

## The Basics About the Prison Rape Elimination Act

The Prison Rape Elimination Act (PREA) of 2003 was the result of years of advocacy by prisoner rape survivors and their allies. One of the earliest and most effective proponents of a law to address sexual abuse in detention was JDI President Tom Cahill, a survivor of gang rape in a Texas jail in 1968. Thanks to Cahill's tireless efforts, the belief that it was the government's responsibility to stop this crisis gained traction among elected officials, most notably Representative Frank Wolf. Moved by Tom's story, Wolf went on to become one of PREA's original co-sponsors, along with Representative Bobby Scott and Senators Ted Kennedy and Jeff Sessions. PREA received bipartisan support and passed unanimously in Congress; it was signed into law by President George W. Bush.<sup>1</sup>

### What the Law Says

PREA affirms that prisoner rape constitutes a crisis, and it directs federal, state, and local corrections agencies to make it a priority to stop this violence. The law's architects also recognized that there was scant research about rape in detention. Accordingly, PREA requires nationwide data collection on the

problem, including surveys with inmates about sexual victimization. These surveys, which were conducted anonymously by the Bureau of Justice Statistics (BJS), confirmed that sexual abuse is widespread in detention facilities across the U.S.<sup>2</sup>

Crucially, the BJS data also revealed that while sexual abuse thrives in many facilities, it is virtually absent in others. To explore why rates of sexual abuse differ so dramatically, PREA established the Review Panel on Prison Rape. The Panel was tasked with reviewing the policies and practices of the facilities found by BJS to have the highest and lowest levels rates of sexual abuse. The Panel's findings have underscored the vital role of strong, committed leaders in protecting the rights of the people in their care.<sup>3</sup>

As one of its core provisions, PREA called for national standards to address sexual abuse in detention. To inform this work, the National Prison Elimination Commission (NPREC) — established by PREA and charged with developing the standards — held a series of groundbreaking public hearings that featured expert testimony

from corrections officials, advocates, and survivors. In 2009, NPREC released a report on its findings and submitted draft standards to the Department of Justice.<sup>4</sup>

### **The PREA Standards**

The Department of Justice released final PREA standards in 2012; the rules are binding on prisons and jails, police lockups, juvenile detention facilities, and community confinement facilities.<sup>5</sup>

The standards are a set of commonsense measures that spell out minimum requirements for agencies to adopt to protect the people in their care. They represent solid corrections practice and, if fully implemented, have the potential to dramatically reduce sexual abuse inside facilities. For example, the PREA standards require facilities to establish a policy of zero tolerance for sexual abuse; train staff on sexual abuse prevention and response; provide safe housing based on assessments of inmates' risk of being sexually abused; provide survivors of sexual abuse with multiple ways to report; and ensure that survivors can get appropriate medical and mental health care.

Notably, the PREA standards also require facilities to ensure that people in their custody have access to outside victim advocates who can provide emotional support services related to sexual abuse. The support outlined in the PREA standards includes crisis intervention via telephone or mail and advocacy during forensic medical examinations and investigatory

interviews. Facilities must enable inmates to communicate with victim advocates in "as confidential a manner as possible." Further, the standards state that facilities must work to formalize these arrangements by establishing written agreements with community-based service providers. The PREA standards also pave the way for corrections agencies to develop multi-disciplinary sexual assault response teams (SARTs), which can play a central role in addressing this abuse inside prisons and jails. Taken together, these provisions lay a strong foundation for effective medical and mental health services that help survivors heal and increase safety overall for staff and inmates alike.

## Endnotes

1. The Prison Rape Elimination Act of 2003, Public Law 108–79 (September 4, 2003), available at: <https://www.govinfo.gov/content/pkg/PLAW-108publ79/pdf/PLAW-108publ79.pdf>
2. Bureau of Justice Statistics, *National Inmate Surveys*, available at: <https://www.bjs.gov/index.cfm?ty=dcdetail&iid=278>
3. Review Panel on Prison Rape, *Report on Sexual Victimization in Prisons and Jails* (Department of Justice, April 2012), available at: [https://ojp.gov/reviewpanel/pdfs/prea\\_finalreport\\_2012.pdf](https://ojp.gov/reviewpanel/pdfs/prea_finalreport_2012.pdf)
4. National Prison Rape Elimination Commission, *National Prison Rape Elimination Commission Report* (June 2009), available at [www.ncjrs.gov/pdffiles1/226680.pdf](http://www.ncjrs.gov/pdffiles1/226680.pdf)
5. National Standards To Prevent, Detect, and Respond to Prison Rape, 28 CFR 115 (Department of Justice, 2012), available at: [www.federalregister.gov/a/2012-12427](http://www.federalregister.gov/a/2012-12427)

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