

GRIEVANCE LETTER OPPOSING PROPOSED POLICY CHANGES AFFECTING PREA AUDITORS AND THE PROTECTIONS OF INTERSEX, LGBTQIA+, AND TRANSGENDER INCARCERATED PEOPLE

With Full Legal, Scientific, and Policy Citations

Date: December 11, 2025

To Whom It May Concern,

Re: Formal Objection to Proposed Policy Changes Concerning PREA Auditor Standards and Protections for Intersex, LGBTQIA+, and Transgender Incarcerated Individuals

I respectfully submit this grievance to oppose the proposed changes affecting the role, independence, and operational authority of Prison Rape Elimination Act (PREA) auditors. These changes would undermine the statutory, constitutional, and civil-rights protections established under the Prison Rape Elimination Act of 2003, 34 U.S.C. §§ 30301-30309, and contradict longstanding federal obligations to prevent sexual violence in correctional settings.

PREA was enacted in response to overwhelming evidence of systemic sexual abuse in prisons and jails nationwide. Congress found that incarcerated individuals suffer sexual assault at disproportionately high rates and that federal intervention—including independent audits—is essential to maintain constitutional safeguards and prevent Eighth and Fourteenth Amendment violations.

I. PREA's Legal Framework Requires Independent, Evidence-Based Auditing

PREA mandates the creation of National Standards to Prevent, Detect, and Respond to Prison Rape (codified at 28 C.F.R. § 115). These standards explicitly rely on independent auditors who must be free from conflicts of interest and who must evaluate compliance using objective, federally prescribed criteria.

The Supreme Court's holding in *Farmer v. Brennan* (511 U.S. 825 (1994)) established that prison officials violate the Eighth Amendment when they exhibit deliberate indifference to a substantial risk of sexual assault. Weakening PREA auditor authority increases the likelihood of such constitutional violations.

II. LGBTQIA+, Transgender, and Intersex Individuals Are Statistically at High Risk and Require Stronger—Not Weakened—Protections

The Bureau of Justice Statistics (BJS) reports that transgender incarcerated people experience sexual assault at approximately ten times the rate of the general incarcerated population. LGBTQIA+ individuals overall report higher rates of staff and inmate sexual misconduct.

Intersex individuals—those born with variations in chromosomes, gonads, hormones, or anatomy—are uniquely vulnerable when placed in facilities that disregard their specific medical and safety needs. These conditions (e.g., CAIS, Klinefelter syndrome, Turner syndrome, CAH) are natural biological variations, not choices or behavioral identities.

PREA Standard §115.42 requires facilities to make individualized placement assessments considering gender identity, medical needs, vulnerability to abuse, and the individual's perception of where they will be safest.

III. Weakening PREA Auditor Standards Will Increase Legal Liability and Human Rights Violations

DOJ and the PREA Resource Center have consistently affirmed that accurate, independent audits are the primary mechanism preventing systemic concealment of sexual abuse in correctional institutions. If auditors are constrained, politically influenced, or prevented from documenting violations:

- Facilities will have less incentive to correct unsafe conditions
- Patterns of abuse will be concealed

- States and federal agencies will face elevated liability under 42 U.S.C. § 1983
- Vulnerable incarcerated people will experience preventable harm

IV. PREA Protections Must Remain Fully Enforced and Expanded, Not Reduced

PREA was enacted to ensure that rape is not treated as an acceptable or unavoidable condition of incarceration. Any action that weakens its enforcement contradicts two decades of bipartisan legislative intent, empirical research, and established constitutional precedent.

WHERE THIS GRIEVANCE SHOULD BE SENT

This grievance should be submitted to all relevant oversight and regulatory bodies involved in PREA rulemaking, correctional oversight, and civil rights enforcement:

1. U.S. Department of Justice

Office of Justice Programs

PREA Management Office

810 Seventh Street NW

Washington, DC 20531

Email: PREA@usdoj.gov

2. U.S. Department of Justice

Civil Rights Division

Special Litigation Section

950 Pennsylvania Avenue, NW

Washington, DC 20530

Email: special.litigation@usdoj.gov

3. Office for Civil Rights

Office of Justice Programs

810 Seventh Street NW

Washington, DC 20531

Email: OCR@usdoj.gov

4. If the policy change is being considered through a federal docket, submit this text in full through the official public comment portal at:

<https://www.regulations.gov>

(Search the docket number for the PREA-related proposed rule.)

Conclusion

Intersex, LGBTQIA+, and transgender incarcerated individuals face extreme, well-documented risks in correctional settings. PREA's oversight structure—including strong, independent audits—is the only mechanism that ensures these individuals receive constitutionally required protections. Weakening these standards threatens both human life and the rule of law.

For these reasons, I respectfully request that the proposed policy changes be withdrawn in full.

Thank you for your attention to this urgent civil rights matter.

