDI urges Attorney General Holder to adopt the standards swiftly, without diluting them. Additionally, JDI urges the Attorney General to establish a strong oversight mechanism, to monitor whether corrections systems are putting in place the reforms

called for in the standards. In the U.S. today, many corrections facilities are not subject to any external review. The only oversight mandated by the NPREC standards is monitoring by corrections officials themselves and by auditors with whom they contract.

Without independent, external monitoring, officials who participate or acquiesce in sexual violence behind bars are able to act with impunity. Also, even outstanding officials often cannot identify problems within their own system, and may not be aware of best practices from other jurisdictions. JDI believes that implementation of the new standards must include strong, external oversight that takes into account information from current and former inmates, advocates, and other stakeholders.

Lift the VOCA Funding Restriction

Sexual assault is devastating in any setting, including in detention. Most prisoner rape survivors are left to suffer alone, without the support system available to survivors of rape in the community. A restriction in the guidelines for the Victims of Crime Act (VOCA) precludes community rape crisis centers from using their victim assistance grants to serve incarcerated rape survivors. In its final report accompanying the new standards, NPREC highlighted the need to reform VOCA.

The vast majority of rape crisis centers receive a significant portion of their funding from VOCA grants. In addition to the limitations imposed by such VOCA funding,

many rape crisis centers erroneously believe that they also cannot use funding from other sources to serve incarcerated individuals without jeopardizing their government grants. As a result, many rape crisis centers with multiple funding sources still do not work with prisoner rape survivors.

Rape and other forms of sexual assault are crimes, no matter where they occur. Regardless of their custody status or criminal history, all survivors of sexual violence need and deserve counseling. JDI believes that the VOCA guidelines should be amended so that community-based providers are encouraged to work with all survivors, including those in detention.

Reform PLRA Now

The goals of the new NPREC standards remain stymied by the Prison Litigation Reform Act (PLRA). Passed in 1996, PLRA virtually bars prisoner rape survivors and other inmates whose constitutional rights have been violated from seeking redress.

Intended to limit the number of frivolous lawsuits filed by inmates, the PLRA imposes complex procedural requirements and substantive demands on all prisoner civil rights litigation, regardless of the nature of the claim or its likely merit. It also applies to all inmates — including youth in juvenile and adult facilities, who are both more vulnerable to abuse and less prone than adults to file lawsuits.

Among the most alarming of the PLRA requirements is the so-called exhaustion provision, which essentially causes any inmate who makes the slightest misstep in following a facility's internal grievance process to be barred forever from seeking justice. For example, short deadlines for filing a grievance — often only a few days — requires an incarcerated rape survivor to navigate a maze of procedural rules while still suffering acute trauma from the assault.

The PLRA also includes a physical injury requirement that precludes inmates from receiving monetary damages unless he or she can prove a "physical harm." Shockingly, some courts have found that sexual abuse may not amount to a physical injury.

While the NPREC standards seek to minimize the impact of the PLRA's exhaustion requirement, JDI believes that more substantial reform to the law is needed, including — at a minimum — a repeal of the physical injury requirement, a further lessening of the exhaustion requirement, and an exemption of the law for youth.

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