

On May 17, 2012, the Department of Justice issued national standards to address sexual abuse in detention. Since their release, these landmark standards — mandated by the Prison Rape Elimination Act (PREA) of 2003 — have led to vital changes in how detention facilities prevent and respond to this violence. At the same time, advocates recognize that far more work is needed — especially regarding the PREA audits — for the regulations to reach their full potential as a human rights tool. Corrections leaders who commit meaningfully to adopting the standards can ensure the safety of all the people in their care.

The PREA Standards' Successes

- **Sexual abuse prevention and response is now spelled out in the job descriptions of thousands of corrections staff members.** For instance, every corrections agency employs a PREA Coordinator, whose job is to ensure that the standards are being implemented faithfully. John Barkley, who holds this role at the South Carolina Department of Corrections, said, “PREA has given us a roadmap. If we keep following it, we will be able to ensure that every person inside these walls is treated with dignity and kept safe.”
- **Tens of thousands of corrections and law enforcement officials have been trained on how to keep prisoners safe.** These trainings — which aren't one-off sessions, but done every other year — cover the basics of how to detect and respond to rape, with an emphasis on protecting the most vulnerable inmates. Agencies that train their officers properly are beginning to see a transformation in staff attitudes. Captain Tamara Key of the Miami-Dade Corrections and Rehabilitation Department (MDCR) said, “We never used to think about this issue, much less talk about it. Now we are able to identify warning signs and who might be vulnerable so we can address it at the front end. We pay attention to details that we never paid attention to before.”
- **Adult and youth detention facilities nationwide are providing education to detainees about their right to be free from sexual abuse and how to get help after an assault.** Hundreds of thousands of adults and children behind bars have received crucial information about staying safe. Some facilities give prisoners themselves the opportunity to run education sessions. The peer-led model treats people who are affected by sexual violence as key partners in addressing it, and has proven remarkably effective at raising awareness among prisoners about their rights. One inmate who received peer education through a JDI pilot program at MDCR said, “I learned that it's a human right to not be sexually abused. Learning from another prisoner, like me, made a big difference.”
- **In some prisons and jails, inmates can now get free, confidential rape crisis services — an unthinkable scenario prior to the release of the PREA standards.** Patty, a prisoner who received rape crisis services through a JDI pilot program at the California Institution for Women, said, “Coming to see a counselor is our choice. We have confidentiality. The counselor is not with the department of corrections, and we know it's not going in our file.”

- **The majority of states have formally embraced the PREA standards.** A total of 48 states have either certified compliance with PREA, or given an assurance that they are on the path to doing so. JDI is pressing states to move quickly to implement the standards, yet we recognize that PREA certifications must be meaningful and should be issued only when a state has adopted every standard in all its facilities. Last year, Congress passed the Justice for All Act reauthorization (JFAA), which includes a provision requiring states to certify compliance with the standards within six years or else lose five percent of federal corrections funding.
- **PREA implementation continues to be supported by leaders of both political parties.** Stopping prisoner rape has long been one of the few issues that unifies Democrats and Republicans. PREA was passed unanimously by the Senate and House, and it continues to enjoy bipartisan support on Capitol Hill and among a coalition of groups from across the political spectrum. Attorney General Jeff Sessions, an original sponsor of the law, affirmed his commitment to ending sexual abuse in detention at his Senate confirmation hearing. He said, “I believe that it is important for [the] American people to know that when an individual is sentenced to prison, they’re not subjected to cruel and inhuman punishment under the Constitution... We do not need to subject prisoners to any more punishment than the law requires.”

Despite these successes, many prisoners have not seen changes in their day-to-day lives as the agencies detaining them work to implement the PREA standards. This can be attributed partly to the magnitude of the problem: roughly 200,000 people are sexually abused behind bars every year, and until five years ago, corrections agencies did not have dedicated plans to prevent sexual abuse inside their facilities.

JDI believes strongly that prisoner rape can be stopped, but it will not happen overnight and not unless the PREA standards are used to transform corrections culture. The standards offer a blueprint to achieve that goal but, to unlock their full potential, the following shortcomings must be addressed.

The PREA Standards’ Shortcomings

- **A focus on checking boxes instead of changing culture is taking hold in some agencies.** Misogyny, homophobia, and transphobia remain widespread in U.S. detention facilities; when such attitudes go unchecked, sexual abuse and harassment flourish. PREA’s intent is to stimulate a shift away from these toxic beliefs. It is technically possible to achieve compliance with the PREA standards through surface-level policy changes and rote trainings for officers. Yet an approach that fails to pursue deep, more meaningful change simply isn’t good enough. With the help of advocates like JDI, some agencies have started addressing the culture inside their facilities; others have yet to do so, unfortunately. If the goals of PREA are to be realized, corrections leaders nationwide must do more to change their staff’s mindset. At the same time, incarcerated people, their families, and advocates must continue to hold government officials to account.
- **The PREA audit process needs to be strengthened.** The PREA standards require that an agency audit each of its facilities every three years. The Department of Justice has set up a robust program for selecting, training, and certifying auditors. Some agencies and auditors are conducting audits that test for changes in practice as much as the presence of adequate policies. However, other agencies are looking for the cheapest and quickest audits they can find, which, predictably, leads to audit reports that say little about whether the facility is safer now than before PREA. The Department has a plan in place for improving audit quality, but it is largely unfunded. Congress needs to provide clarity on the Department’s ability to set high expectations for audits and take action against auditors who commit misconduct or whose performance is not up to par.

- **Further government research is needed to study the problem and measure PREA's effectiveness.** The PREA-mandated National Inmate Surveys (NIS) have been an invaluable tool for advocates, offering an unprecedented — in the U.S. and globally — look inside prisons, jails, and youth detention facilities. However, the most recent NIS covered a one-year period up to June 2012, before the PREA standards took effect in most facilities. Fortunately, the Bureau of Justice Statistics is planning to conduct new surveys of adult prisons and jails, and the next youth survey is underway.
- **Congress and the Department of Justice need to support exceptional state and local implementation efforts.** From 2011 to 2015, the Department of Justice, thanks to support from Congress, was able to provide funding to agencies that sought to be bold in their PREA implementation. During that time, the Department committed about \$35 million to PREA Demonstration Grants, which helped agencies go beyond basic implementation of the standards and achieve deeper change. The grants funded cutting-edge programs like peer education efforts; meaningful partnerships between corrections agencies and local rape crisis centers; inclusion of currently incarcerated people in sexual abuse prevention programs; and significant security upgrades. These grants were not offered in 2016 or 2017. In April the Department of Justice issued a new grant solicitation aimed at helping local confinement facilities adopt the standards. However, Congress and the Department should restart the PREA Demonstration Grant program, which is a proven way to stimulate the shift in culture that is needed to end sexual abuse behind bars.